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2000 NATIONAL VICTIM ASSISTANCE ACADEMY

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Editors: Anne Seymour, Morna Murray, Jane Sigmon, Melissa Hook, Christine Edmunds, Mario Gaboury, and Grace Coleman

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Tremendous effort has been devoted to planning and implementing the National Victim Assistance Academy. A committed and talented Project Team—comprised of experts in victim services and criminal justice practitioners from non-profit organizations and academic institutions—contributed to conducting research, developing curriculum, detailed planning, and logistical arrangements. An array of academics, practitioners, and victim advocacy professionals in the field of victim assistance have served as faculty members for the 1995-2000 Academies and have dedicated large amounts of time to educating and mentoring National Victim Assistance Academy participants. We are grateful for their contributions.

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We offer our deepest respect and admiration for the Academy students, past and present, who have demonstrated their commitment to improving their ability to assist and support victims of crime by participating in the National Victim Assistance Academy. We are grateful to have the opportunity to share information, knowledge, and experience with the over 1,000 Academy participants who have graduated from the Academy to date, and to in turn learn from them and witness their remarkable and everyday contributions to the field of victim assistance. Their feedback has been invaluable in improving and refining the entire Academy Curriculum.

Finally, and most importantly, we at the National Victim Assistance Academy are grateful to the millions of crime victims around the world for their courage and willingness to guide us in transforming their personal tragedies into hope, action, and positive change. We honor them as we approach the sixth National Victim Assistance Academy and reaffirm our commitment to the discipline of victim assistance and to continuing our efforts to secure better and more comprehensive rights and services for all victims of crime.

Morna A. Murray, J.D.
Project Director
National Victim Assistance Academy

2000 NATIONAL VICTIM ASSISTANCE ACADEMY

PREPARING FUTURE LEADERS FOR THE FIELD OF VICTIM SERVICES

The National Victim Assistance Academy is a university-based foundation level course of study in victim assistance and victimology that was developed through a grant from the U.S. Department of Justice, Office for Victims of Crime to a coordinated team of co-sponsors: VALOR, the Victims' Assistance Legal Organization, Inc.; California State University-Fresno; the National Crime Victims Research and Treatment Center at the Medical University of South Carolina; the Center for the Study of Crime Victims' Rights, Remedies and Resources, University of New Haven; Washburn University; and American University's Washington College of Law. This unique collaboration among a nonprofit organization and academic institutions has produced a solid foundation for state-of-the-art education and training.

FIVE ACADEMY SITES

The 2000 Academy is being conducted simultaneously on the campuses of American University in Washington, D.C., California State University-Fresno, Medical University of South Carolina in Charleston, South Carolina, Sam Houston State University in Huntsville, Texas, and Washburn University in Topeka, Kansas. The five Academy classes will be joined utilizing state-of-the-art distance learning technology for approximately 8 of the 40 hours. A team of expert faculty in residence and visiting faculty at each site will teach course sections. The interactive skills-building course includes lectures, interactive and experiential exercises, working groups, computer laboratories, faculty mentoring groups, and self examinations.

COURSE OVERVIEW

The 40-hour academic-based, rigorous course curriculum emphasizes foundations in victimology and victims' rights and services, as well as new developments in the field of victim assistance. A comprehensive text covering 37 different subject areas has been developed to serve as the course curriculum. Academy students are expected to attend the entire program and to participate in laboratory and working group sessions.

ACADEMIC CREDIT

Academic credit at both the graduate and undergraduate levels is offered by California State University-Fresno (CSUF), the Medical University of South Carolina (MUSC), and Washburn University to all Academy students who successfully complete the 40-hour course. Additional requirements exist for graduate credit. Continuing Legal Education credit is available through American University's Washington College of Law. The course credit is fully transferrable worldwide, as all universities are nationally accredited institutions of higher learning.

CERTIFICATE OF GRADUATION

All Academy students will be awarded a certificate from the U.S. Department of Justice, Office for Victims of Crime and the co-sponsoring organizations for successful completion of the Academy. Additional certificates will be awarded by CSUF, MUSC, and Washburn, respectively, to those students who elect to receive academic credit.

CO-SPONSORING AGENCIES AND INSTITUTIONS

The Office for Victims of Crime

The Office for Victims of Crime (OVC) was established by the 1984 Victims of Crime Act (VOCA) to oversee diverse programs that benefit victims of crime. OVC provides substantial funding to state victim assistance and compensation programs—the lifeline services that help victims to heal. The agency also supports trainings designed to educate criminal justice and allied professionals regarding the rights and needs of crime victims. OVC is one of five bureaus and four offices, with grant-making authority, within the Office of Justice Programs, U.S. Department of Justice.

The Office for Victims of Crime is committed to enhancing the nation's capacity to assist crime victims and to providing leadership in changing attitudes, policies, and practices to promote justice and healing for all victims of crime. OVC works with national, international, state, military, and tribal victim assistance and criminal justice agencies, as well as other professional organizations, to promote fundamental rights and comprehensive services for crime victims. OVC's leadership at the federal level also encompasses activities designed to draw public attention to crime victims' needs and to promote victims' rights through legislation and public policy.

The Victims' Assistance Legal Organization (VALOR)

The Victims' Assistance Legal Organization, Inc. (VALOR) was founded in 1979 by the late Frank Carrington as a national organization dedicated to promoting the rights of victims of crime in the civil and criminal justice systems. With support from foundations, individuals and government grants and contracts, VALOR accomplishes its mission through: promoting public education and awareness about the rights and needs of crime victims; advancing public policy reforms on the federal, state and local levels; and improving services to assist crime victims in their emotional, financial, and physical recovery through education and training programs. VALOR's recent activities include administration and conduct of the National Victim Assistance Academy (1995-2000); developing OVC's 1995-2000 *National Crime Victims' Rights Week Resource Guides*; conducting the OVC-sponsored 1995 Restitution Reform Project and the 1997 Promising Practices in Restitution Project; and providing leadership on criminal justice system reforms in the areas of sentencing, parole, child abuse, and juvenile justice.

California State University-Fresno

California State University-Fresno (CSUF) provides elective undergraduate and graduate credit for Academy students in all sites. The on-campus sponsor for the Academy is the Department of Criminology, which has a long history of leadership in university-based crime victim related education. CSUF was the first University in the nation to develop and conduct a program of study in victim services. Started in 1985, today the University offers an undergraduate degree in victimology, a graduate degree with a specialization in victimology, and a month-long summer institute on victim services. The Justice Center at CSUF is also actively involved in victims'

issues including research on various forms of domestic violence with the California District Attorneys Association. CSUF is the lead campus with the California State University and University of California Systems for the development of a Joint Doctorate Degree in Criminology with an emphasis in Victimology. It is anticipated that this will be the first Ph.D. program of Victimology in the nation. The University established an important precedent by providing academic credit for the OVC-sponsored Civil Remedies Training Series in 1992 and 1993.

National Crime Victims Research and Treatment Center Medical University of South Carolina

The National Crime Victim Research and Treatment Center (CVC) is a division of the Department of Psychiatry and Behavioral Sciences at the Medical University of South Carolina in Charleston, South Carolina. Since 1974, CVC has been devoted to developing a better understanding of the impact of criminal victimization on adults, children, and their families. Program activities include: research; professional education; clinical service; and public policy consultation at the local, state and federal levels. The faculty members of the CVC are widely regarded as leaders in scientific research on the consequences of crime and victimization and as experts in assessment and treatment of crime-related psychological trauma. In 1997, the CVC developed the Academy's first videotape, focusing on the mental health impact of crime, and counseling and advocacy issues for crime victims. MUSC provides elective undergraduate and graduate credit for Academy students in all sites.

Center for the Study of Crime Victims' Rights, Remedies and Resources University of New Haven

The University of New Haven offers a program in Victim Services Administration that provides cutting-edge, practice-oriented education and training, focusing on the appropriate involvement of victims in the justice system and the improvement of service provision to victims of crime. The Victim Services Administration Education and Training Programs are coordinated with the Center for the Study of Crime Victims' Rights, Remedies and Resources. The Center conducts a variety of activities as part of its mission to improve the treatment of victims of crime through research, teaching, conferences, and legal policy advocacy. The Center strives to both increase public knowledge and understanding of victim issues and to expose relevant professionals, and the community-at-large, to this important area.

Washburn University

Washburn University was founded as a municipal university in the state capital, Topeka, in 1865. In response to escalating concerns about crime and violence, staff and faculty from a variety of administrative and academic departments recently formed the Center on Violence and Victim Studies. The Center serves as a consortium for University-sponsored initiatives intended to address issues from a multi-disciplinary perspective. The Center includes staff and faculty from criminal justice, social work, human services, psychology, legal technology, and continuing education. The Victim Assistance Program (VAP), an educational series for professionals who serve those who have experienced loss and trauma, was established as a

program of the Center in 1995. The School of Applied Studies, Human Services Department, provides an undergraduate degree in victim/survivor studies. Since 1996, The Center on Violence and Victim Studies has served as host for the National Victim Assistance Academy at Washburn University. The university provides elective undergraduate and graduate credit to Academy students in all sites.

American University's Washington College of Law

American University, incorporated by the government of the District of Columbia in 1891, is an independent, coeducational university with a student body representation from all 50 states, the District of Columbia, Puerto Rico and the territories, and nearly 140 foreign countries. The Washington College of Law (WCL), part of American University since 1949, is located a short distance from the university's 76-acre campus in a residential area in upper northwest Washington, D.C. Founded in 1896, The Washington College of Law is today a community of excellence that prides itself on outstanding teaching, path-breaking scholarship, and meaningful service to the legal profession and the world community. WCL offers a wide diversity of legal education concentrations, including the Domestic Violence Clinic, in which student attorneys spend one semester representing individuals seeking civil protection orders and one semester at the U.S. Attorney's Office prosecuting misdemeanor domestic violence offenses. WCL often teams with prominent national and international organizations to co-sponsor conferences and events that address the key issues of our time.

National Victim Assistance Academy Sites

American University's Washington College of Law (1997-2000)

California State University-Fresno (1996-2000)

Medical University of South Carolina (1998-2000)

Sam Houston State University (1999-2000)

Washburn University (1996-2000)

University of North Texas (1997)

University of Maryland at College Park (1996)

George Washington University (1995)

2000 ACADEMY PROJECT TEAM

Caren Anton

Financial Manager
Victims' Assistance Legal Organization
McLean, Virginia

Vickey Cornelison

National Crime Victims Research and
Treatment Center
Medical University of South Carolina
Charleston, South Carolina

Christine Edmunds

Criminal Justice and Victim
Services Consultant
Washington, D.C.

Mario Thomas Gaboury, J.D., Ph.D.

Associate Professor and Director
Center for the Study of Crime
Victims' Rights, Remedies and Resources
University of New Haven
West Haven, Connecticut

Ruth Graybill

Administrative Coordinator
Victims' Assistance Legal Organization
McLean, Virginia

Dean G. Kilpatrick, Ph.D.

Director, National Crime Victims Research
and Treatment Center
Medical University of South Carolina
Charleston, South Carolina

Cecelia Marquart

Project Coordinator
Sam Houston State University
Huntsville, Texas

Janet Mullings, Ph.D.

Professor of Criminal Justice
Sam Houston State University
Huntsville, Texas

Morna A. Murray, J.D.

Executive Director
Victims' Assistance Legal Organization
McLean, Virginia

Dan Petersen, Ph.D.

Associate Dean, School of Applied Studies
Washburn University
Topeka, Kansas

Anne Seymour

Public Safety Consultant
Washington, D.C.

Jane Nady Sigmon, Ph.D.

Victim Assistance Specialist
Overseas Citizens Services
U. S. Department of State
Washington, D.C.

Jann Taylor

Publications Manager
Victims' Assistance Legal Organization
McLean, Virginia

Thomas Underwood, M.P.A.

Director
Center on Violence and Victim Studies
Washburn University
Topeka, Kansas

Steven D. Walker, Ph.D.

Director, The Victims' Institute
California State University
Fresno, California

Harvey Wallace, J.D.

Chair, Department of Criminology and
Director, The Justice Center
California State University
Fresno, California

CHAPTER 1 SUPPLEMENT SCOPE OF CRIME/HISTORICAL REVIEW OF THE VICTIMS' RIGHTS DISCIPLINE

STATISTICAL OVERVIEW

- In 1998, U.S. residents aged twelve or older experienced approximately 31.3 million crimes. Types of victimization are as follows: 73% (22.9 million) were property crimes, 26% (8.1 million) were crimes of violence, and 1% (about 300,000) were personal thefts (BJS July 1999).
- In 1998, law enforcement agencies nationwide made an estimated 14.5 million arrests for all criminal infractions excluding traffic violations. More specifically, drug abuse violations accounted for 1.6 million arrests, driving under the influence registered approximately 1.4 million arrests, and larceny-thefts and simple assaults each accounted for 1.3 million arrests (FBI 17 October 1999, 209).
- Victims reported 46% of all violent crime and 35% of property crimes to the police in 1998. Among violent crimes, victims reported robberies most often (62%) and rape or sexual assaults least often (32%). Among property crimes, motor vehicle thefts continued to be the property crime most often reported (80%) (BJS July 1999).
- Allowing just one youth to leave high school for a life of crime and drug abuse costs society approximately \$2 million (NCJJ September 1999).
- Total state correctional expenditures reached over \$27 billion dollars in FY 1996, a 115% increase from \$12.7 billion in 1985 (BJS August 1999).

SIGNIFICANT LEGISLATION

VICTIMS' RIGHTS CONSTITUTIONAL AMENDMENT

Introduced as Senate Joint Resolution 3 (SJR 3) before the 106th Congress on January 19, 1999, the most recent version of the federal victims rights constitutional amendment gave victims of violent crime the right to notice in order to attend proceedings arising out of the crime; to speak or submit statements at public hearings in the case, including parole or other early release hearings; to notice if those convicted in their cases are released or escape; and to restitution.

In April 2000, the Federal Victims' Rights Constitutional Amendment (SJR 3) was addressed for the first time by the full U.S. Senate. On April 27, 2000, following two-and-a-half days of debate, SJR 3 was withdrawn for further consideration by its sponsors, Senators Kyl (R-AZ).

and Feinstein (D-CA) when it became apparent that the measure would not receive a two-thirds majority vote for approval.

THE VIOLENCE AGAINST WOMEN ACT OF 1994

A key provision of the Violence Against Women Act allowing female victims to bring a civil action for damages against their attackers in federal court was narrowly struck down May 15, 2000, by the U.S. Supreme Court. The 5-4 ruling dismissed the case of Christy Brzonkala, a former Virginia Polytechnic Institute student, who was the first person to sue in federal court under the 1994 VAWA Act. The Court majority ruled that Congress, in enacting the civil remedies provision, had overstepped its authority to regulate interstate commerce and enforce the equal protection guarantee of the U.S. Constitution. In so doing, the justices rejected the argument that states are not doing enough to protect rape victims and that gender-based violence restricts women's choices in jobs and travel (www.findlaw.com/casecode/supreme.html > , 2000).

Bureau of Justice Statistics (BJS). July 1999. *Criminal Victimization 1998: Changes 1997-98 with Trends 1993-98*. Washington, DC: U.S. Department of Justice.

Bureau of Justice Statistics (BJS). August 1999. *State Prison Expenditures, 1996*. Washington, DC: U.S. Department of Justice.

Federal Bureau of Investigation (FBI). 17 October 1999. *Crime in the United States, Uniform Crime Reports, 1998*. Washington, DC: U.S. Department of Justice.

National Center for Juvenile Justice (NCJJ). September 1999. *Juvenile Offenders and Victims: 1999 National Report*. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

ABSTRACT

Violent crime in America has become a national crisis and, as a result, America's mental health, health care, and public safety systems are seriously challenged. Recent surveys have helped create new understanding of the scope of crime and its impact. The mental health impact of violent crime can be seen in the prevalence of posttraumatic stress disorder (PTSD) among women with a history of violent victimization and individuals who have lost a family member to homicide. This chapter will discuss scope and impact of crime in America, the foundations of the rule of law in this country, the four somewhat diverse movements that predated the victims' rights discipline and set the stage for its emergence, and the history of the victims' rights discipline in five distinct stages. In addition, the emergence of new organizations dedicated to assisting crime victims is described, as well as the challenges facing the field today.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- The extent to which violent crime is a concern for Americans.
- The scope and cost of violent crime and the extent to which it has increased in recent years.
- The extent to which concerns or fears about crime have affected the way Americans live and the broader impact of violence on an individual's world view.
- The origins of the rule of law in the United States.
- The origins and historical stages of the crime victims' rights movement in the United States.
- The major crime victim advocacy organizations and critical legislative and policy accomplishments of the victims' rights discipline over the past thirty years.

STATISTICAL OVERVIEW

The first set of statistics summarized below are from the U.S. Department of Justice *National Crime Victimization Survey*, conducted annually by the Bureau of Justice Statistics (BJS). Each year, BJS interviews 100,000 people aged twelve or older about crimes they experienced during the previous six months. The survey includes both crimes reported and not reported to police. Because the BJS survey includes these unreported crimes, there are differences

between these data and the FBI's *Uniform Crime Report*, the second set of statistics listed below. The *Uniform Crime Report* is based on reports of crime from 16,000 police agencies.

NATIONAL CRIME VICTIMIZATION SURVEY

- According to the Bureau of Justice Statistics' 1997 *National Crime Victimization Survey* data released in December of 1998, U.S. residents age twelve or older experienced nearly 35 million crimes in 1997. Of these victimizations, approximately 26 million involved theft, household burglary, or car theft; 8.6 million involved the violent crimes of rape, sexual assault, robbery, and nonsexual assault; and 0.4 million involved personal thefts such as purse snatching.
- Translated into the number of violent and property crimes per 1,000 persons or households, crime rates for 1997 show 39 violent victimizations per 1,000 persons and 248 property crimes per 1,000 households (Ibid.).
- A 17% decline in the robbery rate was largely responsible for the 7% overall drop in 1997 in the nation's crime rate as reported in the *National Crime Victimization Survey* (Ibid.).
- The rate of rape and sexual assault did not decline significantly in 1997 (Ibid.).
- According to BJS, the total number of estimated personal and household victimizations has fallen in each year since 1992, except for 1993, despite increases in the U.S. population:

1992	42.8 million	1995	38.5 million
1993	43.5 million	1996	36.8 million
1994	42.4 million	1997	35 million (Ibid.)

FBI'S UNIFORM CRIME REPORT

- According to the FBI's *Crime Clock* in 1997: one violent crime occurred every 19 seconds; one property crime occurred every 3 seconds; one murder occurred every 29 minutes; one forcible rape occurred every 5 minutes; one robbery occurred every 1 minute; one aggravated assault occurred every 31 seconds; one burglary occurred every 13 seconds; one larceny-theft occurred every 4 seconds; and one motor vehicle theft occurred every 23 seconds. The *Crime Clock* is designed to convey the annual reported crime experience by showing the relative frequency of the occurrence of Crime Index crimes (FBI 1998).
- In 1997, the Crime Index total (which measures the following crimes reported to law enforcement: murder, nonnegligent manslaughter, forcible rape, robbery, aggravated assault, and the property crimes of burglary, larceny-theft, motor vehicle theft, and arson), estimated approximately 13.2 million offenses, dropped 2% from the 1996 total. This decline represents the lowest annual serious crime count since 1985 and the sixth consecutive annual decline (Ibid., 7).
- In 1997, an estimated 1.6 million violent crimes were reported to law enforcement, indicating a 3% decrease from the 1996 level (Ibid., 12).
- From 1996 to 1997, violent crime decreased in the nation's cities collectively by 4% and in the suburban counties by 2%. Rural counties, however, reported an increase of 3% in violent crime (Ibid.).

- The nation's violent crime rate fell 10% between 1995 and 1996 and was 16% lower than in 1993. Overall property crime was down more than 8% in 1996 and was 17% lower than in 1993 (Ibid.).

INTRODUCTION

According to Webster's New World Dictionary, "disaster" is defined as "any happening that causes great harm or damage, serious or sudden misfortune, or calamity." Using this definition, the current level of violence in America is clearly a health, public safety, and mental health disaster. Despite recent reductions in criminal violence, crime still harms too many children and adults; it also affects America's families, America's communities, and the nation at large.

SCOPE OF CRIME

Fear of crime continues to imperil the social fabric of America. Earlier studies expressed the concerns of Americans in several ways:

- In a 1991 survey of a national probability sample of 1,000 adult Americans, more than four out of five Americans (82%) said they were personally very concerned about violent crime (Kilpatrick, Seymour, and Boyle 1991).
- More Americans were concerned about violent crime and drug abuse than about unemployment, pollution, the deficit, or educational quality (Ibid.).
- A majority of Americans (54%) think that violent crime is more of a problem now than it was ten years ago (Ibid.).

More recent studies continue to point out Americans' fear of crime. In 1997, 64 percent of Gallup poll respondents reported they believed there was more crime than in the previous year (BJS 1998b), despite the significant reductions in crime recorded nationally during the late 1990s. Even as crime drops, the public perception of crime's magnitude increases.

Information about the magnitude of the violent crime problem suggests that Americans' concerns about crime are not misplaced. Data from *The National Women's Study*, a National Institute of Drug Abuse-funded survey of a national probability sample of 4,008 adult American women, indicated the following violent occurrences during a one-year period:

- 3.5% of the sample, or an estimated 3.7 million adult women, were victims of some type of sexual or aggravated assault during a one year period.
- 2.5%, or an estimated 2.4 million American women, were victims of rape or aggravated assault.
- 1.8%, or approximately 1.7 million American women, were victims of aggravated assault.

- 0.71%, or an estimated 683,000 American women, were victims of completed rape (Kilpatrick, Edmunds, and Seymour 1992; Resnick et al. 1993).

These estimates of rape are much higher than those obtained in the *National Crime Victimization Survey* because *The National Women's Study* used screening questions that were specifically designed to measure rape and other types of sexual assault (Kilpatrick, Edmunds, and Seymour 1992).

Americans are vulnerable to criminal victimizations throughout their lifespan. For example, *The National Women's Study* reported the frequency level of violence experienced in women's lives:

- 22.6% of sample members, or an estimated 21.7 million women in America, had been victims of some type of sexual assault throughout their lifetime.
- 12.9% of the sample, or an estimated 12.1 million people in America, had been victims of one or more completed rapes.
- 10.3%, or an estimated 9.8 million women, had been victims of aggravated assault.
- 13.4%, or an estimated 12.8 million women, had lost a family member or close friend to criminal homicide or alcohol-related vehicular homicide.
- Over a third of the sample members (35.6%), or an estimated 34.1 million adult women in America, had been victims of forcible sexual assault, aggravated assault, or had suffered the homicide death of a relative or close friend (Resnick et al. 1993).
- Almost 40% of women who had been raped had been raped more than once.
- 29% of all rapes happened before the victim was age eleven, and an additional 32.3% happened between the ages of eleven and seventeen (Kilpatrick, Edmunds, and Seymour 1992). Thus, almost two thirds (62.6%) of all rapes happened during childhood or adolescence.

A National Institute of Justice-funded national study of the indirect effects of criminal homicide (*The National Homicide Study*) found that 1.58% of the sample, or an estimated 2.8 million adults in America, had lost an immediate family member to criminal homicide (Amick-McMullan, Kilpatrick, and Resnick 1991).

- Another 1.48% of the sample, or an estimated 2.6 million adults, had lost another relative to homicide.
- An additional 0.75% of the sample, or an estimated 1.3 million adults in America, had lost a close friend to criminal homicide.
- In total, an estimated 3.82% of the sample, or an estimated 6.7 million adults, had suffered a homicide death of an immediate family member, other relative or close friend (Amick-McMullan, Kilpatrick, and Resnick 1991).

The *National Homicide Study* was conducted in 1987, preceding an increase in the homicide rate. Therefore, these estimates are extremely conservative as to the number of Americans indirectly affected by homicide between 1988 and 1990. Noting the statistics above indicating a decline in homicide since 1993, these figures may have validity today.

Millions of American men, women, and children are victims of criminal violence each year. Particularly for rape and sexual assault, official statistics substantially underestimate the extent of the problem. Information from nonretrospective studies is particularly poor about violence directed at children under twelve, adolescents, and/or men.

COST OF CRIME

In February 1996, the National Institute of Justice released the first comprehensive report on the cost of victimization. As a result of the data gathered from criminal justice agencies, medical professionals, hospitals, insurance companies, mental health professionals, crime victim compensation programs, and crime victims, significant information is available about the immediate, short-term, and long-term financial impact of victimization. Highlights of the study's findings include the following:

- Violent crime (including drunk driving and arson) accounts for \$426 billion annually, while property crime accounts for \$24 billion.
- Rape has the highest annual victim costs at \$127 billion per year (excluding child sex abuse), followed by assault at \$93 billion, murder (excluding arson and drunk driving) at \$61 billion, and child abuse at \$56 billion.

THE PHYSICAL IMPACT OF VIOLENCE

Increasingly, attention is being focused upon the impact of violent crime on our nation's health care system. In August 1997, the Bureau of Justice Statistics released a bulletin entitled *Violence-Related Injuries Treated in Hospital Emergency Departments*, which presented findings from a study using the Consumer Product Safety Commission's National Electronic Injury Surveillance System (NEISS) program of violence-related injuries treated in hospital emergency departments in 1994. This study gives a specific view of the physical impact of violence. These findings, as reported in the bulletin, include the following:

- During 1994, U.S. hospital emergency departments (EDs) treated an estimated 1.4 million people for injuries from confirmed or suspected interpersonal violence. The study found that 94% of the persons treated for intentional or possibly intentional injuries sustained those injuries in an assault. About 31% of those injured during an assault—or 29% of all of those injured—indicated being injured during a fight. Two percent were injured during a completed or attempted robbery, and five percent were injured by an offender during a completed or attempted rape or sexual assault.

- Three-fifths of all persons treated in EDs for injuries sustained in violence were male. Persons under age twenty-five comprised about half of those treated in EDs for violence-related injuries.
- Patients treated as a result of confirmed (1.3 million) or suspected (82,000) violence represented a total of 1.5% of all visits to hospital EDs and 3.6% of the injury-related ED visits in 1994.
- People injured by violence were treated for a variety of injuries: 34% for bruises or similar injuries; 31% for cuts, stab wounds, or internal injuries; 17% for fractures, sprains, dislocations, dental injuries, or other muscular/skeletal injuries; 5% for gunshot injuries; 5% for rapes/other sexual assaults; 4% for concussions or other head injuries; and 5% for other injuries.

THE IMPACT OF VIOLENCE ON MENTAL HEALTH

The mental health impact of criminal violence is substantial, but is not limited to post-traumatic stress disorder (PTSD). A history of violence substantially increases the risk for a host of other mental health disorders and problems including depression, suicide attempts, anxiety disorders, alcohol, and other drug abuse problems (Burnam et al. 1988; Kilpatrick et al. 1985; Kilpatrick, Edmunds, and Seymour 1992; Kilpatrick and Resnick 1993; Saunders et al. 1992). Illustrative are these data from *The National Women's Study* comparing the rates of PTSD, major depression, suicidal ideation, and suicide attempts among rape victims and nonvictims of crime (Kilpatrick, Edmunds, and Seymour 1992).

- Compared to their noncrime victim counterparts, rape victims were 6.2 times more likely to develop PTSD (31% vs. 5%), three times more likely to develop major depression (30% vs. 10%), 4.1 times more likely to have seriously contemplated suicide (33% vs. 8%), and 13 times more likely to have actually made a suicide attempt (13% vs. 1%).

There is also evidence that violence affects the longer-term physical health as well as the mental health of its victims. At least one study found that health care utilization and health problems increased following violent attacks (Koss, Woodruff, and Koss 1990).

THE IMPACT OF VIOLENCE ON WORLD OUTLOOK

Not only does being a victim of violence affect physical and mental health; it also influences how one views the world. Many violence victims are no longer able to see the world as a safe place, as a just place, or as a place with meaning. Violence often breeds a cynicism and distrust that unravel the very fabric of social life.

Violence and fear of violence have taken away Americans' freedom. A majority of adult respondents interviewed in *America Speaks Out* reported that they were at least "a little fearful" of being attacked or robbed (Kilpatrick, Seymour, and Boyle 1991):

- When traveling on vacation or business (72%).

- Out alone at night in their own neighborhoods (61%).
- At home in their own house or apartment (60%).

Fear of crime restricts freedom of people to go where they want, when they want. Because of the threat of crime, many people in our nation restrict their behavior and/or have purchased some manner of protective device.

In *America Speaks Out* (Ibid.) respondents reported that:

- Sixty percent limited the places they will go by themselves.
- Almost a third limited the places or times they go shopping.
- More than one person in five limited the types of places he or she will work.
- More than one person in four has installed a home security system.
- Nearly one out of every five adults (18%) reports that the fear of crime has caused them to purchase a weapon for self-protection.

Fear of crime and fear of crime-related restrictions on lifestyle and behavior take a much heavier toll on women than on men.

Crime and fear of crime also place a heavy burden on the lives of racial and ethnic minorities. The *America Speaks Out* survey of 1,000 adults asked if respondents had ever been a victim of a violent crime involving the use or threat of force (Ibid.):

- Three out of ten Hispanics (30%) and almost three out of ten African-Americans (28%) but slightly less than two out of ten whites (19%) had been victims of violent crime. *Note:* These crime prevalence rates are almost certainly an underestimate because only one screening question was used.
- A higher proportion of African-Americans and Hispanics than whites say they are either somewhat or very afraid of being attacked or robbed at home (44% vs. 35% vs. 27%), on the streets of their neighborhood in the daytime (30% vs. 25% vs. 16%), alone at night in their neighborhood (48% vs. 50% vs. 31%), and with others at night in their neighborhood (28% vs. 23% vs. 13%). Fears of being attacked or robbed while traveling were more similar across racial/ethnic groups.
- With the exception of limiting places they go by themselves, which was high for all racial/ethnic groups, a higher percentage of African-Americans and Hispanics than whites say fear of crime has caused them to limit times or places they will work (33% vs. 37% vs. 19%), purchase a weapon for protection (27% vs. 25% vs. 16%), and purchase a home security system (34% vs. 41% vs. 22%).

This research information suggests racial/ethnic minorities are more likely than whites to have been violent crime victims. Their fear of crime is higher than whites, and their fear of crime causes them to place more restrictions on their lifestyles than whites.

The next sections of this chapter will “step back in time” and review the origin of the attitudinal changes about victimization that are exemplified in the recent surveys noted above. In order to provide a framework for understanding these attitudinal changes, a short overview of the historical origins of the rule of law in this country is provided below.

THE DEVELOPMENT OF THE CONCEPT OF LAW

A complete and accurate understanding of the concepts inherent in our American criminal law system can only be attained by a review of its history, philosophy, and development. Modern criminal law is the result of a long evolution of laws that have attempted to deal with and define deviant behavior in society.

CODE OF HAMMURABI

The Code of Hammurabi is considered one of the first known attempts to establish a written code of conduct. King Hammurabi ruled Babylon at approximately 2000 B.C. He was the sixth king of the First Dynasty of Babylonia for about 55 years. During that period of time, Babylon was a commercial center for most of the known and civilized world. Since its fortune lay in trade and other business ventures, the Code of Hammurabi provided a basis for order and certainty essential for commerce. The Code established rules regarding theft, sexual relationships, interpersonal violence, and other issues. It was intended to replace blood feuds with a system sanctioned by the state.

The Code of Hammurabi was divided into five sections:

1. A penal or code of laws.
2. A manual of instruction for judges, police officers, and witnesses.
3. A handbook of rights and duties of husbands, wives, and children.
4. A set of regulations establishing wages and prices.
5. A code of ethics for merchants, doctors, and officials (Masters and Roberson, 1985).

The code established certain obligations and objectives for the citizens of Babylon to follow. These included:

- *An assertion of the power of the state.* This was the beginning of state-administered punishment. The blood feuds that had occurred previously between private citizens were barred under the code.
- *Protection of the weaker from the stronger.* Widows were to be protected from those who might exploit them, elder parents were protected from sons who would disown them, and lesser officials were protected from higher ones.
- *Restoration of equity between the offender and the victim.* The victim was to be made as whole as possible and, in turn, he or she was required to forgive vengeance against the offender.

Of noteworthy importance in the code was its concern for the rights of victims. In reality, this code may have been the first "victims' rights statute" in history. Unfortunately, as will be seen, society began to neglect victims in its rush to punish the offender, with the result that victims' rights would not resurface until the present century (Gordon 1957).

EARLY ROMAN LAW

Another important milestone in the development of American law was early Roman law. Roman law was derived from the Twelve Tables, written about 450 B.C. These tables were a collection of basic rules relating to conduct of family, religious and economic life. Early Roman legions conquered England in the middle of the first century. Roman law, customs, and language were forced upon the English people during the next three centuries of Roman rule.

Emperor Justinian I codified the Roman laws into a set of writings. The Justinian Code, as these writings became known, distinguished between two major types of laws:

- *Public laws*: Dealt with the organization and administration of the Republic.
- *Private laws*: Addressed issues such as contracts, possession and other property rights, the legal status of various persons such as slaves, husbands and wives, and injuries to citizens.

It contained elements of both our civil and criminal law and influenced Western legal theory into the Middle Ages.

THE BIBLE

It is unclear when the fifth book of the Old Testament, Deuteronomy, was written, and indeed, as "oral history," the very first version was not written at all (it was probably written for the first time in about 100 B.C.). In any event, Deuteronomy instructs that with respect to certain crimes, the penalty shall be ". . . eye for eye, tooth for tooth, hand for hand, foot for foot" (Chapter 19, Verse 15). Because the rabbinic tradition taught that this penalty was not to be interpreted literally and that what the Biblical instruction really meant was that a victim of an assault or other crime should receive from the criminal the *value* of an eye, or the *value* of a foot, arguably Deuteronomy presents the first more formalized scheme of victim restitution since the Code of Hammurabi.

THE LEGAL SYSTEM IN ENGLAND

Prior to the Norman conquest of 1066 A.D., the legal system in England was very decentralized. There was little written law except for crimes against society. As a society, England had forgotten or moved away from the teaching of the Code of Hammurabi, and crimes during this period were again viewed as personal wrongs. Compensation was paid to the victim or his/her family for the offense. If the perpetrator failed to make payments, the victim's family could seek revenge resulting in a blood feud. For the most part during this period, criminal law was designed to provide equity to what was considered a private dispute.

The Norman Conquest under William the Conqueror established royal administrators who rode circuit to render justice. These royal judges would use local custom and rules of conduct as a guide in rendering their judgments. This system, known as *stare decisis* (Latin for the phrase “to stand by the decided law”), would have far reaching effects on modern American criminal law.

COMMON LAW

The next major development in the history of law was the acknowledgment of the existence of Common Law. Early English Common Law forms the basis for much of our present day legal system. Common Law is a traditional body of then unwritten legal precedents created by court decisions (as distinguished from statutory law written by a Congress or other legislative body) during the Middle Ages in England. During this period of time when cases were heard, judges would start their deliberations from past decisions that were as closely related as possible to the case under consideration. In the eleventh century, King Edward the Confessor proclaimed that Common Law was the law of the land. Court decisions were finally recorded and made available to lawyers who could then use them to plead their cases. This concept is one of the most important aspects of today's modern American law.

THE MAGNA CARTA AND U.S. CONSTITUTION

The Magna Carta of England and the U.S. Constitution both stand as great documents and moments in the history of American law. The Magna Carta was signed on June 15, 1215 and was later interpreted to grant basic liberties to all British citizens. The U.S. Constitution established certain individual rights, defined the power of the federal government, and—among other things—limited punishment for violation of laws.

American law combines both Common Law and written statutes.

- Statutory laws are enacted by state legislatures and Congress, and are the major sources of American criminal law today.
- These laws are usually compiled in various codes, and are subject to revision by the legislatures and Congress.

An offshoot of written law, administrative law is comprised of rules and regulations adopted by governmental agencies at the federal, state and local levels. Many governmental agencies are invested with the power to pass regulations that prohibit certain types of conduct. Some of these regulations provide for fines rather than imprisonment of the offender.

Constitutional law. Constitutional law is at the foundation of American criminal law. The Constitution does not define new crimes (the only crime defined in the Constitution is treason); rather, it sets limits on other laws as they apply to individuals. An example of this principle is the U.S. Supreme Court's ruling that flag burning, which was proscribed as criminal conduct by a state statute, is protected under the First Amendment right to freedom of expression.

THE PURPOSE OF LAW

Max Weber, an acclaimed sociologist during the early twentieth century, stated that the primary purpose of law is to regulate the flow of human interaction (Rheinstein 1954).

Dr. Weber, who is famous for a number of modern day concepts including the concept of bureaucracy, believed that laws make the behavior of others predictable (Wallace, Roberson, and Steckler 1994). Thus, one of the accepted purposes of law is to support social order.

Laws also serve other purposes including:

- Banishing private retribution.
- Reflecting public opinion.
- Deterring criminal acts.
- Punishing offenders.
- Providing socioeconomic control (Siegel 1989).

Banishing retribution occurs because laws replace the power of individuals to carry out revenge against the perpetrator. The law shifts the burden and responsibility of making the victim whole from the individual to the state. Laws reflect public opinion by defining the boundaries between current concepts of illegal behavior and allowing individuals to guide their conduct according to these written requirements. Some argue that laws deter potential law violators. The threat of punishment is sufficient to prevent individuals from committing the prohibited act. Punishment of offenders occurs when laws grant the government the ability or power to sanction wrongdoers. Finally, socioeconomic control occurs when laws support and maintain the social and economic systems they serve.

Roscoe Pound, one of the great legal scholars of modern times, believed that law was a type of social engineering (1968). The law was a *tool* that met the needs of men and women living and working together in society. Pound believed that law must change with the advent of new ideas. He articulated a series of *Jural Postulates* that were propositions setting forth the basis of all law because they reflected the shared needs of society.

It is against this legal framework and amidst tremendous societal as well as political upheaval and transition that the victims' movement began to take hold in this country nearly three decades ago.

HISTORY AND OVERVIEW OF THE VICTIMS' RIGHTS DISCIPLINE

Today's view of violent crime and victimization is quite different than thirty years ago. The nation's emotional and legal reaction to criminals has changed dramatically. Why have our personal and political responses changed during this period? The remaining portion of this

chapter will focus on the historical development of the victims' rights discipline and the reasons for the public's more recently altered perceptions of criminals and crime statistics.

In the last three decades, the victims' rights discipline has emerged as a powerful source of social, legal, and political change. There are four somewhat diverse movements that pre-dated the victims' rights discipline and set the stage for its emergence. The history of the victims' rights discipline can be divided into five distinct stages along with corresponding legal changes, victim involvement and services, changes in service providers' attitudes, and new theoretical concepts. This description is—by necessity—not inclusive of all historical facts; rather, it is included to acquaint the reader with the *zeitgeist*, or spirit, of each stage of the victims' rights discipline.

There were four movements that strategically opened the way for the victims' rights discipline:

- Civil Rights Movement (1963-72).
- Anti-war Movement (1967-72).
- Women's Movement (1970-Present).
- "Law and Order" Movement (1968-Present).

CIVIL RIGHTS MOVEMENT

Dr. Martin Luther King, Jr. and other leaders of the Civil Rights Movement changed this country's view of civil disobedience, clarified that *all* Americans have rights under the U.S. Constitution, and focused on forging change through nonviolent means. Even though this country has had a long history of civil disobedience dating back to the Boston Tea Party and continued by 19th century literary figures (Thoreau, Whitman, etc.), this approach diminished as a result of 20th century patriotism engendered by two world wars.

Civil disobedience was not new in 1963, but re-emerged and was applied to a new group: American minorities. The Civil Rights Movement enabled society's disenfranchised minorities to exert power over American governmental and private institutions and demand equal rights and equal access to society's opportunities.

THE ANTI-WAR MOVEMENT

The Anti-war Movement focused on America's propensity towards violence, the influence and predilections of governmental/military bureaucracy, and expressed a distrust in authority that is still evident today. This movement, through its well orchestrated marches in cities across America, showed that grassroots politics could influence and even overpower establishment politics. More importantly, the movement raised questions not only about governmental decision-making but also about the moral implications of these decisions.

This movement increasingly empowered citizens and even young people to speak out and take a public stand for what they believed was right. It was a crucial step in a new awakening to the power of grassroots organization and influence.

THE WOMEN'S MOVEMENT

The Women's Movement focused on American family values, traditional male/female roles, sexism in bureaucracy (including, very importantly, the criminal justice system), and economic discrepancies between men and women. This has been considered the most significant precursor of the victims' movement (Karmen 1990). The victimization of women and the bureaucratic facilitation of this violence in all areas of society were clarified and politicized. The long overdue fact that women were entitled to equal social, political, and economic opportunity and power became a national focus. A direct result of this increase in women's power and attention to women's issues was the formation of rape crisis centers and domestic violence shelters in the early 1970s.

THE "LAW AND ORDER" MOVEMENT

The "Law and Order" Movement predated the victims' movement, but an alliance developed between its supporters and some victim advocates ten years later to press for stiffer punishment of offenders. Since the emergence of this movement in the 1960s, there has been a focus upon increasing the rights of the common person to achieve parity with the rights of the criminal. However, supporters of this movement from all segments of society insisted the common citizen could manage his or her own protection, and "justice" should be accomplished without expanding governmental assistance and monetary support (Karmen 1990). Supporters felt that criminals should be punished more; potential victims should be more careful; and victims, once victimized, should be self-sufficient.

By the early 1980s, a shift developed placing more emphasis on victims' needs. The support for increased offender accountability and a "back to the basics" constitutional approach produced new emphasis on restitution and individual rights. The "Law and Order" Movement has been particularly influential in the fourth and fifth stages of the victims' rights discipline.

The following section gives an overview outline of the stages of the victims' rights discipline with critical events in the history of this movement.

HISTORICAL STAGES OF THE VICTIMS' RIGHTS DISCIPLINE**Stage One: Response to Crime (1972-1976)**

- First Crime Victims' Compensation Program (1965)
- National Commissions and the Law Enforcement Assistance Administration (LEAA)
- National Crime (Victimization) Survey
- Grassroots Programs
- National Organization for Victim Assistance (NOVA)
- First Victim Impact Statement

Stage Two: Polarization and Unstable Funding (1977-1981)

- LEAA Funding
- New Organizations
 - National Coalition Against Sexual Assault (NCASA).
 - National Coalition Against Domestic Violence (NCADV)
 - Parents of Murdered Children (POMC)
 - Mothers Against Drunk Driving (MADD)
 - Victims' Assistance Legal Organization (VALOR)
- President Proclaims "Crime Victims' Week"
- Legislative Developments

Stage Three: Public Awareness (1982-1986)

- President's Task Force on Victims of Crime
- Federal Victim and Witness Protection Act
- State Legislation
- Victims of Crime Act (VOCA)
- Establishment of the Office for Victims of Crime (OVC)
- National Center for Victims of Crime (NCVC) (formerly National Victim Center)
- New Programs
- Theoretical Concepts Recognized

Stage Four: Expanding Legislative Agenda (1987-1991)

- Three Major Issues
 - Funding
 - Victims' Rights
 - Law and Order Concerns

Stage Five: Emerging Professionalism and Advancing Advocacy (1992-Present)

- Professionalism
- Legislative Landmarks

STAGE ONE: RESPONSE TO CRIME (1972-1976)

Starting in the early 1960s, crime began to steadily rise in the United States, reaching its highest point in 1981. By the early 1970s, the effect on American life was evident. In response, the victims' rights movement began on multiple fronts (Young 1986).

In 1965, the first crime victims' compensation program was established in California. However, the major strides of this period were accomplished by the energy of volunteers, many of whom were crime victims themselves and, in many cases, had suffered revictimization due to less than adequate assistance and services within the criminal justice system.

In 1972, volunteers founded the first three victim assistance programs, all of which still exist today:

- Aid for Victims of Crime, St. Louis, Missouri.
- Bay Area Women Against Rape, San Francisco, California.
- Rape Crisis Center, Washington, DC.

Throughout the 1960s and early 1970s, many state and federal commissions were established to study crime and its consequences. Following these efforts, the federal government took two significant steps to address the problem: the creation of the first government-sponsored victimization survey (*National Crime Survey* 1972 [renamed the *National Crime Victimization Survey* in 1990]) and the Law Enforcement Assistance Administration (LEAA) (Karmen 1990).

- The *National Crime Survey* gathered crime data from individuals and households all across America, an approach that was very different from the FBI's *Uniform Crime Report* (UCR), a compilation of statistics *reported* to law enforcement agencies. The new information made it devastatingly clear that the rates of child abuse, rape, and domestic violence were much higher than imagined.
- The *National Crime Survey* identified actual crime rates that were three or four times higher than the UCR's published "official" rates.
- LEAA monies were used to combat victimization by increasing law enforcement funding and establishing victim-witness programs around the United States. Funds were also used to help educate and increase the sensitivity of police officers in dealing with victims.

By 1974, the first battered women's shelter had also been established in Denver, CO. These first service programs were operated by volunteers using their own funds and donations. Their major focus was to provide victim support utilizing the approach of self-help groups. Their goals quickly expanded to target insensitive and unfair treatment of victims by the criminal justice system (Young 1986).

Fortunately, several key leaders within the criminal justice system recognized the problems of victims and witnesses and responded (NCVC 1994):

- LEAA created some pilot victim-witness programs (1974).
- James Rowland, Chief Probation Officer in Fresno, California, in 1976, developed the first victim impact statement used by the criminal justice system to clearly ascertain and specify the victims' losses.
- In Fort Lauderdale, Florida and Indianapolis, Indiana, the first law enforcement-based victim-witness programs were established.

In 1975, Frank Carrington's book, *The Victims*, was published, promoting "the proposition that the victim's current sorry status in the criminal justice system *need not be so* and that something can and must be done to enhance the rights of the victim." That same year, LEAA called together leading victim activists to discuss methods of increasing victims' rights.

- The major result of this meeting was the founding of the National Organization for Victim Assistance (NOVA).
- The following year, forty to fifty leaders met in what has been called the first victim assistance conference in Fresno, California (Young 1986).

During this first stage, mental health providers had limited involvement at the grassroots level. However, practitioners working with victims of sexual assault recognized characteristics common to many victims.

- In 1974, Anne Burgess coined the term “rape trauma syndrome.” Although not universally accepted until years later, its initial use during this time would later facilitate better services for victims in both the mental health and criminal justice systems.

By the late 1970s, mental health providers became more aware of victim trauma. Research began to show the efficacy of peer support groups; some research indicated that these groups were much more helpful than professionals, often because these professionals had little training in the grieving process and crisis therapy.

As specialized service providers gained new insights into victimization, mental health practitioners began to acknowledge their lack of expertise, and began to listen to advocates and victims. For example, the description of the “battered woman syndrome” was published and provided a theoretical framework for working with victims of domestic violence.

Another very important “movement” that supported the general crime victims’ movement was the increased focus upon child abuse and neglect. The “child protection” movement was initially comprised primarily of physicians, social workers, and public-sector personnel concerned with child maltreatment. The attention of child advocates and the Congress to the work of C. Henry Kempe, (the “battered child syndrome,” 1962) led to creation of the National Center on Child Abuse and Neglect in the Department of Health, Education, and Welfare (1974).

STAGE TWO: POLARIZATION AND UNSTABLE FUNDING (1977-1981)

During this second stage, it appeared that many of the gains of the victims’ movement might be lost. Federal funding began to diminish, and in 1979, LEAA ceased to exist due to lack of congressional support. As is often the case when there is limited funding paired with identified needs, the various community-based and government-based programs began to compete for limited resources (Lurigio, Skogan, and Davis 1990).

The issues of professionalism and training emerged as divisive themes. Despite their common purpose of assisting victims, the contrasting perspectives, purposes, structure, and operation of grassroots victim programs versus criminal justice-based programs increasingly became issues. This was exacerbated by the frequent complaint of victim advocates that the criminal justice system did not adequately support victims of rape and domestic violence. Even today, some of the residual animosity from this period is still evident.

In 1978, sexual assault programs and domestic violence programs created their own national organizations to pursue their specific agendas (Young 1986):

- National Coalition Against Sexual Assault (NCASA).
- National Coalition Against Domestic Violence (NCADV).

During this period, program leaders and administrators debated the strengths and weaknesses of the various programs. Less time and money were directed toward those in need. The focus and direction of the victims' movement were consequently diluted.

Many movements fail (including some of the precursors of the victims' movement) because no "second generation" is trained to continue with the original fervor and energy. Fortunately, this was not true for the victims' movement. In spite of the dissension between the established programs, new grassroots organizations developed. These organizations used the media very effectively. Often led by victims, they directly attacked the indifference of the criminal justice system and the stigmatizing approach of the mental health system.

Two new grassroots programs grew in response to a void in services to underserved victims. The cumulative effect was a new infusion of energy into the movement. These two programs were the following:

- Parents of Murdered Children (POMC) founded by Robert and Charlotte Hullinger (1978).
- Mothers Against Drunk Driving (MADD) founded by Candy Lightner and Cindy Lamb (1980).

Also during this time, in 1979, Frank Carrington founded the Crime Victims' Legal Advocacy Institute, renamed the Victims' Assistance Legal Organization (VALOR) in 1981, to advocate for the legal rights of crime victims.

On the legislative front, crime victim advocates pressed for reforms, and state legislators enacted laws that increasingly supported victims (NCVC 1994):

- In 1977, Oregon passed the first law mandating arrest in domestic violence cases.
- In 1978, Minnesota enacted legislation to allow warrantless arrest in domestic violence cases, whether or not there was a prior protection order.

In 1981, Ronald Reagan became the first president to proclaim "Crime Victims' Week." Later that year, the Attorney General's Task Force on Violent Crime issued its report. The Task Force, which included Frank Carrington, a leading advocate for improved treatment of crime victims, recommended that a separate Task Force be created to consider victims' issues. This became the President's Task Force on Victims of Crime, which issued its report in 1982.

STAGE THREE: PUBLIC AWARENESS (1982-1986)

As the revitalized victims' movement learned to better access the news media, public awareness of victims' issues increased. The 1981 *Uniform Crime Reports* had clearly shown the increase in victimization, and the movement actively used these new statistics for its cause.

- In December of 1982, Ronald Reagan appointed a Task Force on Victims of Crime. Chaired by Lois Haight Herrington, this Task Force published sixty-eight recommendations to improve the treatment of crime victims. The recommendations were directed at all segments of public and private sector, including the criminal justice system. The Report included a recommendation for a constitutional amendment for crime victims' rights.
- Later that year, Congress passed the first law addressing victim-witness issues: the Federal Victim and Witness Protection Act. This Act provided for witness protection, restitution, and fair treatment for federal victims and witnesses of violent crimes.

Changes at the federal level led to legislative changes at state levels: Victims' Bills of Rights, proposals for training and education, and expansion of existing victim-witness programs. The single greatest event in the victims' movement to date occurred in 1984: the passage of the Victims of Crime Act (VOCA).

- This Act established the Crime Victims Fund to provide funds for local victim assistance programs and state victim compensation and discretionary funding for research and promotion of promising practices in behalf of victims' needs. The fund was made up of money from federal criminal fines, penalties, and bond forfeitures.
- The Office for Victims of Crime (OVC), created in the Department of Justice in 1983 to implement the sixty-eight recommendations of the President's Task Force, was designated as responsible for administering VOCA, including distribution of VOCA funds to states for existing victim programs.

With increased public awareness and high level political support for victims' issues, numerous programs were started and laws passed during this period. The greatest increase in victim-witness programs occurred in this third stage. Some of the highlights of this stage were the following:

- National Conference of the Judiciary on Victims of Crime (1983).
- Missing Children's Assistance Act, which included the establishment of the National Center for Missing and Exploited Children by Congress (1984).
- Attorney General's Task Force on Family Violence (1984).
- Family Violence Prevention and Services Act (1984).
- National Center for Victims of Crime (formerly National Victim Center) (1985).
- NOVA Constitutional Amendment Meeting (1986).
- President's Child Safety Partnership (1987).

While “second generation” grassroots organizations feared that increased governmental involvement and new competition for funding of victims’ programs would lead to dissension as in previous years, these fears were not realized.

In addition, during this stage, theoretical concepts were put to more practical use in both the criminal justice and mental health systems.

- The concept of “second victimization”—that often the victim was harmed as much by the system’s response as by the crime itself—became generally recognized.
- The various syndromes identified earlier were being discussed within the context of a diagnosis of post-traumatic stress disorder (PTSD). With the identification of PTSD, a general diagnosis was now developed that did *not* stigmatize the victim, but clarified and legitimized the victim’s normal response to an abnormal situation. (This diagnosis was recognized by the field of psychiatry and formalized with the 1987 publication of DSM-III-R, a comprehensive definitional and diagnostic manual for mental health professionals.)

In addition, better training in trauma and crisis intervention enabled mental health professionals to learn about victims’ issues. Mental health professionals also began to provide better supportive services. Peer support groups began to be seen as a necessary adjunct to successful individual therapy.

During this period, the victims’ movement came of age and was more focused and sophisticated (Andrews 1992). The first ten years were initiated and perpetuated by strong leaders with forthright personalities. During this period an important paradigm shift was taking place. The movement had expanded beyond the dynamics of individual-level politics to group-level national politics, resulting in necessary change for growth into a more formalized discipline in the next period.

STAGE FOUR: EXPANDING LEGISLATIVE AGENDA (1987-1991)

In this stage and the next, three major issues emerged:

- Victim service funding.
- Victims’ rights.
- Law and order concerns.

The growing sophistication of the victims’ movement noted earlier enabled advocates to exert power and influence on several fronts. Political efforts during this time were much more organized and presented a clear and cohesive agenda. This agenda addressed funding, victims’ rights, and law and order concerns:

- Increasing the cap on VOCA funding to provide expanded and more stable funding for both crime victim compensation and victim assistance programs.

- Promoting a common sense interpretation of the Bill of Rights as it pertains to due process rights of criminals.
- Expanding victims' rights through more extensive and more effective state legislation.
- Adopting crime victims' rights constitutional amendments in state constitutions.

Successful results of this agenda include the following:

- In 1988, VOCA was reauthorized and the Office for Victims of Crime was established. Crime victim compensation was expanded to include victims of both domestic violence and drunk driving.
- As of 1995, all fifty states and the District of Columbia had enacted crime victim compensation programs.
- As of 1999, thirty-one states had passed constitutional amendments.
- As of 1995, forty-eight states had passed victims' rights legislation in the form of Victims' Bills of Rights for a series of statutory protections that essentially mirror a unified Victims' Bill of Rights statute.
- Congress also passed major legislation that addresses hate crimes, campus security, child protection, violence against women, sexual assault, kidnapping, and gun control; and the U.S. Supreme Court has upheld the use of victim impact statements in capital cases.

This legislative agenda continues to grow and expand. The recent serious congressional consideration of a constitutional victim rights' amendment exemplifies this. Activities and issues in this stage continued into the next stage.

STAGE FIVE: EMERGING PROFESSIONALISM AND ADVANCING ADVOCACY (1992-PRESENT)

Professionalism. The most salient issue in recent years is the emerging professionalism in the field of victim services. As with other grassroots movements, there is fear of "professionalizing" a community-based service system that originated and developed its strength through the dedication of volunteers who extended themselves personally to victims in need. Most of the victim service programs, however, have not diluted their passion and are led by dedicated professionals who have years of experience working with victims in a specialized setting.

The historical distrust of other professionals who have no "specialized" training or experience in victim treatment issues has persisted in many areas. Experience has made some of these concerns both legitimate and urgent. However, salary issues, increased availability of training, and a growing interest in program evaluation and quality services have increased the discussion in this area:

- Victim service providers work in a very diverse array of settings. Advocates typically perform a variety of tasks that require an understanding of social, psychological, and legal principles and clerical skills.
- The areas of expertise and the training needed are multidisciplinary in nature.
- There is a growing recognition that in order to be accepted by other professionals, certification or some other form of credentialing is necessary.
- Increased professionalization would develop as a result of available professional-level salaries for experienced victim advocates and administrative staff.

The changes in this area have often been small, almost unnoticed, and yet significant. Some states have adopted training guidelines (especially in the areas of rape crisis and domestic violence), and certification initiatives are underway in several states (i.e., California, Connecticut, Kansas, South Carolina, etc.). A handful of community colleges and universities also offer extensive training to victim service providers. A study by Dr. Dana DeHart in South Carolina (1998) indicated the following academic programs for victim advocates:

- *California State University, Fresno*: Victimology major (B.A.), Victim Services Certificate Program, and Victim Services Summer Institute.
- *University of New Haven*: Degree concentrations and Certificate Programs at both graduate (M.S.) and undergraduate (B.S.) levels.
- *Washburn University*: Victim/Survivor Services major and Certificate.
- *Kansas City, Kansas Community College*: A.A. Degree, A.A.S. Degree, and Certificate Program in Victim Services.
- *Red Rocks Community College, Lakewood Colorado*: A.A. Degrees and Certificate Programs in Victim Assistance Services and Victim Services Administration.
- *Sam Houston State University*: Victim Services courses, National Institute for Victim Studies.

In the summer of 1989, California State University-Fresno (CSUF) started the first Victim Services Institute to make its Certification Program available to professionals in other states. By 1990, the number of graduates from this program tripled. By 1991, CSUF developed the first victimology major and, by 1992, the first graduate concentration in victimology.

- Such steps represent the foundation for expanding professionalism of the field.
- Academics, advocates, and criminal justice and allied professionals have worked together as equals to make professional development available to the field of victim advocacy.

Some victimology programs have also developed legal advocacy components in addition to their training, technical assistance, and educational activities such as the Center for the Study of Crime Victims' Rights, Remedies, and Resources of the University of New Haven in Connecticut. This program, part of the School of Public Safety and Professional Studies,

provides *Amicus* Briefs in selected appellate cases dealing with victims' rights issues, such as several recent Connecticut Supreme Court cases involving evidence in cases of sexual assault, the criminal liability of negligent parents when children are killed by nonbiological caregivers, and the "constancy of accusation" doctrine in adult and child sexual assault cases.

Academic credit and the development of more degree programs will be necessary for the next phase of the victims' rights discipline to take place. The next step is the development of curriculum standards to be used at the national and state levels. The National Victim Assistance Academy (NVAA) curriculum offers this opportunity. NVAA began in 1995 offering a forty-five-hour core course of work in victim services that can be taken for academic credit; this can currently be done at five sites each summer throughout the United States. This course content is updated annually. It was the basis for the first state-level academy in Michigan in 1998. A multiyear funding strategy for the development of state victim assistance academies was initiated by OVC in 1999.

During this stage, additional significant developments have occurred on the national and state levels with respect to victims' rights constitutional amendments, legislation, expansion of VOCA fund collections, and creation of national programs affecting crime victims.

Advancing Advocacy.

Victims' rights constitutional amendments

- In the spring of 1996, bi-partisan federal victims' rights constitutional amendments were introduced in both the U.S. House of Representatives and the Senate. The amendment was re-introduced in the Senate in the opening days of the 105th Congress in January 1997, but no formal action was taken. Hearings have been held in Congress on the Federal Constitutional Amendment in 1996, 1997, and 1998.
- In April 1996, the Senate Judiciary Committee conducted hearings on the proposed federal constitutional amendment. While not endorsing specific language, Attorney General Janet Reno testified in support of federal constitutional rights for crime victims.
- In June 1996, President Clinton reaffirmed his support of federal constitutional rights for crime victims in a Rose Garden ceremony attended by members of Congress, criminal justice officials, and local, state, and national victims' rights organizations. Also that month, the Judiciary Committee in the U.S. House of Representatives conducted its first hearing on the proposed amendment.
- During the 1996 elections, both presidential candidates endorsed the concept of a federal Victims' Rights Constitutional Amendment. In these elections, eight states ratified the passage of state-level constitutional amendments—raising the total number of state constitutional amendments to twenty-nine nationwide.
- In 1998, Senate Joint Resolution 44, a new version of the federal Victims' Rights Amendment, was introduced in the Senate by Senators Jon Kyl and Dianne Feinstein. The Senate Judiciary Committee subsequently approved SJR 44, but no further action was taken by Congress.

- As of 1999, a total of thirty-one states have ratified crime victims' rights constitutional amendments.
- On January 19, 1999, Senate Joint Resolution 3, identical to SJR 44, was introduced and is now pending before the 106th Congress.

Landmark Federal Legislation

- In 1996, the Congress passed "Megan's Law"—the Community Notification Act—as an amendment to the national Child Sexual Abuse Registry legislation. This new law provides for notification of local communities on the location of convicted sex offenders. President Clinton stated in his 1997 National Crime Victims' Rights Week Proclamation that: "With community notification, we are working to prevent cases like that of the Act's namesake, Megan Kanka, a seven-year-old who died at the hands of a repeat sex offender released into an unsuspecting community."
- In 1996, the Antiterrorism and Effective Death Penalty Act provided one million dollars in funding to strengthen antiterrorism efforts. In addition, restitution was made mandatory in federal violent crime cases, including domestic violence, sexual exploitation, and telemarketing fraud. In addition, compensation and victim assistance services for victims of terrorism both at home and abroad, including victims in the military, were expanded.
- The Mandatory Victims' Restitution Act, enacted as Title II of the Antiterrorism and Effective Death Penalty Act of 1996, allows federal courts to award "public harm" restitution directly to state VOCA victim assistance programs. As a result of the new sentencing guidelines, judges can require federal offenders in certain drug offense cases to pay "community restitution."
- As a result of the passage of the Antiterrorism Act and Effective Death Penalty Act, the Office for Victims of Crime was able to use its new authority under the Act to provide substantial financial assistance to the victims and survivors of the Oklahoma City bombing.
- The Church Arson Prevention Act was signed into law in July 1996 in response to increasing numbers of acts of arson against religious institutions around the country.
- In 1996, the Drug-induced Rape Prevention Act was enacted to address the emerging issue of the use of sedating drugs by rapists to incapacitate their victims.
- The Interstate Anti-Stalking Punishment and Prevention Act of 1996 was enacted by Congress in September. The law was incorporated as an amendment to the Defense Authorization bill, H.R. 3610. The Anti-Stalking Law created a uniform federal law to protect stalking victims when they travel across a state line and on federal property, including military bases and Indian reservations. The Act makes it a felony to cross a state line to stalk someone in violation of a restraining order.
- The Victims' Rights Clarification Act of 1997 was enacted to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime. The Act passed through Congress at an historic speed as the result of a ruling by the U.S. District Judge presiding over the Oklahoma City bombing case. The ruling would have

excluded victims and survivors from observing the trial proceedings in Denver or on closed circuit television in Oklahoma City if they were planning to give victim impact statements during the sentencing phase. A detailed description of the Act is provided at the end of this chapter.

- The Higher Education Amendments of 1998 is passed. Part E of this legislation, "Grants to Combat Violent Crimes Against Women on Campus," is authorized through the year 2003 and appropriates a total of \$10 million in grant funding to the Violence Against Women Grants Office for fiscal year 1999. Another primary aim of this legislation is to reduce binge drinking and illegal alcohol consumption on college campuses.
- The Child Protection and Sexual Predator Punishment Act of 1998 was enacted, providing for numerous sentencing enhancements and other initiatives addressing sex crimes against children, including crimes facilitated by the use of interstate facilities and the Internet.
- The Crime Victims with Disabilities Act of 1998 is passed, representing the first effort to systematically gather information on the extent of the problem of victimization of individuals with disabilities. This legislation directs the Attorney General to conduct a study on crimes against individuals with developmental disabilities within eighteen months. In addition, the Bureau of Justice Statistics must include statistics on the nature of crimes against individuals with developmental disabilities and victim characteristics in its annual *National Crime Victimization Survey* by 2000.
- The Identity Theft and Deterrence Act of 1998 is signed into law in October 1998. This landmark federal legislation outlaws identity theft and directs the U.S. Sentencing Commission to consider various factors in determining penalties including the number of victims and the value of to any individual victim. The Act further authorizes the Federal Trade Commission to log and acknowledge reports of identity theft, provide information to victims and refer complaints to appropriate consumer reporting and law enforcement agencies.

Federal Crime Victims Fund

- In 1996, deposits in the federal Crime Victims Fund reached an all-time high of over \$525 million available for state crime victim compensation, local victim assistance programs, national training and technical assistance, and federal victim assistance. As a result of this landmark increase in fund collections, states received more than three times as much in federal funds in 1997 as they had in any previous year.
- In January of 1997, the Office for Victims of Crime hosted a series of regional meetings with state VOCA administrators to encourage states to develop multiyear funding strategies to help stabilize local victim assistance program funding; encourage states to provide funding for programs that serve previously underserved crime victims, such as Indian tribes; and encourage the use of technologies to improve victims' rights and services.
- To fully recognize the sovereignty of Indian Nations, the Office for Victims of Crime, for the first time in 1997, provided victim assistance grants in Indian Country directly to the tribes.

Aviation Disasters

- In September 1996, the President directed the National Safety Transportation Board (NTSB) to coordinate the roles of the Departments of Justice, Defense, State, and other federal agencies with responsibilities for victim services following the tragic explosion of TWA flight 800 and the Valuejet crash in Miami, Florida. Subsequently, Congress passed the Aviation Disaster Family Assistance Act of 1996, establishing the responsibility of NTSB in all domestic aviation disasters as “a point of contact within the federal government for the families of passengers involved in the accident and a liaison between the air carrier . . . and the families.” (*Title VII of Public Law 104-264. Cong. Rec. H11303*)
- The Attorney General designated OVC as the lead agency within DOJ to work with NTSB on a coordinated government protocol for aviation disasters. In conjunction with other DOJ components, including the FBI, OVC developed a Memorandum of Understanding (MOU) to ensure that the needs of victims and their survivors are addressed in a sensitive and appropriate manner in the event of an aviation disaster resulting from criminal activity. It was signed by the Attorney General and the NTSB Chair and became effective on January 28, 1997. It is the first step in developing a coordinated government response to aviation disasters.

Other Significant Developments

1996

- In February 1996, the National Domestic Violence Hotline (1-800-799-SAFE) was established to provide crisis intervention information and assistance to victims of domestic violence. The new hotline was cited in the *President's 1997 National Crime Victims' Rights Week Proclamation* as having already responded to more than 73,000 calls for assistance from around the country.
- The Office for Victims of Crime launched a number of international crime victim initiatives in 1996 including working to foster worldwide implementation of a United Nations declaration on victims' rights and initiatives to better assist Americans who are victimized abroad.
- The Office for Juvenile Justice and Delinquency Prevention (OJJDP) within the U.S. Department of Justice issued the *Juvenile Justice Action Plan* that includes recommendations for victims' rights and services for victims of juvenile offenders within the juvenile justice system.

1997

- As stated in the *President's 1997 National Crime Victims' Rights Week Proclamation*, as of April 1997, the *Brady Bill* has prevented over 225,000 felons, fugitives, and stalkers from buying handguns.
- The Federal Crime Victims Fund reached its second highest year in fund collections with deposits totaling \$363 million.

- OVC continued its support of the victims and survivors of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City by funding additional advocates, crisis counseling, and travel expenses to court proceedings for the bombing victims. When the venue of the trial was changed to Denver, Colorado, OVC provided funding for a special closed circuit broadcast to victims and survivors in Oklahoma City.
- OVC representatives joined the United States Delegation to the United Nations Commission on Criminal Justice and Crime Prevention. OVC played a leadership role in the development of an International Victim Assistance Training Manual to implement the *U.N. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.
- The National Center for Victims of Crime (formerly National Victim Center) utilized its extensive legislative database to create the *Legislative Sourcebook*, a comprehensive compendium of victims' rights laws in all 50 states and the District of Columbia. Developed with support from OVC, the *Sourcebook* became the definitive digest of state crime victims' rights legislation for the nation.
- A comprehensive national training for VOCA Compensation and Assistance programs is hosted by the National Association of Crime Victim Compensation Boards and the National Organization for Victim Assistance with support from OVC. VOCA representatives from *all* fifty states and every territory attended the conference.
- During National Crime Victims' Rights Week, OVC officially launched its homepage <<http://www.ojp.usdoj.gov/ovc/>> providing Internet access to its comprehensive resources on victims' rights and services.
- The Victims' Rights Clarification Act of 1997 was passed, in response to a federal ruling that excluded victims and survivors of the Murrah federal building bombing from observing the proceedings in Denver or on closed-circuit television in Oklahoma City, if they were planning to give victim impact testimony during the sentencing phase of the case.

Specifically, the Act amends Chapter 223 of Title 18 of the United States Code by adding the following new language in Section 3510—*Rights of Victims to Attend and Observe the Trial*:

- *Noncapital cases*: “Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, make a statement or present any information in relation to the sentence.
- *Capital cases*: “Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, testify as to the effect of the offense on the victim and the victim's family or as to any other factor for which notice is required under section 3593(a).
- *Clarification of grounds for exclusion*: Section 3593(c) of title 18, United States Code, is amended by inserting “For the purposes of the preceding sentence, the fact that the victim, as defined in 3510, attended or observed the trial shall not be construed to pose a danger of creating unfair prejudice, confusing the issues, or misleading the jury.”

(Title 18, Chapter 223, United States Code, as amended by the Victims Rights Clarification Act of 1997. See Section 3510: Rights of Victims to Attend and Observe Trial.)

1998

- On May 29, 1998, *New Directions from the Field: Victims Rights and Services for the 21st Century* was released to the field. The report was developed with support from OVC and input from over 1000 individuals across the nation. It assessed the nation's progress in meeting the recommendations set forth in the *Final Report* of the 1982 President's Task Force on Victims of Crime and issued over 250 new recommendations from the field for the next millennium. OVC printed 30,000 copies of this report and disseminated it widely across the nation.
- The fourth National Victim Assistance Academy (NVAA), sponsored and funded by OVC, is held at four university sites around the country. The number of NVAA graduates through 1998 totals nearly 700 students from all fifty states, one American territory, and three foreign countries have attended the Academy.

1. To what extent are people in America concerned about violent crime in the U.S.?
2. How has a concern about violent crime affected the way people in America view the world and live their lives?
3. What are the four movements that set the stage for the victim's rights discipline?
4. Identify the original grassroots crime victim programs and describe their impact on the victims' rights discipline.
5. List two major federal laws that were passed to benefit crime victims in the 1980s and two in the 1990s.

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Federal and State Jurisdiction

SECTION 1, FEDERAL AND STATE JURISDICTION

ABSTRACT

An understanding of the role and functions of the various court systems in the United States provides victim service providers with a solid foundation for understanding the dynamics of the law. The U.S. judicial system can be confusing and frustrating to victims when they are first exposed to it. Knowing some of the rationale for its present day composition may help victims understand the foundations of our judicial system and the manner in which laws operate and interact.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The principle of federalism and how it affected the structure of our court system.
- How the dual system of state and federal courts functions.
- The characteristics of American court systems.
- How the juvenile court system functions.

STATISTICAL OVERVIEW

- During each fiscal year, 1996 and 1997, U.S. district courts terminated an average of 296,000 cases. Approximately 84% of these cases were civil, and 16% were criminal cases (BJS 1999).
- Of the nearly 500,000 federal civil cases terminated during fiscal years 1996-97, 19% (96,284) were tort claims in which plaintiffs claimed injury, loss, or damage from defendants' negligent or intentional acts (Ibid.).
- Of the estimated 1.76 million cases involving delinquency charges handled in U.S. courts with juvenile jurisdiction in 1996, 53% were processed formally, either by filing a delinquency petition in the juvenile court or waiving the case to criminal court (Stahl 1999).

CHARACTERISTICS OF THE AMERICAN JUDICIAL SYSTEM

In order to understand the principles of federal and state court jurisdiction, it is essential to have a clear understanding of how the American judicial system functions. The following section will provide a brief overview of the judicial system in the United States.

HISTORICAL CONTEXT: THE PRINCIPLE OF FEDERALISM

The court system in the United States is based upon the principle of federalism. The first Congress established a federal court system, and the individual states were permitted to continue their own judicial structure. There was general agreement among our nation's founders that individual states needed to retain significant autonomy from federal control. Under this concept of federalism, the United States developed as a loose confederation of semi-independent states having their own courts, with the federal court system acting in a very limited manner. In the early history of our nation, most cases were tried in state courts. It was only later that the federal government and the federal judiciary began to exercise jurisdiction over crimes and civil matters. Jurisdiction in this context simply means the ability of the court to enforce laws and punish individuals who violate those laws.

A dual system of state and federal courts. As a result of this historical evolution, a dual system of state and federal courts exists today. Therefore, federal and state courts may have concurrent jurisdiction over specific crimes. For example, a person who robs a bank may be tried and convicted in state court for robbery, then tried and convicted in federal court for the federal offense of robbery of a federally-chartered savings institution.

Court system performs its duties with little or no supervision. Another characteristic of the American court system is that it performs its duties with little or no supervision. A Supreme Court Justice does not exercise supervision over lower court judges in the same way that a government supervisor or manager exercises control over his or her employees. The U.S. Supreme Court and the various state supreme courts exercise supervision only in the sense that they hear appellate cases from lower courts and establish certain procedures for these courts.

Specialization occurs primarily at the state and local level. A third feature of the U.S. court system is one of specialization that occurs primarily at the state and local level. In many states, courts of limited jurisdiction hear misdemeanor cases. Other state courts of general jurisdiction try felonies. Still other courts may be designated as juvenile courts and hear only matters involving juveniles. This process also occurs in certain civil courts that hear only family law matters, probate matters, housing matters, or civil cases involving damages. At the federal level, there are courts such as bankruptcy that hear only cases dealing with specific matters.

Geographic organization of the American court system. The fourth characteristic of the American court system is its geographic organization. State and federal courts are organized into geographic areas. In many jurisdictions these are called judicial districts and contain

various levels of courts. For example, on the federal level, the 9th Circuit Court of Appeals has district (trial) courts that hear matters within certain specific boundaries, and an appellate court that hears all appeals from cases within that area. Several studies have been conducted regarding the difference in sentences for the same type of crime in geographically distinct courts. For example, in Iowa the average sentence for motor vehicle theft was forty-seven months while the average sentence for the same offense in New York was fourteen months. (Pursley 1994). This should not be taken as a criticism; rather it may reflect different social values and attitudes within specific geographic areas.

THE STATE COURT SYSTEM

Historically each of the thirteen original states had their own unique court structure. This independence continued after the American Revolution and resulted in widespread differences among the various states, some of which still exist today. Because each state adopted its own system of courts, the consequence was a poorly planned and confusing judicial structure. As a result, there have been several reform movements whose purpose has been to streamline and modernize this system.

Many state courts can be divided into three levels:

- Trial courts.
- Appellate courts.
- Supreme courts.

TRIAL COURTS

Trial courts are where criminal cases start and finish. The trial court conducts the entire series of acts that culminate in either the defendant's release or sentencing. State trial courts can be further divided into courts of:

- Limited or special jurisdiction.
- Courts of general jurisdiction.

The nature and type of case determines which court will have jurisdiction.

Limited jurisdiction. Courts that only hear and decide certain limited legal issues are courts of limited jurisdiction:

- Courts of limited jurisdiction hear and decide issues such as traffic tickets or set bail for criminal defendants.
- Typically, these courts hear certain types of minor civil or criminal cases.
- There are approximately 13,000 local courts in the United States.

- They are called county, magistrate, justice or municipal courts.
- Judges in these courts may be either appointed or elected.

In many jurisdictions these are part-time positions, and the incumbent may have another job or position in addition to serving as a judge. However, simply because they handle minor civil and criminal matters does not mean these courts do not perform important duties. Often, the only contact the average citizen will have with the judicial system occurs at this level.

In addition, courts of limited jurisdiction may hear certain types of specialized matters such as:

- Probate of wills and estates.
- Divorces.
- Child custody matters.
- Landlord-tenant disputes.
- Juvenile proceedings.

These types of courts may be local courts or, depending on the state, may be courts of general jurisdiction that are designated by statute to hear and decide specific types of cases. For example, in California, a superior court is considered a court of general jurisdiction; however, certain superior courts are designated to hear only juvenile matters, thereby becoming a court of limited jurisdiction when sitting as a juvenile court.

General jurisdiction. Courts of general jurisdiction are granted authority to hear and decide all issues that are brought before them. These are courts that normally hear all major civil or criminal cases. These courts are known by a variety of names, such as:

- Superior Courts.
- Circuit Courts.
- District Courts.
- Courts of Common Pleas.

Since they are courts of general jurisdiction, they have authority over all types of cases and controversies and, unless otherwise geographically limited, may decide issues that occur anywhere within the state. Some larger jurisdictions such as Los Angeles or New York may have hundreds of courts of general jurisdiction within the city limits. It is important to be certain about the correct terminology for courts in each jurisdiction. For example, the New York Supreme Court is the state's trial court and its highest court is called the Superior Court. Just the reverse is true in many jurisdictions.

Typically, these courts hear civil cases involving the same types of issues that courts of limited jurisdiction hear, although the amount of damages will be higher and may reach millions.

- These courts also hear the most serious forms of criminal matters including death penalty cases.

Courts of general jurisdiction traditionally have the power to order individuals to do or refrain from doing certain acts.

- These courts may issue injunctions that prohibit performing certain acts or require individuals to perform certain functions or duties.
- This authority is derived from the equity power that resides in courts of general jurisdiction.

Equity is the concept that justice is administered according to fairness as contrasted with the strict rules of law. In early English Common Law, such separate courts of equity were known as Courts of Chancery. These early courts were not concerned with technical legal issues; rather they focused on rendering decisions or orders that were fair or equitable. In modern times, the power of these courts has been merged with courts of general jurisdiction, allowing them to rule on matters that require fairness as well as the strict application of the law.

- The power to issue temporary restraining orders (TROs) in spousal abuse cases comes from the equitable powers of the court.

APPELLATE JURISDICTION

Appellate jurisdiction is reserved for courts that hear appeals from both limited and general jurisdiction courts.

- These courts do not hold trials or hear evidence.
- They decide matters of law and issue formal written decisions or “opinions.”

There are two classes of appellate courts:

- *Intermediate*, or Courts of Appeals.
- *Final*, or Supreme Courts.

Courts of appeals. The intermediate appellate courts are known as courts of appeals. Approximately half the states have designated intermediate appellate courts.

- These courts may be divided into judicial districts that hear all appeals within their district.
- They will hear and decide all issues of law that are raised on appeal in both civil and criminal cases.

- Since these courts deal strictly with legal or equitable issues, there is no jury to decide factual disputes.
- These courts accept the facts as determined by the trial courts.
- Intermediate appellate courts have the authority to reverse the decision of the lower courts, and to send the matter back with instructions to retry the case in accordance with their opinion.
- They also may uphold the decision of the lower court.

In either situation, the party who loses the appeal at this level may file an appeal with the next higher appellate court.

SUPREME COURTS

Final appellate courts are the highest state appellate courts. They may be known as *supreme courts* or *courts of last resort*. There may be five, seven, or nine justices sitting on this court depending on the state. This court has jurisdiction to hear and decide issues dealing with all matters decided by lower courts, including ruling on state constitutional or statutory issues. This decision is binding on all other courts within the state. Once this court had decided an issue, the only potential appeal left is to file in the federal court system, but only if grounds for federal appellate jurisdiction exist.

THE FEDERAL COURT SYSTEM

While state courts had their origin in historical custom, federal courts were created by the U.S. Constitution. Section 1 of Article III established the federal court system with the words providing for “one Supreme Court, and . . . such inferior Courts as the Congress may from time to time ordain and establish.” From this beginning, Congress has engaged in a series of acts that has resulted in today’s federal court system. The *Judiciary Act of 1789* created the U.S. Supreme Court and established federal District Courts and Circuit Courts of Appeals.

FEDERAL DISTRICT COURTS

Federal District Courts are the lowest level of the federal court system. These courts have original jurisdiction over all cases involving a violation of federal statutes or other instances of statutorily-defined federal jurisdiction. These district courts handle thousands of cases per year.

FEDERAL CIRCUIT COURTS

Federal Circuit Courts of Appeals are the intermediate appellate level courts within the federal system. These courts are called circuit courts because the federal system is divided into 11 circuits. A Twelfth Circuit Court of Appeals serves the District of Columbia area. These courts hear all appeals from U.S. District Courts and habeas corpus appeals from state court

convictions. These appeals are usually heard by panels of three of the appellate court judges rather than by all the judges of each circuit.

U.S. SUPREME COURT

The United States Supreme Court is the highest court in the land. It has the capacity for judicial review of all lower court decisions, as well as state and federal statutes. By exercising this power, the Supreme Court determines which laws and lower court decisions conform to the mandates set forth in the U.S. Constitution. The concept of *judicial review* was first referred to by Alexander Hamilton in the Federalist Papers, where he described the function of the Supreme Court as ensuring that the will of the people will be supreme over the will of the legislature (*The Supreme Court of the United States*, no date). This concept was firmly and finally established in the U.S. judicial system when the Supreme Court asserted its power of judicial review in the case of *Marbury v. Madison* (1803).

Although it is primarily an appellate court, the Supreme Court has original jurisdiction in the following cases:

- Cases between the United States and a state.
- Cases between states, and cases involving foreign ambassadors, ministers, and consuls...
- Cases between a state and a citizen of another state or country.

The court hears appeals from lower courts including the various state supreme courts. If four justices of the U.S. Supreme Court vote to hear a case, the court will issue a Writ of Certiorari. This is an order to a lower court to send the records of the case to the Supreme Court for review. The court meets on the first Monday of October and usually remains in session until June. The court may review any case it deems worthy but it actually hears very few of the cases filed. Of approximately 5,000 appeals each year, the court agrees to review about 200, but may not issue an opinion on each case.

VICTIM CASES AT THE SUPREME COURT LEVEL

The Supreme Court handles perhaps the broadest conceivable array of legal and social issues. Recent victim-related Supreme Court decisions have addressed the following topics:

- Victim impact statements.
- Hate crimes.
- Child victims of crime.
- Notoriety-for-profit for perpetrators.

THE JUVENILE COURT SYSTEM

Because of the significant increase in importance of juvenile crime in our society, an overview of juvenile courts within the state and federal court system is important. While there are some differences, both federal and state systems were initially founded upon the concept of rehabilitation of young offenders. Additionally, both systems wanted to shield juveniles from public scrutinies; therefore, each contained provisions for keeping juvenile matters confidential.

THE FEDERAL COURT JUVENILE SYSTEM

When Congress addressed the issue of juvenile offenders, it established two alternatives for the prosecution of juveniles:

- The juvenile can waive his or her rights to be treated as a juvenile.
- The juvenile can have the matter treated as a civil proceeding called juvenile adjudication.

If the court finds that the juvenile committed the offense, he or she faces a series of federal sanctions including detention. There is a federal preference for state prosecution of juveniles since there is no separate federal juvenile court judge or juvenile detention system. If a juvenile is adjudicated to be a delinquent, he or she is placed in a state juvenile facility or on juvenile probation. The federal government contracts with states for this service.

Until the passage of the *Crime Control Act of 1990*, the federal government only prosecuted juveniles who committed crimes on federal reservations, where the states had no jurisdiction. The *Crime Control Act* added two other categories of juveniles who fall under federal juvenile court jurisdiction: juveniles who commit felony crimes of violence and/or those juveniles involved in certain drug felonies. Similar to most state court systems, federal law allows for the transfer or certification of a juvenile to “adult status.” This procedure allows juveniles to be tried as adults in either the state or federal court system.

Under federal law, juveniles are those persons under twenty-one who commit a federal offense before their eighteenth birthday. A federal judge acts as the federal equivalent of the state juvenile court judge. The proceedings are typically confidential with no members of the news media in attendance. Federal jurisdiction in juvenile matters is established where:

- The state does not have jurisdiction.
- The state does not have programs or services available for juveniles.
- The offense charged is a violent felony or drug offense and there is a substantial federal interest in the case.

A juvenile proceeding is initiated by the filing of an information. In most cases, the U.S. Attorney must file a certification stating that there are grounds for federal jurisdiction. The hearing in federal court is very similar to a court trial.

THE STATE COURT JUVENILE SYSTEM

The separate handling of juvenile justice matters has roots throughout history. Even in earlier periods in America, certain specific juvenile accommodations were in use. However, the present day American state-level juvenile court system dates back to 1899 when the state of Illinois passed the *Illinois Juvenile Court Act*. It was at that time that the juvenile court system as we know it today came into existence (Fox 1972). This statute separated the juvenile court system from the adult criminal system. It labeled minors who violated the law as “delinquents” rather than criminals, and required that juvenile court judges determine what “is in the best interests of the minor” in rendering their decision.

The juvenile court system is guided by five basic principles:

1. The state is the ultimate parent of all children within its jurisdiction (the doctrine of *parens patriae*) and has the power to step into the parental role *in loco parentis*.
2. Children are worth saving and the state should utilize non-punitive measures to do so.
3. Children should be nurtured and not stigmatized by the court process.
4. Each child is different and justice should be tailored to meet individual needs and requirements.
5. The use of noncriminal sanctions are necessary to give primary consideration to the needs of the child (Cadwell 1966, 358).

It is important to note that each state determines its own jurisdictional age of “minors” handled by its juvenile system. Most involve children who are under eighteen years of age. A few states use higher ages, up to twenty-one, usually for specific issues. In response to increasingly violent juvenile crime, some states have lowered their upper age limit for juvenile jurisdiction to fifteen, and even fourteen years of age.

While these principles were originally adopted for delinquents or minors who committed criminal acts, they have been broadly applied to proceedings involving children who are victims of abuse. Juvenile courts have jurisdiction over three types of minors:

- Delinquents.
- Status offenders.
- Dependent children.

Delinquents are minors who have committed criminal offenses. *Status offenders* engage in acts that are not problematic if committed by an adult, such as truancy, running away from home, or incorrigible behavior. *Dependent children* are those who are in need of state intervention because of abuse or neglect by their caretakers.

ABUSE AND NEGLECT PROCEEDINGS

While the procedure is basically the same for delinquents as well as dependent minors, the juvenile court process dealing with children who are victims of abuse or neglect is of particular importance to victim service providers:

- This process is normally initiated by filing a petition with the court.
- A petition is a formal pleading that alleges that the parents or custodians endangered the health or welfare of the child.
- The petition may allege neglect, physical, emotional or sexual abuse of the child and gives the juvenile court authority to act.

Detention hearings in child maltreatment. Once the petition is filed, many jurisdictions hold a *show cause* or *detention* hearing. This hearing is usually conducted within twenty-four to forty-eight hours after filing the petition or the emergency removal of the child. The detention hearing requires child protective services or police to produce evidence justifying the emergency removal of the child, or to present evidence that would allow the court to order the removal of the child if he or she is still in the custody of the parents. The parents may also admit or deny the allegations contained in the petition at this hearing.

- If they admit the allegations, the court orders child protective services to conduct an investigation to determine where the child should be placed as a result of the admissions by the parents.
- If the parents deny the allegations, the court sets a date for an adjudicatory or jurisdictional hearing.

Pending this hearing, the court may order the child temporarily placed in a living arrangement outside the home.

Child abuse and neglect adjudicatory or jurisdictional hearing. An adjudicatory or jurisdictional hearing is used to determine if there is sufficient evidence to determine whether the allegations in the petition are true. At the conclusion of this hearing, the court will render its decision. If the petition is upheld, the court sets a date for a dispositional hearing. If the petition is not upheld, the child is returned to the parents and the case is dismissed.

- During the adjudicatory hearing, the state presents evidence to support its claim that the child has been abused.
- This may take the form of having the child testify to the incident, or experts employed by the state may render their opinion regarding the facts surrounding the case.
- The state is represented by a juvenile prosecutor, state's advocate, county counsel or other governmental attorney.
- The parents have a right to cross examine witnesses and present any evidence they desire in rebuttal to the state's evidence.

- At the end of the hearing, both parties may present arguments in favor of their position.

The burden of proof to uphold the abuse or neglect petition is the same as a civil case. In civil trials, the plaintiff has the burden of proving the case by a preponderance of the evidence. This is normally defined as slightly more than fifty percent. A criminal case requires proof beyond a reasonable doubt. This is not proof beyond all doubt, but it is proof of the “material facts to a moral certainty” that they did occur.

- In juvenile dependency cases, in order to remove the child from the custody of his or her parents, some jurisdictions require proof by clear and convincing evidence. This is more than a preponderance of the evidence, but less than beyond a reasonable doubt (Otterson 1979).

Once the adjudicatory or jurisdictional hearing is concluded, the next hearing to occur is the dispositional hearing. This hearing is to determine where the child should be placed. The court will decide whether the child should be immediately returned to his or her parents or placed in an out of home environment for a period of time. The guiding principle in this hearing is “the best interests of the child.” If the court orders the child placed outside the home, it may schedule periodic reviews to determine if or when the child will be reunited with the parents. Typically, a specific plan regarding placement is established and monitored.

From the beginning of the intervention process until the final dispositional hearing and beyond, every party in the action has certain rights. The parents and the child each has distinct rights that must be observed and protected. These rights include:

- Notice.
- An opportunity to be heard and present evidence.
- The right to confront and cross-examine witnesses.
- Effective representation by an attorney.

In a dependency hearing, the rights of a child include appointing an attorney who will speak on behalf of the child. This attorney must represent what he or she believes is in the best interests of the child regardless of what CPS or the parents’ advocate believes is appropriate. In some jurisdictions this is a government-funded attorney; in others, it is a private attorney appointed by the court to represent the child. Depending on the case, the attorney may side with the parents and argue for return of the child to their care, or the attorney may take the position that it is in the best interests of the child to be removed from the custody of the parents. Even if the child is removed temporarily from the custody of his or her parents, the child has a right to reunification efforts after a reasonable time.

Many jurisdictions additionally engage Court Appointed Special Advocates (CASAs), or similarly trained (typically non-attorney) individuals. The role of these child advocates is to present to the court an independent analysis of what is best for the child. This is particularly important; as the child’s legal representative, the court-appointed lawyer must forward the

child's wishes when an objective view would be to the contrary. For example, the lawyer may decide that he or she must vigorously advocate a juvenile's wish to return home, while an independent child advocate may determine that this is not actually in the child's best interest.

During dependency hearings, parents have a right to notice of the hearing, an opportunity to be present at that hearing and to be represented by an attorney. They may present any evidence they desire to rebut the charges. If the child is removed from their custody, they have the right in most jurisdictions to a re-unification plan that will allow them to regain custody of the child once they have finished treatment or counseling or complied with other court orders.

VICTIMS' RIGHTS IN JUVENILE DELINQUENCY MATTERS

Among the most rapidly changing areas in the victim assistance field is the extension of victim rights in juvenile delinquency proceedings. Historically, juvenile courts have been closed proceedings and records have been generally confidential. Even the victim was unable to learn much, if anything, about the progress of a case against the juvenile who allegedly offended against them. Juvenile delinquency proceedings are analogous, in many ways, to adult criminal trials, with all the typical obstacles to victim participation. The juvenile court's confidentiality provisions for alleged delinquents exacerbate these obstacles tremendously.

Many states have, or are, considering rolling back their previously hard and fast confidentiality statutes. States like Connecticut, Missouri, and Arizona have gone further to provide for victims' rights and accommodations in juvenile courts that mirror those in adult courts. This provides fertile ground for expansion of victim advocacy and assistance efforts to a previously underserved population, victims of juvenile crime.

DEFINITION OF TERMS

Adjudicatory or Jurisdictional Hearing: Used to determine if there is sufficient evidence to find the allegations in the petition are true.

Delinquents: Those minors who have committed criminal offenses.

Status Offenders: Minors who are truant from school, run away from home or are considered incorrigible.

Dependent Children: Those who are in need of state intervention because of neglect or abuse by their caretakers.

Detention Hearing: Requires child protective services or police to produce evidence justifying the emergency removal of the child or present evidence that would allow the court to order the removal of the child if he or she is still in the custody of the parents.

Dispositional Hearing: To determine where the child should be placed.

Parrens Patriae: Meaning “the country is the parent,” this doctrine is fundamental to the juvenile court’s power to decide on placements, treatment and other determinations regarding children.

Petition: A formal pleading that alleges that the parents or custodians endangered the health or welfare of the child.

Writ of Certiorari: An order to a lower court to send the records of the case to the Supreme Court for review.

THE DUAL SYSTEM OF COURTS IN AMERICA

FEDERAL COURTS

U.S. SUPREME COURT

- Chief justice and 8 associate justices
- Appointed by President with “advice and consent” of Senate
- Rarely acts as a trial court

U.S. COURT OF APPEALS

- 12 judicial circuits
- Normally hears cases in panels
- No original jurisdiction
- Appellate cases only

U.S. DISTRICT COURTS

- Basic federal trial court
- At least 1 district court in each state
- States are divided geographically into federal judicial districts

MAGISTRATE COURTS

- Not separate courts
- Minor offenses and pre-trial matters

STATE COURTS

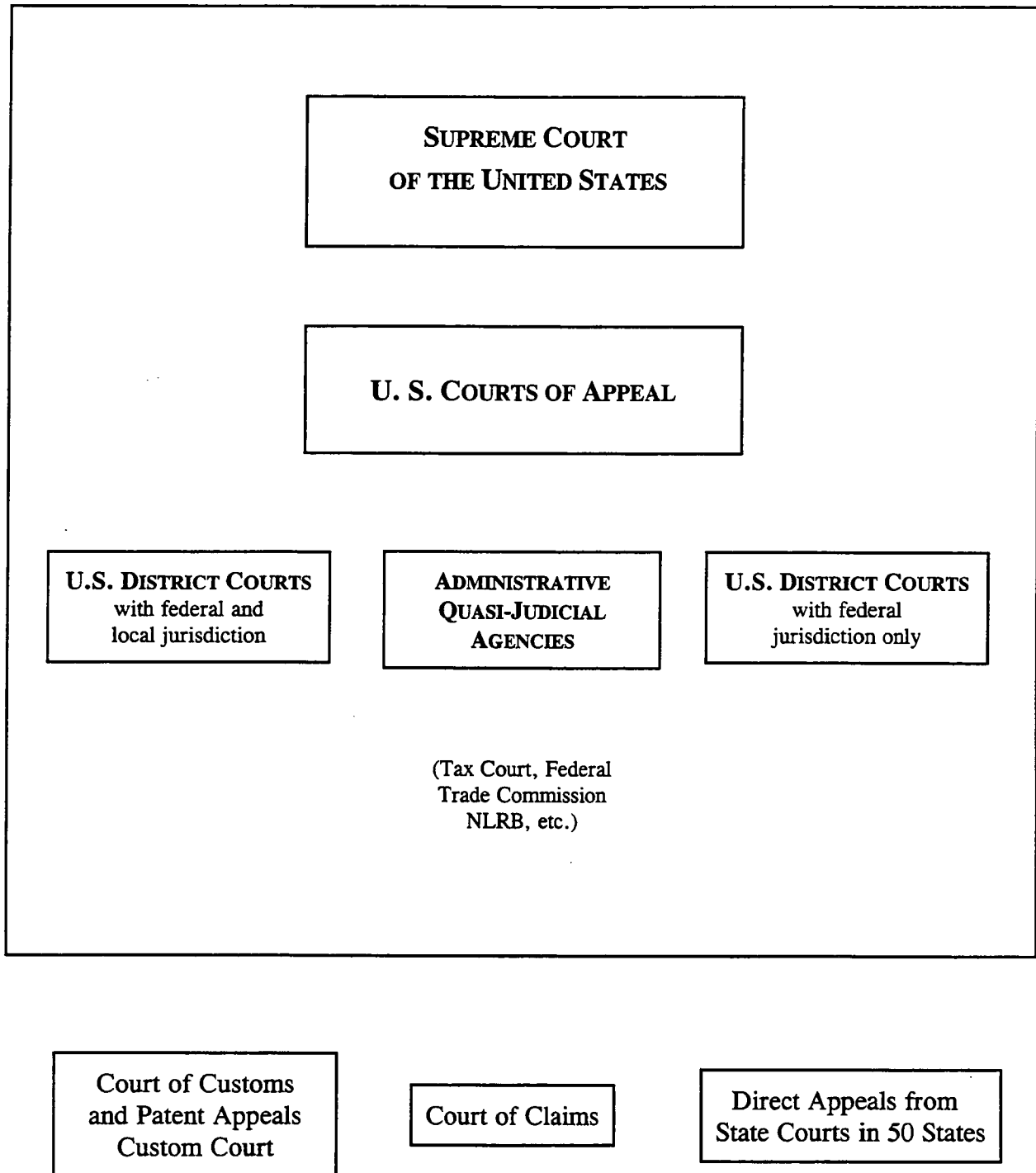
STATE SUPREME COURT

INTERMEDIATE APPELLATE COURTS

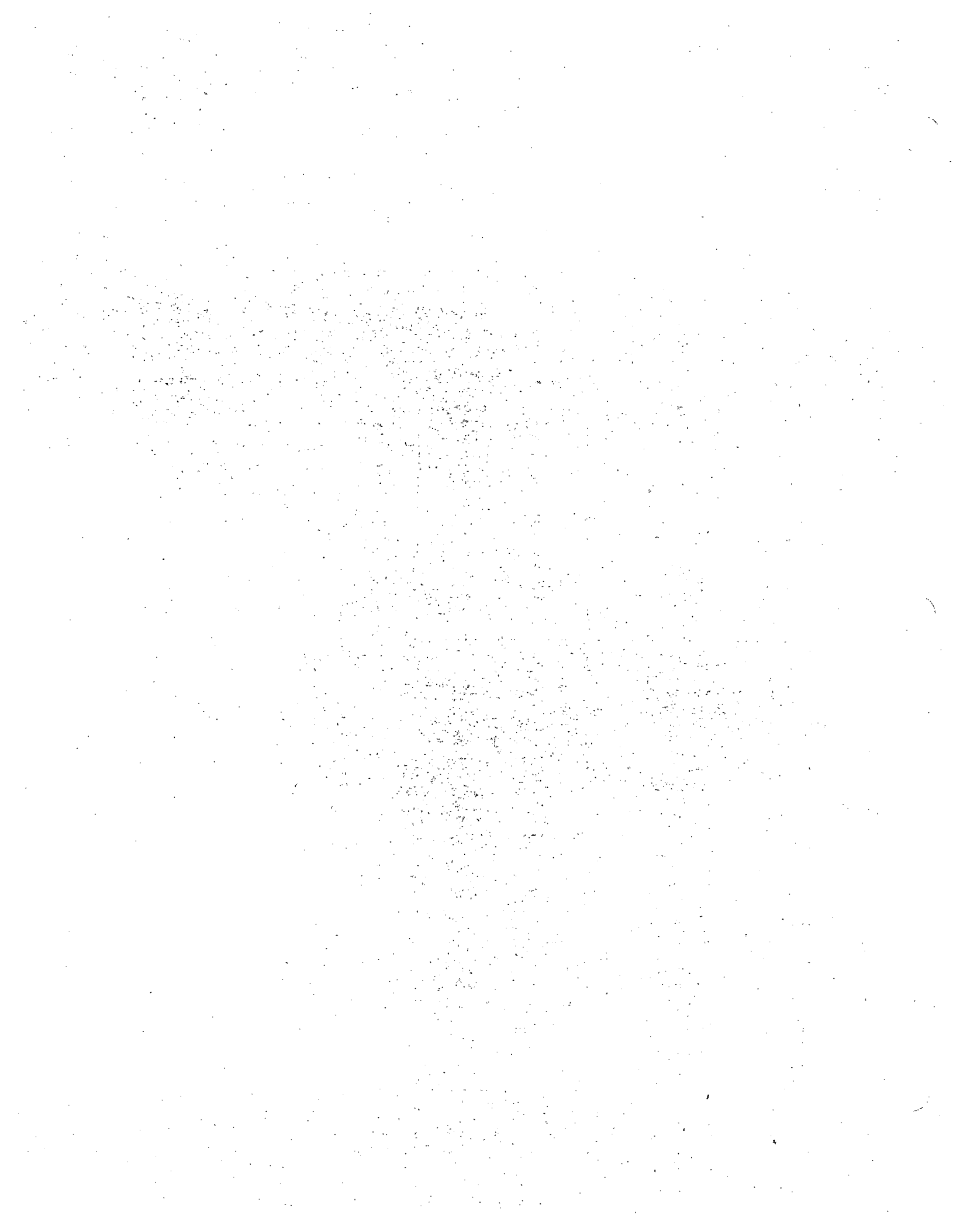
TRIAL COURTS OF GENERAL JURISDICTION

LOWER COURTS

FEDERAL JUDICIAL SYSTEM



Dynamics of the Criminal Justice System



SECTION 2, DYNAMICS OF THE CRIMINAL JUSTICE SYSTEM

ABSTRACT

The criminal justice system involves many different agencies and individuals. Each of these has specific roles and responsibilities within the system. The victims' role within the system must be understood in this context. In large part, legislatively established "rights" provide victims with the means to make the system more accountable to them.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The basic roles and responsibilities of professionals along the criminal justice system continuum.
- The interactions among these individuals and agencies and how these can assist victims.
- The basic tenets of victims' rights laws.

INTRODUCTION

One of the most fundamental functions of any civilized society is the protection of its citizens from criminal victimization. In the United States, the primary responsibility for protecting innocent people from those who would harm them rests with the criminal justice system. The criminal justice system involves many components that are reviewed in this section. The effectiveness of this system relates directly to the appropriate balancing of rights, roles, and responsibilities of the various participants within the system.

In his preface to *The Price of Perfect Justice*, Macklin Fleming (1974) reminds us that "the Goddess of Justice is traditionally depicted holding in one hand the scales of justice, with which she weighs the right, and in the other the sword, with which she executes it." The criminal justice system involves a delicate balance among its many components in the search for truth and justice. This section discusses the dynamics of this balance among the various agencies and professionals within the criminal justice system, and how the victim of crime figures into these dynamics.

ELEMENTS OF THE CRIMINAL JUSTICE SYSTEM CONTINUUM

There are many elements and “players” within the criminal justice system that need to be understood if one is to effectively advocate for the rights of crime victims. Of course, a fundamental precondition is that many of these rights have been established within the legislative and case law framework in different states.

Assuming certain basic rights and protections are in place, then victims and their advocates have some foothold to enforce these rights. Those primarily responsible for assuring that victims are afforded the protections and assistance they deserve are criminal justice system professionals.

The criminal justice system, at its fundamental level, includes the following:

- Law enforcement.
- Prosecution.
- Defense counsel.
- Judiciary.
- Probation.
- Institutional corrections.
- Parole.

Allied professions, such as mental health, child welfare, medical, and others, often have significant roles within the criminal justice process. The dynamics of these professional perspectives within the system need to be understood to best protect victims’ rights.

NEED FOR IMPROVED TREATMENT OF VICTIMS

Victims of crime have historically been treated less than adequately within the criminal justice system. The vestiges of a victim-oriented or victim-driven system, with private prosecution or so called “vigilante” justice, have given way over the last decades to an offender-based criminal justice system (Carrington 1975; Shapland 1985; this publication, Chapter 4). Much progress has been made in recent years to begin balancing the system to provide victims with rights and services (Carrington 1975; Shapland 1985). Recent initiatives based on a restorative justice or community justice approach seek to hold offenders accountable and, at the same time, provide victims with input and supportive services and promote greater involvement of the community in justice-related matters.

In order to continue these important efforts, victims and their advocates must understand and learn to work with the delicate balance among the various entities within the criminal justice system.

Victims and the criminal justice system. Victims of crime deserve rights and services within the criminal justice system that begin at the point of reporting a crime to the police and continue through the entire criminal justice and corrections processes. At each point along this continuum, criminal justice agencies and professionals have opportunities and obligations to provide victims with assistance, services, and accommodations to ease their difficulties in what is already a very trying, tragic time. The criminal justice system can minimize and avoid inflicting “secondary victimization” that has often characterized much of the plight of victims of crime.

Access to services. Access to services is an extremely important component of any service delivery plan, and depends greatly on the physical location and accessibility of such services. For example, police officers should be trained and updated on a regular basis about existing victim service programs—including twenty-four-hour emergency crisis response and shelter—and how to make appropriate referrals. Court-based advocacy programs should be established in *all* adult and juvenile court facilities. Probation officials must guarantee that crucial victim impact information and restitution requirements are incorporated into their recommendations to the court relevant to an offender’s sentencing and community supervision plan. Correctional institutions should include important victim information, such as notification requests, victim impact statements, and requests for protection, in offender files or databases, with security precautions established to protect victim confidentiality. Paroling authorities should encourage and accept victim impact statements and offer victims whatever reasonable protections they request if an offender is released to parole supervision.

Training and technical assistance. Victim sensitivity training should be provided to *all* criminal and juvenile justice professionals as part of mandatory orientation educational programs as well as continuing education. Such training should include the following:

- The scope of crime and victimization.
- The trauma of victimization, with an emphasis on responses that are unique to different types of victims.
- Victims’ rights accorded by constitutional and statutory mandates as well as by agency policy.
- The short- and long-term needs of victims (physical, financial, and psychological), with a focus on why appropriate referrals for follow-up assistance are so important.
- Cultural competency and sensitivity.
- The needs of particularly sensitive victims, including children, the elderly, and victims with disabilities.
- The need for multi-disciplinary approaches to victim assistance and services from the criminal justice system, including the use of inter-agency agreements that stipulate the various agencies’ roles and responsibilities, to ensure a “seamless” delivery of services.
- The role of allied professionals in enhancing criminal justice-based victims’ rights and services.

“Cross training” is also essential to the delivery of services to victims within the criminal justice system. Just as service providers want criminal justice system officials to be knowledgeable about and consistent in their enforcement of victims’ rights, criminal justice system officials want victim advocates to understand the scope and processes of the criminal justice system. Orientation, continuing education, and cross training help guarantee that the criminal justice system continuum *includes* and *involves* victims and their concerns.

Core components of victim services. All agencies along the full continuum of the criminal justice system should develop a comprehensive system of services that is “victim-centered.” The National Center for Victims of Crime, through an Office for Victims of Crime-sponsored project entitled *Focus on the Future*, has identified nine core components of an effective criminal justice-based victim assistance program. These components are designed to help victims navigate the criminal justice process, afford victims their legal rights, and make their overall participation less intimidating and burdensome. The following are services which can be multi-disciplinary (NCVC 1992):

- Orientation to the criminal justice system and process.
- Assistance to victims and witnesses who must testify.
- Crisis intervention.
- Information about individual case status and outcome.
- Assistance with compensation and restitution.
- Facilitating victim participation in the criminal justice system.
- Facilitating property return.
- Information about and referral to community services.
- Education and training for the public, justice system personnel, and other local service providers about the needs and rights of victims in the criminal justice system.

In addition, witness coordination and post-disposition services, such as monitoring of restitution payments and notification regarding an offender’s incarceration status, are very important.

Basic services for victims and witnesses should be available at *every* stage of the criminal justice process, as described below. It is important to note that these victim services can be provided by multiple agencies or through multi-disciplinary efforts.

CRIMINAL JUSTICE SYSTEM AGENCIES’ ROLES AND RESPONSIBILITIES

LAW ENFORCEMENT

Evolving from the earlier vestiges of sheriffs or constables, modern police forces are highly structured organizations that are accorded considerable authority, particularly the power of

arrest that is provided each sworn law enforcement officer (Pacific Law Journal 1992). Law enforcement agencies have traditionally addressed issues involving the general welfare of the public at large. As noted in Ryan (1994), in 1829, Sir Robert Peel included the following in his basic tenets of policing:

To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen, in the interest of community welfare . . .

As the “first responders” to most crimes, police departments serve a critical and primary role in providing immediate intervention and assistance to victims of crime. Unlike most social service agencies, police departments are typically open every day of the year, twenty-four hours a day. As such, there is tremendous responsibility on the part of law enforcement officers and civilian personnel to provide sensitive and supportive victim services.

It is important to keep in mind that the three primary functions of law enforcement are to do the following:

- Protect life and property.
- Prevent crime.
- Apprehend offenders (Barlow 1990).

Police role in victim services. Although police departments today tend to provide more and better victim services, these services were not always part of traditional policing. The positive change on behalf of providing quality victim services has been very encouraging; however, some police officials have perceived their victim assistance responsibilities as a secondary responsibility, at best.

Victim sensitivity training for police officers comprises an important improvement. In the past, police academies have not provided adequate training for law enforcement personnel regarding victimization and the effect that crime has on crime victims. This means that when undertrained law enforcement personnel come into contact with an emotionally distraught victim, a victim’s confidence and willingness to participate in the criminal justice system may be undermined.

Officers who initially respond to a crime scene, as well as investigating officers, are responsible for gathering evidence that can lead to arrest and prosecution of alleged perpetrators. Often the questions they ask victims appear to be judgmental or even blaming, despite their level of victim sensitivity. Police officials who interview victims must clearly establish that their role is to obtain relevant facts and evidence. While their line of questioning may *appear* to be judgmental or blaming, that is *not* their intent. This simple clarification can help officials obtain pertinent information without contributing to further victim trauma.

Much progress has been made over the last decade to increase law enforcement sensitivity to victims' issues. The establishment and expansion of law enforcement-based victim services programs have benefited both law enforcement and victims. When effective victim service programs are provided through a police department, law enforcement officers are able to devote their time to the primary law enforcement responsibilities of investigating crimes and arresting suspects. Victims are well served because basic services are provided by law enforcement. This is extremely important because in a large majority of crimes, no perpetrator is ever apprehended. This means that court-based programs will never come into contact with large numbers of victims. Victims' only hope for assistance from the criminal justice system is at the police-based level.

The move toward *community policing* in many jurisdictions has important implications for victims and those who serve them. Community policing involves partnerships with people who reside in neighborhoods that officers regularly patrol to increase opportunities for crime prevention, early intervention for people at risk of offending or victimization (especially juveniles), and services to individuals and neighborhoods that have been hurt by crime.

At its best, community policing creates a network of involved individuals who are available and willing to provide important witness information, as well as support for their neighbors who have been affected by crime. Community policing partnerships have resulted in neighborhood-based training and information initiatives that educate people about personal safety, victim and social services, and victims' immediate- and long-term needs that can be met by the community.

With more officers visible and active on the street and in neighborhoods, the delivery of victim services can be provided more swiftly and can involve supportive advocacy from *all* facets of a neighborhood or community (such as businesses, churches, and social services) in measures that reflect the cultural, gender, economic, and geographic diversity of the community.

The specific roles and responsibilities of law enforcement officials to victims of crime.

Police-based services provide essential assistance to victims of crime, including on-site crisis intervention and securing emergency medical assistance. Additionally, law enforcement programs may provide information and referrals to services and resources that can aid in a victim's short- and long-term reconstruction. Essential services should include the following:

- Provision of contact information for assistance and protection that victims can access twenty-four hours a day, seven days a week.
- Orientation to the law enforcement and investigatory process.
- Provision of or referral and accompaniment to crisis intervention and psychological first aid.
- Accompaniment to emergency medical services in cases involving injury.
- Contacting a victim service professional to provide on-site assistance and support, upon request from the victim.

- Providing information to crime victims about their constitutional and statutory rights, victim compensation availability, and referrals for assistance to complete compensation forms.
- Securing the victim's property if personal safety has been compromised as a result of crime, or if it is to be used for evidentiary purposes.
- Personally contacting the victim by telephone or in person twenty-four to forty-eight hours following the initial response to see if assistance has been sought and/or received.
- Providing immediate referrals (verbally and in writing) to community agencies that offer emergency services and information about financial assistance to all victims. For example, brochures that include information about emergency and long-term services and victim compensation should be developed in different languages and given to victims. Similarly, TTY telephone services should also be made available.
- Participating in multi-disciplinary efforts with other entities that comprise the criminal justice system to ensure a seamless delivery of rights and services to victims of crime.

Law enforcement agencies should also establish and enforce strict property return protocol and procedures. This should be a standardized, jurisdiction-wide program—closely coordinated with prosecutors' offices and the courts—that can eliminate potential confusion about exactly which property return rights and procedures are enforced by different law enforcement agencies.

Essentially, police-based services, when adequately staffed and funded, can provide critical assistance and information to victims as they progress through the criminal justice system. Perhaps most important, every law enforcement agency at the federal, state, and local levels should assign a staff member to serve as a liaison to crime victims and victim services. This designation will enhance all roles and responsibilities described above and will coordinate and streamline victims' rights and the delivery of victim services.

PROSECUTION

When law enforcement has investigated a crime and a suspect has been arrested, the case is then referred to a prosecutor. Although each state's laws and procedures provide for different ways to initiate a criminal action, this is usually handled through either an initial court appearance or some process leading to charging and arraignment. At this point, information regarding the investigation and facts of the crime is presented by law enforcement to the court with the assistance of prosecutors, and appropriate charges are levied against the defendant. When appropriate, he or she is "bound over for trial" on the charges levied.

Again, victim advocates should be mindful that the prosecutor's primary role is the successful prosecution of criminal cases. This is accomplished within specific budgetary and human resources limitations. The typically limited resources made available to prosecutors to dispose of each case in the most just, yet *efficient* manner possible is a tremendous motivation to dispense cases, in light of the often overwhelming workload handled by most prosecutors' offices. This motivation/pressure often conflicts with the needs and desires of individual victims, who want their particular perpetrator prosecuted to the full extent of the law.

Consequently, victims' expectations are often not fulfilled, and the case is disposed of early on, most often through the use of a non-trial settlement, usually referred to as *plea bargaining*.

Plea bargaining. Plea bargaining allows the defendant to avoid a trial and the possibility of a verdict that may result in a more severe sentence by agreeing to plead guilty to a lesser offense. Victims are often most distressed at the perceived ability of the defendant to “get off easy” by bargaining with the prosecutor to reduce the severity of the offense of which they may actually be guilty. Many victims and advocates rightfully consider victim participation in the plea negotiation process as essential to providing victims with a voice in the system. Any plea negotiation should include an opportunity to present the impact of the crime on the victim—a victim impact statement—as well as the opportunity for the victim to consult with the prosecutor *prior* to any plea agreement.

Diversion. In non-violent and/or first-time offenses, prosecutors can recommend *diversion* of the case. Essentially, in diverted cases, the offender will be required to complete certain conditions—such as paying restitution, community service, victim/offender programming (with the victim's consent), and/or educational or treatment programs—in order to avoid having a criminal record. Diversion agreements should be confirmed only with the consent and agreement of any victim(s) involved in the case. Diversion agreements can be revoked at any time if an offender fails to comply with the conditions of the diversion agreement.

Trial. Assuming a case goes beyond the plea negotiation stage to trial, the defendant continues to receive basic protections found in the United States Constitution, state constitutions, and pertinent statutory law and caselaw. Volumes of materials are available about defendants' rights. These include, for example, the right to obtain all exculpatory evidence from the prosecution, which would tend to prove the innocence of the defendant. Also, the defendant has the right to confront and cross-examine his or her accusers. Often, this is very difficult for the victim, who must be well prepared to withstand the onslaught of cross-examination by an often aggressive defense counsel. Defense counsel typically use methods that involve the strategy of “defense by distraction.” This approach is based on the notion that in order to place any possible “reasonable doubt” within the minds of the jury, a defense lawyer will attempt to focus attention on any other possible factor than the defendant's own actions. If the defendant is not released on various technical violations of his or her rights that may arise (for example, from search and seizure issues), attempts will be made to blame others for the situation. The police will be accused of other violations, society may be implicated as the true cause of the problem, and especially victims are often blamed for their “contribution” to their own victimization. This can be a very difficult process for victims, and they need to be well prepared and supported.

Prosecutors should also be knowledgeable about victim trauma, specifically as it relates to a victim's role as a witness. At the scene of the crime and shortly thereafter, victims may be unable to recall critical facts related to their victimization as a result of their trauma. Their knowledge of the details of the crime can increase significantly with appropriate crisis intervention and trauma response. However, any changes in their original witness statements

may be challenged by defense counsel. As a result, prosecutors need to be able to explain the relationship of crisis reactions to victims' original statements, and how consistent ventilation about the crime and appropriate validation from supportive individuals can actually help victims better remember and articulate vital details as witnesses.

A number of services can and should be provided by prosecutor-based victim assistance programs. The most important of these are appropriate notification programs regarding the status of the case and the delays that often occur in the progress of a criminal prosecution. Victims are most often distressed by a perceived or real lack of progress in their cases and the need to repeatedly rearrange their personal and work lives to attend court hearings that are often delayed. Also, victims may require assistance in attending and participating in court proceedings, protection from intimidation and harm, basic orientation to the criminal justice system and their appropriate role within it, and other services and interventions that are described at length in other chapters, such as obtaining restraining orders and filing victim impact statements. Of course, referrals to appropriate victim assistance and victim compensation programs should be made by the prosecutor's office.

The American Bar Association has provided numerous guidelines for prosecutors and others within the criminal justice system regarding the incorporation of victims' rights and needs in daily practice (see chapter *References*). Regarding prosecutorial roles, issues such as protection from intimidation and harm are recognized as well as the effect of continuances and case delays, notification services, and prosecutors' involvement in assisting victims in obtaining restitution. The ABA guidelines provide a useful compilation of victims' issues within the criminal justice system, and they are commended to the reader for further review (ABA Guidelines; Kelly 1991).

Specific roles and responsibilities of prosecutors to victims. While the prosecutor's role is to present the government's case to the court, and see that justice is achieved in every case forwarded to his or her office, many important activities rely upon the involvement of victims. Although they are *not* the "victim's attorney," prosecutors have opportunities to keep victims informed and involved, to provide appropriate accommodations in the pre-trial and court settings, and to follow up with information and referral, as needed. These opportunities should include the following:

- Providing contact information for assistance and protection that victims can access twenty-four hours a day, seven days a week.
- Providing orientation to the criminal justice process.
- Providing information about the criminal justice system and proceedings in simple, layperson's terms to help victims understand the maze of the criminal justice system. Victim information should be available in multi-lingual formats.
- Providing notification of case status at key stages of the criminal justice system.
- Sponsoring witness alert programs to place witnesses on "stand-by" to come to court appearances, thus saving victims' time and money.

- Coordinating witness appearances, i.e., scheduling witnesses; providing witness fees, per diem fees and accommodations for out-of-town witnesses; and providing assistance with transportation.
- Sponsoring victim/witness information telephone lines (including TTY services) to provide up-to-date information after hours to subpoenaed witnesses.
- Providing educational and accompaniment programs to familiarize victims with the courtroom and court processes.
- Providing a waiting area for victims and witnesses and their families in the courthouse that is separate by sight and sound from the defendant. These areas should be “child-friendly,” safe, and secure.
- Offering assistance to victims in completing victim compensation applications.
- Coordinating the inclusion of victim impact information, such as written statements, allocution, and audio or video statements, into court proceedings (including diversion agreements, plea bargains, pre-sentence reports, and sentencing) with probation and the judiciary and incorporating victim input into conditions of sentencing such as financial/legal obligations, community service, and offender treatment programs.
- Offering employer, landlord, and/or creditor intervention services.
- Expediting the prompt return of property, and closely coordinating such efforts with law enforcement.
- Providing intervention, protection, and recourse to victims and witnesses who are being intimidated or harassed by perpetrators or their colleagues.
- Participating in multi-disciplinary efforts with other entities that comprise the criminal justice system to ensure a seamless delivery of rights and services to victims of crime.

A significant prosecutorial development is the establishment of “vertical prosecution units,” especially for domestic violence and sexual assault cases, where specially trained prosecutors maintain caseloads of one type of victimization. Vertical prosecutors work on cases from the initial filing of charges through final disposition, streamlining this stage of the criminal justice system for the victim. Instead of several prosecutors working on the case at various stages in the prosecution, one prosecutor is assigned the case from the point of charging through trial.

DEFENSE

Defense attorneys are an integral part of the continuum of criminal justice. In the eyes of the crime victim, defense counsel are often seen as second only to the perpetrator in their contribution to secondary victimization. However, the role of defense counsel has longstanding significance in our justice systems and must be understood. Indeed, in certain innovative victim-offender programming, defense counsel can even play an important role in assisting victims.

The Sixth Amendment to the Constitution, a part of the Bill of Rights, provides the basis for the right to criminal defense in the United States. In part, this Amendment reads that “*In all*

criminal prosecutions the accused shall enjoy the right to have the assistance of counsel for his defense.” Indeed, this provision of the U.S. Constitution has been expanded to require, or at least strongly favor, defense attorney involvement even before criminal prosecution commences (i.e., while the accused is being questioned after arrest when a lawyer is requested). Regrettably, victims of crime enjoy no such protections under federal constitutional law.

Significant components of the role of defense counsel include the following:

- Defending their client’s constitutional rights and, therefore, defending the integrity of the constitution itself.
- Conducting an independent investigation of the case to reveal facts not known to, or revealed by, the prosecution, such as violations of their client’s rights by law enforcement or inconsistencies in witness statements, forensic or other evidence.
- Preparing for trial by preparing the defendant to best aid in his or her defense, preparing witnesses that may be called by the defense, and/or preparing to cross-examine prosecution witnesses.
- Objecting to the introduction of evidence by the prosecution through witness testimony or otherwise.
- Introducing evidence that casts reasonable doubt on the prosecution’s case.

Since it is, indeed, the duty and obligation of defense counsel to defend their client’s constitutional and other legal rights in the most competent manner possible, it is, unfortunately, not atypical that defense counsel’s actions will re-victimize the victim. Victims must be prepared for this possibility.

The obvious position that defense counsel assume, as juxtaposed with the victim’s or survivor’s perspective, is a natural outcome of the *adversarial* system of justice practiced in the United States. Ideally, two opposing sides equally equipped with resources and legal rights come before a neutral decision-maker, the court, to have issues settled according to the prevailing law. Of course, even a casual observer is aware of the significant failing of this system *vis-à-vis* the crime victim. However, the roles and responsibilities of defense counsel are deeply rooted in our system of justice.

Despite the adversarial nature of our legal system, there are ways in which defense counsel have and may continue to be of assistance to victims. Among these are the following:

- Defending victims of crime who are prosecuted for their own actions (e.g., battered women who kill or harm their batterers, or adult survivors of abuse or parents of abuse victims who take the law into their own hands.)
- Respecting victims’ legal and constitutional rights and not unreasonably challenging them merely to harass the victim.

- Adopting and adhering to voluntary codes of ethics or practice that respect victims' rights and accommodations in criminal proceedings.
- Becoming full participants in restorative justice programs that attempt to bring victims and offenders together voluntarily in ways that may benefit both parties and even contribute to larger issues such as crime reduction. (Of course, the focus of these efforts must remain first and foremost on addressing victims' needs.)

Whether defense counsel are viewed as necessary evils, or potential participants in programs that may even assist victims, and even though some individual defense counsel may not be ethical in their criminal defense tactics, the *role* of defense counsel in our system of justice is firmly secured and must be acknowledged for the principle it represents.

JUDICIARY

The judiciary is a neutral entity that oversees the progress of a criminal action. Judges should strive to equally weigh and protect the rights of *all* parties involved in a criminal prosecution. Of course, a judge can typically take only those actions that are specified by law and procedural rules, or are otherwise within the discretion mandated by law.

Judges can provide essential protections to victims. For example, when cases involve children, certain accommodations such as allowing the victim to testify through closed circuit television or granting orders requiring defense counsel to lower themselves to the child's eye level and not raise his or her voice, as well as other methods of making the courtroom less intimidating to a child, can be ordered. Judges can also expedite trials so as not to further victimize the crime victim due to additional delays during an already difficult process. Judges can deny motions by the defense that are clearly aimed at offending or intimidating victims.

One common technique is for defense counsel to subpoena the victims' family members as potential witnesses, request that the court order witnesses be excluded from the courtroom (sequester), and then never call the victim's family to testify, thereby preventing their attendance in the courtroom. Meanwhile, the defendant's family is allowed to sit in the courtroom, showing support for their family member who is on trial, while the victim's family may appear to be uninterested in supporting the victim or the prosecution's case because they are sequestered. Such motions, when made for such manipulative purposes, can and should be denied.

Judges are empowered to sentence convicted criminals for their crimes. It is important that judges include information regarding the full impact of the crime on the victim in their assessment of appropriate sentences. Often this information is provided through the prosecutor-based victim assistance program, a probation office, or another official source, and is typically referred to as a victim impact statement (VIS). VIS information and pre-sentence investigation reports (PSIs) are often the only comprehensive assessment of the actual injuries and losses caused by the offender available to the judge; it is crucial that this information be conveyed in a timely fashion to the sentencing court. Judges are also involved in various post disposition decisions, such as reconsideration of sentences and appeals.

Specific role and responsibilities of judges to victims. Judges can help assure that victims are provided their legal rights as well as adequate court-based services, which should include the following:

- Providing contact information for assistance and protection from the court that victims can access twenty-four hours a day, seven days a week.
- Providing courtroom orientation for victims.
- Providing victims with physical waiting accommodations that are safe, secure, and separate by sight and sound from the defendant, his/her family and friends, or the news media.
- Considering victim impact information in all cases prior to sentencing (including change of plea hearings if they do not coincide with the sentencing).
- Asking prosecutors if they have consulted with the victim prior to agreeing to sentencing recommendations.
- Including any reasonable measures requested by the victim to ensure his or her safety and security, such as protection or “no contact” orders.
- Ordering restitution that reflects the full amount of loss, including payment schedules that are realistic and making sure that restitution receives priority above fines and other legal/financial obligations.
- Ensuring that restitution orders do not “fall through the cracks” by developing a system of collection, disbursement, enforcement, and victim recourse (that involves probation, the clerk of court, corrections, and parole).
- In inter-familial criminal cases, ordering convicted offenders to pay financial obligations such as child support, costs of counseling, legal fees, or mortgage/rent payments that help the victim gain independence from the perpetrator.
- Ensuring that all relevant victim information be included in convicted offenders’ files—with victim confidentiality and the security of this information guaranteed to the degree possible—that are sent to probation, parole, or institutional corrections.
- Participating in multi-disciplinary efforts with other entities that comprise the criminal justice system to ensure a seamless delivery of rights and services to victims of crime.
- Ensuring that victims have appropriate input into any conditions of supervision if probation is ordered.

Finally, judges can steer their courts toward processes that are not only “offender directed,” but “victim centered” as well. While conflicts can arise between the rights of the accused/convicted offender and crime victims, more often there is no disagreement about the importance of making participation the status quo for *all* participants in the criminal justice system.

PROBATION

Probation is often a condition of a plea bargain, or is the actual sentence handed down by a court following a trial. Prior to any agreement of probation, the probation officer should interview victims as part of the pre-sentence investigation (PSI) to determine the physical, financial, and emotional impact the crime has had on them. When offenders are sentenced to probation, they submit to community supervision by a probation officer. The probationer may be required to fulfill certain requirements called *conditions of probation* that might include no contact with the victim; payment of monetary obligations to the victim such as restitution, child support, mortgage payments, etc.; payment of fines (that often support law enforcement and victim services); no use of alcohol or other drugs (with an agreement to submit to random testing); specific treatment that addresses the probationer's criminal activities (such as sex offender treatment, alcohol or other drug counseling, anger management, etc.); and/or community service. While restitution payments are monitored by probation agencies, they are often collected by the court.

When an offender is sentenced to probation, victims should be notified of the status and location of the offender and, in particular, any of the offender's actions that may lead to revocation of community supervision.

An important condition of probation is that probationers commit no new crimes during their period of community supervision. If probationers violate any condition of their sentence, the probation agency can rescind or "revoke" probation, which results in incarceration in jail or prison.

Specific role and responsibilities of probation officials to victims of crime. Probation officials' roles and responsibilities to victims should include:

- Providing contact information for assistance and protection that victims can access twenty-four hours a day, seven days a week.
- Contacting victims as part of the pre-sentence investigation (PSI) to sensitively assess the psychological, financial, and physical impact the crime had on them and their family.
- Incorporating any victim impact statement (allocution, written, audio, or visual) into the official PSI report to the court.
- Determining any specific conditions of probation that will ensure the victim's safety and security.
- Soliciting victims' opinions relevant to appropriate community service sanctions for the probationer, including direct service to the victim (if requested), or service to a victim assistance or community service/assistance organization.
- Determining the amount of appropriate restitution payments and developing a realistic schedule for the collection and disbursement of restitution to the victim. In some jurisdictions, probation officers are charged with physically collecting restitution payments and forwarding them to victims.

- Supervising the probationer's involvement in any victim/offender programming such as victim impact classes or panels, victim/offender mediation or conciliation, or "Impact of Crime on Victims" classes in which victims can choose to voluntarily participate.
- Notifying the victim of any probation violations that result in an offender's incarceration.
- Monitoring probationers to ensure full compliance with all conditions of probation that affect the victim's rights, safety, and security, as well as the general orders of probation.
- Providing information and referrals to victims who require assistance.
- Sponsoring Victim Advisory Councils to help probation agencies develop policies, programs, and protocols that enhance victims' rights and services, and help probation agencies and victims by serving as a liaison to victims and the victim service community.
- Participating in multi-disciplinary efforts with other entities that comprise the criminal justice system to ensure a seamless delivery of rights and services to victims of crime.

INSTITUTIONAL CORRECTIONS

When convicted offenders are sentenced to a term of imprisonment, the State Department of Corrections or Federal Bureau of Prisons assumes responsibility for their supervision. The offenders' files, which contain details from the crime, court case and sentence, pre-sentence investigation reports, and victim impact statement (when applicable), recommendations for treatment and services during the period of incarceration, and personal information, are utilized as a basis for *offender classification*. The purpose of classification is to place the offender in the most appropriate incarceration setting (minimum, medium, maximum, or super-maximum facility). The State Department of Corrections (or Federal Bureau of Prisons) houses offenders for their period of incarceration; implements and monitors work; makes educational and treatment activities available to inmates; and coordinates any release into the community with paroling authorities.

Nearly *all* of America's state corrections departments and the federal system now have victim service programs. All the roles and responsibilities enumerated below are generally sponsored and/or implemented by such programs.

Specific role and responsibilities of institutional corrections officials to victims of crime.
Corrections officials' roles and responsibilities to victims should include:

- Providing contact information for assistance and protection that victims can access twenty-four hours a day, seven days a week.
- Obtaining relevant victim information, including victim impact statements and protection orders, from court documentation for inclusion in the offender's file.
- Protecting the confidentiality of victim information through protected automated databases or "flags" on paper files that delineate that this information is *not* available to inmates or their counsel.

- Providing victims and witnesses with information and recourse relevant to inmates who attempt to intimidate, harass, or harm the victim during their period of incarceration.
- Upon request, notifying victims of an offender's status, including current location, classification, potential release date, escape, or death.
- Implementing and monitoring victim/offender programming such as victim impact panels, victim/offender mediation or conciliation, or "Impact of Crime on Victims" programs.
- In some departments (such as California) monitoring, collecting, and disbursing restitution payments to victims and/or fines to state victim compensation programs.
- Ensuring that inmates receive programming that is commensurate with court orders relevant to victims, such as sex offender treatment, alcohol and/or other drug counseling, anger management, etc.
- Coordinating the physical location and logistics of parole release hearings with paroling authorities, victims, and victim service providers.
- Providing information and referrals to victims who require assistance.
- Participating in multi-disciplinary efforts with other entities that comprise the criminal justice system to ensure a seamless delivery of rights and services to victims of crime.

PAROLE AGENCIES

When inmates are released from prison, their reintegration back into the community is accomplished through the parole process. Parole is the supervised release of prisoners to the community, with conditions attached to that release that are designed to protect the safety of both the victim *and* the public. Parole is considered part of the prison sentence but is served in the community. Violations of any conditions of parole can result in *revocation*, which means the offender will be returned to an institutional corrections setting. It is important to note that some states provide for sentences of "life without possibility of parole," which equates to incarceration until an inmate's death. Also, the *Comprehensive Crime Control Act of 1984* abolished parole in the federal system; parole is currently available only to inmates who committed a crime or act of juvenile delinquency prior to November 1, 1987.

There are two main functions of paroling authorities: parole boards and parole agencies.

Parole boards. The American Correctional Association identifies four primary functions of a state parole board, which are to:

- Grant parole to prisoners.
- Supervise control of parolees.
- Discharge individuals from parole.
- Make parole revocation decisions.

In many states, paroling authorities are separate from the Department of Corrections. Parole board members in most states are appointed by and serve at the pleasure of the Governor. In some states, including California, Ohio, South Carolina, and Virginia, victims of violent crime serve as parole board members (including some through designation of a victim parole board member as a statutory provision). Each state varies in its number of board members.

Parole decisions can be made before a meeting of the full board, at hearings that have panels of three or more members present, and/or through a meeting with an individual parole board member (Wisconsin) who reports back to the full board. It is important to note that, in most states, decisions by which an inmate is considered for parole are guided by statutory requirements (state law) or by judicial decisions related to prison overcrowding.

Similar to probation, successful candidates for parole must agree to abide by certain rules, which include not committing any crimes during the period of parole; no possession of weapons; honoring protective or “stay away” orders that prevent contact with the victim; submitting to random testing for alcohol or other drugs; finding and maintaining employment and housing; paying restitution and other financial obligations, including child support, fines, and costs associated with their parole supervision; and/or limited driving privileges.

In most states, victims have the statutory and/or constitutional right to provide parole boards with victim impact information about how the crime affected them. Since many offenders are sentenced for the crimes to which they pled in plea negotiations, it is imperative that parole boards know the facts of the crime that was actually *committed*. This important input also provides victims with an opportunity to request certain conditions of parole that make them feel safer, such as protective orders or requests that the offender be paroled to a geographic location that is a certain number of miles away from where the victim resides. In most states; victim impact statements are not confidential; offenders can access the statements (with protections sometimes afforded to the victim’s contact information).

Approximately half of states have victim service programs located in state parole agencies. These programs serve many important purposes, including providing victims with information and notification about a parolee’s status, as well as overviews of how the parole process works (and victims’ rights that are inherent in this process). Such programs serve to make a system that has traditionally been “offender directed” also “victim centered.”

Parole agents. Parole agents (also called “parole officers”) are responsible for monitoring the supervision of parolees. In most states, parole caseloads are astronomically high, resulting in limited supervision due to the lack of human and financial resources. The parole agent is responsible for ensuring that offenders on his or her caseload comply with all requirements of parole. When any requirement is violated, the parolee can be subject to “parole revocation.” When parole revocation is recommended by a parole agent, the parolee must submit to a hearing by the parole board (or other independent and neutral entity) to determine his or her status. Crime victims of either the original crime for which the parolee was incarcerated or the crime for which the revocation is being processed should be notified of parole revocation hearings or outcomes.

Parole agents, in many states however, do have frequent contact with victims, especially in interfamilial crimes. It is essential that victims know who their offender's parole agent is and how the agent can be reached twenty-four hours a day.

Specific role and responsibilities of parole officials to victims of crime. Parole officials' roles and responsibilities to victims should include the following:

- Provision of contact information for assistance and protection that victims can access twenty-four hours a day, seven days a week.
- Providing victims with an overview of the parole process, including parole board hearings, community supervision, parole revocation, and all related victims' rights and services.
- Providing victims with the opportunity to submit victim impact statements to the parole board, including allocution, written, audio or video statements.
- Asking victims about any specific concerns they have related to their personal safety and security if an inmate is released to parole, and incorporating any reasonable concerns into parole conditions.
- When possible under state law, providing victims with the opportunity to personally present victim impact information to the board without the inmate present and without providing access to such information by the inmate and/or his or her counsel.
- Continuing restitution orders emanating from judges or, in states where parole has authority, ordering restitution payments (and ensuring that such payments are collected and disbursed to the victim).
- Ordering important legal/financial obligations that help victims in interfamilial cases seek financial independence, such as child support, money for legal counsel or mental health counseling, mortgage or rent payments, insurance premiums, etc.
- Providing information and referrals to victims who require assistance.
- Participating in multi-disciplinary efforts with other entities that comprise the criminal justice system to ensure a seamless delivery of rights and services to victims of crime.

ALLIED PROFESSIONALS

In addition to the core criminal justice system professionals discussed above, various allied professionals have a significant impact on the criminal justice system response to involving victims. These include the following:

- Medical personnel.
- Mental health service providers.
- Child protection professionals.

Doctors, nurses, and other hospital personnel provide tremendous assistance to victims of crime. In addition to police officers, medical personnel, who also are often available twenty-four hours a day, seven days a week, are commonly the first ones to come into contact with crime victims who have experienced some form of injury. In their roles, they are uniquely suited to carefully document the condition of the victim and objectively report these findings (much of which can be utilized as evidence in criminal cases).

Of course, the immediate and appropriate treatment of the victim is paramount, but in the course of treatment, appropriate documentation provides useful information for prosecutors and victims in forwarding various criminal and other legal actions against the perpetrator. Of particular importance is the use of appropriate evidentiary collection kits to gather information in sexual assault and sexual abuse cases for later evidentiary use at trial. This needs to be done sensitively, but competently, so that the trauma of the rape examination is minimized and evidence is accurately collected.

Mental health professionals are often involved in providing testimony at trial regarding the impact of crime on victims. In addition to treating victims, mental health professionals who are expert in the evaluation of the effect of trauma on victims are often used. It is important to note that these allied professionals and experts are heavily relied upon by the courts to make determinations regarding the damage and injuries incurred by the victims. These have important ramifications for the investigation and referral by law enforcement, by the handling of cases in prosecutor's offices, and in sentences handed down by judges.

Child protection officials have a significant role in cases involving child abuse and neglect. Depending on the jurisdiction and the nature of the victimization, these cases may be handled in a criminal court, juvenile court, or family court system. In each of these systems, it is important that the child protection official cooperate in developing the best investigation report possible for presentation at trial. Increasing use of Court Appointed Special Advocates (CASAs) and Guardians Ad Litem (GALs), whose roles are to advocate to the court on a child's behalf, provides an important voice to the needs and concerns of child victims.

As almost all victims of crime may require some medical, mental health, or other social services intervention, the coordination of these efforts within and complementary to the criminal justice system is crucial to providing the most victim-centered, victim-oriented criminal justice system response possible.

CURRENT STATUS OF VICTIMS' RIGHTS WITHIN THE CRIMINAL JUSTICE SYSTEM

Although each type of criminal justice professional can, and often does, assist victims involved in the system, this is typically not his or her primary role. How can victims' rights be recognized and guaranteed? A fundamental component of this is victims' rights legislation (NCVC 1993, 1994). This section will briefly outline the general status of crime victims' rights in the United States today and will serve as a useful guide to advocates who wish to assess the standing of their state's victim-related laws. Of course, only a detailed analysis of

specific pieces of legislation and an evaluation of their actual implementation will give a full sense of how victims' rights are being provided.

Although there are many ways in which various victims' rights can be established and protected through legislation, for the most part they can be understood in four general categories:

- Provision of specific victims' rights.
- Requirements for victim services or assistance.
- Funding mechanisms for services or rights provision.
- Victim-oriented criminal justice reform measures.

In 1982, the President's Task Force on Victims of Crime listed sixty-eight recommendations to improve the treatment of victims of crime. The goal of these recommendations was to provide for renewed balance in the criminal justice system by adding victims' rights to considerations weighed in making a determination of what is a just outcome in a case. The purpose was not to diminish the rights of criminal defendants, but to enhance the status of victims within the criminal justice system.

VICTIM IMPACT STATEMENTS

One of the most significant rights of crime victims is the right to submit victim impact statements (VIS) that include crucial information about the short- and long-term psychological, financial, physical, and emotional effects of a crime on victims. Impact statements provide victims with a voice that should be heard by courts as well as by probation, parole, and corrections officials.

VIS not only give victims an important voice in a case that has had a profound impact upon their lives, they also often improve victims' overall opinions of the justice system. In research conducted by Mothers Against Drunk Driving, two-thirds (66%) of drunk driving crash victims who were given the opportunity to present written VIS were "satisfied" with the criminal justice system. For those victims who were not allowed to submit VIS, three out of four (75%) were "dissatisfied" with the criminal justice system as a whole (Sobieski, *MADDVOCATE* 1993).

VIS also provide information to courts and corrections that is valuable in determining appropriate sentences and release-from-incarceration dates for convicted offenders. They are an integral piece of a "case puzzle" and can shed light on facts that, at the time of sentencing and release decisions, are not known, such as:

- When offenders plea bargain to lesser crimes, the judge or jury may not know or comprehend the magnitude of the criminal act, and its detrimental impact on victims.
- Often, judges and juries hear myriad details that present the alleged and/or convicted offender's version of the crime, with less attention paid to the victim's perspective.

- VIS at parole hearings, which tend to occur some time after the commission of the crime, are important to help paroling authorities understand the long-term impact the crime has had on victims and their loved ones, despite the passage of time (particularly when compared to the VIS submitted at the time of sentencing).

In the landmark publication *Impact Statements: A Victim's Right to Speak, A Nation's Responsibility to Listen* (Alexander and Lord 1994), eight important national recommendations were offered relevant to “sound system-wide policies and procedures that clearly detail and designate the roles and responsibilities of all key players in the criminal justice system for soliciting, processing and applying victim impact information:”

- The criminal justice system should adopt policies that allow crime victims to play an integral role in the American criminal justice process. Such policies must reflect an attitude that our justice system exists because of its victims, not despite them.
- Legislation should be enacted or amended at the federal, state, and local levels to provide crime victims with the right to submit VIS by written, oral, video, audio, or other electronic means at the time of sentencing and to paroling authorities.
- Legislation should be drafted and enacted at the federal, state, and local levels that provides victims of juvenile crime with the right to submit a VIS at the time of adjudication.
- Legislation should be enacted that delegates specific authority, roles, and responsibilities at the federal, state, and local levels for the distribution, collection, and dissemination of VIS. This legislation should also provide specific mandates for accountability and outline specific penalties for noncompliance with the legislation.
- All criminal justice professionals who influence the victim impact procedure in any way must have a thorough understanding of their state's statutes and case law regarding the submission and use of VIS.
- All agencies that interact with crime victims should have VIS instruments and supplementary guides that explain the importance of VIS to victims, their right to submit one, and the criminal justice system's use of VIS.
- Statewide victim networks, coalitions, and criminal justice agencies should join together to evaluate the effectiveness of their VIS statutes and, if they are found inadequate, work together to amend them.
- Training and continuing education about the traumatic effects of crime victimization must be made available to all criminal justice professionals who interact with crime victims.

A new approach to VIS is being utilized in jurisdictions that operate under a restorative justice framework. This approach seeks to focus on *victim impact*, opportunities for considerable *victim input* into sentencing decisions, opportunities for victims (who so desire) to meet with their offenders in a structured setting to define the harm caused by the offense, and accountability from the offender.

A restorative VIS includes the following questions:

- How did the crime affect you and your family?
- What was the emotional impact of the crime?
- What was the financial impact of the crime?
- What was the physical impact of the crime? *(for personal offenses)*
- What do you want to happen now? *(This question provides an opportunity to offer parameters for what the system can and cannot do.)*
- Would you like an opportunity to participate in victim/offender programming? *(This question should only be utilized if the victim has been provided with a thorough overview of victim/offender options such as victim/offender mediation or dialogue and/or victim impact panels, and what they entail.)*
- Do you have a recommendation for community service if it is ordered as part of the sentence? *(This question can include direct service to the victim [upon request]; service of the victim's choice; service to a victim assistance organization; and/or having the victim select the community service from a list of options provided by the court or supervising agency.)*
- Is there anything else you would like to tell the court/agency?

The combination of “specific” and “open-ended” questions will elicit valuable insights into the victim’s opinions, recommendations, and desire to participate in victim/offender programming. In addition, the victim impact statement can include a question regarding whether or not the victim wishes to be notified of the offender’s status (such as violation of probation, or release from incarceration/detention), which can then be forwarded to the proper authority.

VICTIMS’ BILLS OF RIGHTS AND RELATED LAWS

Among the earliest and most prevalent approaches to enacting victims’ rights legislation is the passage of Victims’ Bills of Rights; the first was passed in Wisconsin in 1980. An obvious reference to the first ten Amendments to the United States Constitution, which comprises the Bill of Rights, typical Victims’ Bills of Rights similarly propose providing protections to individuals within the criminal justice system. Whereas the original Bill of Rights focused on defendants’ rights to fair and speedy trials and protections from illegal searches and seizures, Victims’ Bills of Rights address fundamental protections that protect and restore the victim.

Victims’ Bills of Rights take on numerous forms, but generally address the following victims’ statutory rights:

- Information about victims’ rights and referral to services.
- Protection from intimidation, harassment, and harm.
- Notification about case proceedings and delays.
- Participatory rights, such as to attend hearings and address concerns to the court, and to present a verbal, written, audio or video victim impact statement at the time of sentencing.

- Rights to confidentiality (i.e., of name and address).
- Speedy trial provisions to avoid unnecessary delays.
- Prompt return of property.
- Notoriety-for-profit provisions.
- Orders of restitution in criminal sentences.
- Compensation payments.

As stated above, Victims' Bills of Rights vary state-to-state and may include combinations of the above rights. Below is a listing of major types of victims' rights laws and the estimated number of states that have enacted them:

- Virtually all states have enacted Bills of Rights.
- Thirty-two states protect victims' rights through constitutional amendments.

The National Center for Victims of Crime (NCVC) has identified fifty-eight possible points of notification throughout the criminal justice process. Notification is provided in numerous ways:

- Twenty-five states require notice of bail or pretrial release.
- Twenty-eight states notify victims of plea bargaining/negotiations.
- Thirty-four states provide notification of sentencing hearings.
- Thirty-seven states notify victims of parole hearings.
- Forty-four states inform victims of parole release.
- Twenty-nine states notify victims of escape.

Victims' participatory rights are essential to giving victims a voice in the system. At various points along the criminal justice continuum, victims have essential input into the system. Victims are given the right to attend and/or be heard at various hearings:

- Twenty-one states provide the right to attend bail hearings.
- Nine states provide the right to be heard at pretrial release.
- Fourteen states give the victim the right to attend plea bargaining hearings.
- Ten states allow for victims to be heard at plea bargaining.
- Twenty-four states provide for victim attendance at trial.
- Forty-two states provide the right to submit a victim impact statement at sentencing.
- Seven states allow for pre-sentence report input only.

- Twenty-one states provide the right to attend parole hearings.
- Thirty-two states allow for victims to be heard at parole; thirty states mandate this right.

Victims' rights to restitution are extremely important. This provides a vehicle for victims to recover their financial losses due to the crime. It is crucial to note whether restitution is *mandatory* or *discretionary* as part of sentencing (listed below). However, there are significant issues with restitution at both award and collection time periods. For example, what factors are primarily used to determine restitution, the victims' loss or the offender's ability to pay? Also, who is responsible for assisting the victim in collecting restitution payments?

Currently restitution laws vary. For example:

- Twenty-six states require mandatory restitution unless the judge offers compelling reasons for not ordering restitution.
- Twenty-four states allow restitution to be discretionary.
- Twenty-nine states allow restitution orders to become civil judgments.

In addition, at least forty-five states have enacted laws encouraging prompt return of the victim's property. Several of these laws allow photographs to be admissible in court in place of the actual property.

Victims of crime in the federal system also enjoy certain basic rights. The *Victims' Rights and Restitution Act of 1990* provides the following rights to victims of federal crimes:

- To be treated with fairness and with respect for the victim's dignity and privacy.
- To be reasonably protected from the accused offender.
- To be notified of court proceedings.
- To be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
- To confer with the attorney for the government in the case.
- To restitution.
- To information about the conviction, sentencing, imprisonment, and release of the offender.

ENFORCING VICTIMS' RIGHTS THROUGH CONSTITUTIONAL AMENDMENTS

Constitutional law is the fundamental law of the land. It provides the foundation upon which the rest of our legal structure is built. Generally described, constitutional law is superior to statutory law, and the Federal Constitution preempts state laws and constitutions when they come into conflict.

The importance of a constitutional basis for protecting rights can be traced back to the very beginning of the United States when those who opposed adoption of the Constitution were not satisfied with promises of post-enactment legislation to protect what they viewed as fundamental rights. They insisted on ten constitutional amendments they called the Bill of Rights.

Those rights in relation to criminal justice that are most recognizable to the general citizenry as defendants' rights, such as the right to a jury trial, the right to avoid self-incrimination, and the right to be free from unreasonable search and seizure, are found, at their roots, in the Bill of Rights. Victims deserve no less than such fundamental, constitutional protections.

Thirty-two states now protect victim rights through rights provided for in their state constitutions. The past decade has witnessed a flurry of constitutional amendments, and more will be considered by states in the near future.

On April 22, 1996, during National Crime Victims' Rights Week, history was made when a federal constitutional amendment was introduced in the United States Senate. Since that time, several version of the federal victims' rights constitutional amendment have been before the United States Congress. The latest version, Senate Joint Resolution 3, was introduced in January, 1999 by Senator Kyl of Arizona. If passed, it will amend the U.S. Constitution to guarantee that victims of violent crime have participatory rights throughout the criminal justice process, including rights to reasonable protection from the offender, a speedy trial, and restitution.

State constitutional amendments are quite varied. This is a result of the specific idiosyncracies of each state's approach to their constitution and the political power of the victim rights' advocates in a particular state. Some of these amendments could be considered relatively weak and others considered strong. In most cases, a companion scheme of enabling legislation must provide for the actual programs and funding needed to ensure that victims' constitutional rights will become a reality.

ENFORCEMENT OF CONSTITUTIONAL RIGHTS

In general, when constitutional rights of any sort are not being provided, the aggrieved party must take some action to enforce their rights under the U.S. Constitution. An important, developing phase in victims' rights advocacy is the enforcement of victims' constitutional rights.

There is an adage in the law that "a right without a remedy is no right at all." Obviously, a right that cannot be enforced and does not benefit the intended person is truly not a right. For example, a victim may have a constitutional right to be notified at sentencing of an offender and to be heard by way of providing a victim impact statement to the court. What recourse should a victim have under this arrangement if he or she was not notified of the sentencing of the offender?

If a defendant was not accorded a particular right that affected his or her sentence, he or she could petition that court, or a higher court, to set aside the sentence and provide a new sentencing hearing where all the relevant rights could be provided the defendant. This is the sort of mechanism that victim advocates argue should be available to victims who are not accorded basic, particularly constitutional, rights.

Two specific forms of enforcement mechanisms illustrate the ways in which legal rights are enforced and how victims could be empowered to assure their constitutional rights. The first is petitioning the court for a *writ of mandamus*, and the second is *injunctive relief*. Although these concepts are not limited to constitutionally protected rights alone, the fundamental basis of constitutional protection would assist the legal arguments for these significant court actions.

Writ of mandamus. Commencement of a mandamus action means that the party wants the court to force someone, usually a public official in this case, to do something that they are supposed to, but are refusing to do. The case of *Marbury v. Madison*, which established the power of the courts to review the actions of other branches of government, involved a mandamus action compelling a government official to complete a ministerial act that was previously refused. Victims could seek to have the court force public officials to provide them with adequate and reasonable compliance with their constitutional rights.

Injunctive relief. The party seeking an injunction is seeking to have someone stopped from commencing or completing an act. Victim advocates are familiar with the concept of temporary injunctions, restraining orders or protective orders that compel individuals to stop doing certain things, such as in domestic violence or stalking cases. This is essentially the same mechanism that could be used by victims to stop public officials from doing what is contrary to the rights they should have under a constitutionally protected scheme. Courts could, for example, order that sentencing hearings be delayed until victim impact statement information is available.

Victims' rights protected through constitutional-level authority would allow victims a stronger legal foundation for arguing that their rights should be protected and that they are on the same level as defendant's rights, typically already protected by the Constitution of the United States and state constitutions.

VICTIMS' RIGHTS COMPLIANCE EFFORTS

The National Criminal Justice Association (NCJA), with support from the Office for Victims of Crime, examined victims' rights compliance efforts in states that have passed constitutional amendments (1998). NCJA identified six common themes among the states studied that may affect a state's level of compliance:

- Compliance with victims' rights laws is fostered when collaborative relationships among state and local officials, leaders, and criminal justice system representatives are promoted, and when concerns about the implementation of these laws are presented in a non-confrontational manner.

- Deference to local authorities and agencies for the “ownership” of victims’ rights implementation is the standard approach in existing compliance oversight programs used to foster victims’ rights implementation.
- Explaining to victims their rights and the responsibilities within the criminal justice system is an essential responsibility of victims’ rights compliance representatives.
- Support for and an understanding of the criminal justice system and process are critical requirements of compliance oversight efforts and their employees.
- Appropriate levels of resources—financial, training, and technical assistance—to support the provision of victims’ rights and services and the compliance oversight effort are necessary to ensure that criminal justice practitioners and citizens are aware of the commitment of state government to victims’ rights implementation.
- There are concerns that interventions may not render immediate satisfaction for victims. While these compliance oversight efforts are significant in that they encourage a change in policy to make a criminal justice agency’s policies and procedures more “victim friendly,” they may not render an immediate impact or improvement for the victims who brought the issue to the attention of the state compliance agency or body.

At least three states that have passed constitutional amendments for victims’ rights have also developed initiatives to encourage compliance with the provisions of their respective amendments:

- Arizona established, by legislative authority, a victims’ rights program in the Office of the Attorney General. This program administers an annual plan for assisting and monitoring state and local entities that are required to implement and comply with victims’ rights laws. The legal mandate states that: “The plan shall provide for the disbursement of victims’ rights fund monies for audits of state and local entities that receive fund monies, and for other forms of assistance that further uniformity, efficiency, and compliance by state and local entities that are responsible for ensuring crime victims’ access to justice.”
- In Colorado, victims are able to file complaints with the state’s Victims’ Compensation and Assistance Coordinating Committee when they feel that their rights have been denied.
- Wisconsin created a new state-level Crime Victims’ Rights Board in 1998 that, among other duties, can seek up to \$1,000 in civil forfeitures assessed against public officials who *intentionally* violate victims’ rights. Furthermore, the Victim Resource Center within the Wisconsin Department of Justice, Office of Crime Victims’ Services can mediate complaints brought by victims, and/or act as a liaison between victims and state and local criminal justice agencies (NCJA 1998).

In addition, in 1986, Minnesota established its Office of the Crime Victims Ombudsman (OCVO) to help ensure that victims are guaranteed their rights and treated fairly and appropriately by criminal justice practitioners. OCVO officials may investigate both statutory violations of victims’ rights laws and alleged mistreatment by criminal justice practitioners. In conducting their work, OCVO officials indicate that they approach the enforcement of victims’

rights in a neutral and objective manner. They act not as victims' advocates, but as advocates of fair government.

IMPLEMENTATION AND PROVIDING RESOURCES

While it might appear logical that providing for victims' rights through statutory language is in itself sufficient for victims to be assured of receiving these rights, experience has not followed accordingly. The past decades of struggling to enact victims' rights laws, followed by the realization that new battles needed to be fought in implementation and funding arenas, agency politics, and other areas have been instructive with respect to the potential failure of victims' rights statutes in terms of actually guaranteeing those rights.

The dynamics of the criminal justice system can be brought into balance, and victims can become an integral part of this system. However, laws alone cannot operate in a vacuum, and should be augmented by multi-disciplinary initiatives focused on implementation, funding, evaluation, monitoring, and enforcement.

SUPERVISION OF ADULT PROBATION AND PAROLE VIA INTERSTATE COMPACTS

The Interstate Compact for the Supervision of Parolees and Probationers (ISC) provides statutory authority by Congress—which is augmented by corresponding state statutes—to regulate the transfer of adult probation and parole supervision across all 50 state boundaries, the District of Columbia, Puerto Rico, and the Virgin Islands. Activities related to the ISC are managed by the Probation and Parole Compact Administrators Association (PPCAA), which includes each state's designated Compact Administrator and, in some cases, deputies assigned to perform ISC functions.

It is estimated that as of 1999, approximately 250,000 offenders are under community supervision who are living or traveling in states other than where they were convicted. In addition to the sheer volume of offenders who fall under ISC jurisdiction, the National Institute of Corrections has identified three additional reasons why the ISC is so critical to public safety:

- *Fragmented system.* On January 1, 1996, 3,285 local probation and parole offices were operated by 861 separate agencies. This high degree of decentralization requires the establishment of protocols, guidelines, and structure within which interstate and interagency probation and parole business (such as case transfers and investigations) can be conducted.
- *Public trust and confidence.* Managing offender populations is becoming increasingly complex. State and local governments are passing measures dealing with special offender and high risk groups, such as registries of sex offenders and notification to victims regarding offender locations. Probation and parole must be able to satisfy compliance requirements, track the location of offenders, smoothly transfer supervision authority and, when necessary, return offenders to the originating jurisdictions. Interstate activity involving offenders must be governed by public policies that ensure equity and justice for all involved parties, including victims of crime.

- *Opportunities to succeed.* There are legitimate reasons why it is more likely that an offender will succeed in a certain location more than anywhere else. Those reasons generally relate to responsible family support and employment. The existing compact permits a probationer or parolee to reside in a different state if:

The person is in fact a resident of, or has family residing within, the receiving state and can find employment there. The offender shall have an offer of employment or a visible means of support; or though not a resident of the receiving state and not having family residing there, the receiving state consents to the probationer or parolee being sent (National Institute of Corrections 1998).

Interstate compact and victims' concerns. Crime victims and victim service providers have raised significant issues relevant to the ISC, which fall into two categories: ISC management and the enforcement of victims' rights.

- *Interstate compact management.* A critical issue for victims is the lapse of time between the point when an interstate transfer is agreed to and the point where the receiving state actually accepts and begins supervision. Victims express concern about this period of time, which can range from days to months, in which a convicted offender remains, for all intents and purposes, unsupervised.

A few states, such as Pennsylvania, require mental health evaluations of potential ISC offenders prior to acceptance, which is not always required in reciprocal states. This approach, which gives receiving states important information about the offenders they will or will not agree to accept, should be expanded to all states.

Domestic violence advocates express concern that the ISC is not in compliance with the interstate policies of the Violence Against Women Act. In addition, many domestic violence "convictions" are civil and, as such, are not addressed under the terms of the ISC.

Perhaps most significant, in addition to managing an overwhelming number of offenders, compact administrators are required to manage a process that lacks appropriate funding and staffing. Increased resources are needed to adequately address the tremendous responsibilities of managing the ISC, collecting vital data regarding compliance, and, perhaps in the future, enforcing all relevant victims' rights as a component of the ISC mandates.

- *The enforcement of victims' rights.* In testimony provided to the PCAA in January 1999, APPA Victim Issues Committee Chair Anne Seymour noted that "victims are neither informed nor involved very often in interstate compact decisions. When transfers are authorized without knowledge of or input from victims, it can contribute to increased victim trauma, as well as real or perceived fears for their personal safety."

The APPA Victim Issues Committee and ACA Victims Committee have identified a number of issues relevant to the enforcement of victims' rights that should be considered in amending the ISC, as well as by Compact Administrators in the meantime. They include the following:

- Notifying victims of an offender's request to transfer to another state and providing an opportunity for the victim to offer input as to the ISC decision.

- Ensuring that victims' rights to notification of the offender's status in the state where the offense occurred are also fully enforced in the accepting state.
- Requiring offenders to fulfill all legal and financial obligations including victim restitution, fines and fees paid to victim services and state victim compensation programs, and child support prior to receiving an ISC transfer (unless the victim agrees to continued monitoring of financial and legal obligations under an ISC agreement).
- Offering protection measures to victims—such as “no-contact” or protective orders—upon request, which should be fully enforced regardless of the location of the offender.
- Providing victims with the name and contact information of the supervising officer/agency to whom an offender under an ISC agreement will report, as well as information about how and where to report any violations of the conditions of supervision that involve the victim.
- Development of a national integrated database to track and monitor ISC cases, that includes a secure screen with data relevant to victim notification, offender financial and legal obligations, and victim protection issues.

PROMISING PRACTICES

- In communities such as Deschutes County (Bend), Oregon, and Appleton, Wisconsin, law enforcement agencies utilize a cadre of trained volunteers to respond with police officers to all types of victimization, ranging from property to violent crimes. A “code system” allows dispatchers to determine the type and severity of offense, which directly pertains to the scope of victim assistance response and includes crisis intervention, peer support, hospital accompaniment, referrals to supportive services, and other forms of direct victim assistance.
- A pilot program in San Diego County in California provides the opportunity to record victim impact statements at the time of sentencing onto CD-ROMS. These “electronic” statements are then made available to the Board of Prison Terms for review and consideration when an offender is up for release.
- The Victim Services Unit in the Philadelphia, Pennsylvania District Attorney's office uses Vietnamese and Cambodian victim-witness coordinators to assist Southeast Asian victims throughout the case process, including translating written and oral information and helping victims access emergency medical and financial assistance (OVC 1998).
- The Municipal Court of Tucson, Arizona, was one of several partners (including the police, victim advocates, prosecutors, and health care professionals) that established a Community Domestic Violence Center. The Center's victim advocates provide information on domestic violence and assistance in obtaining protection orders, either through an interactive video system or by personally taking the victim to the city court. During evening hours, weekends, and holidays, a judge is on duty at the Center where victims can appear and seek assistance (OVC 1998).

- In Tarrant County (Fort Worth), Texas, the Community Supervision and Corrections Department (CSCD) determined that technology utilized to track absconding probationers could also be used to determine the location of victims who were owed restitution. Utilizing the cost-effective services of agencies that locate missing persons, Tarrant County was able to provide over a quarter-of-a-million dollars in restitution to victims whom the county had been unable to locate through ordinary measures.
- Over one-third of state correctional agencies have implemented Victim Advisory Councils, which guide the agencies' policies, protocols, and programs relevant to victim assistance and serve as a liaison to crime victims and the victim service community.
- The state of Ohio enacted a law that provides for a position on its Parole Board that is exclusively designated for a victim of crime.
- In North Carolina, crime victims can "virtually attend" parole board hearings through teleconference technology. This innovative approach allows victims to submit a real-time oral victim impact statement without having to travel to the hearing site and face the offender in person.
- In Connecticut, one region within the statewide Office of Adult Probation has included a full-time victim advocate on its unit that manages sex offenders in the community. This trained sexual assault victim assistance specialist provides victims with assistance, enforcement of their statutory rights, and information and referral; establishes a communication link with the victim, when possible, to provide information and feedback from the victim to the unit, including valuable information about the offender's behavior; helps educate the community about supervision of sex offenders on probation and related protection issues; and serves as a liaison to crime victims and victim service providers.

1. What are the seven elements/agencies that comprise the criminal justice system?
2. Identify five core components of basic victim services within the criminal justice continuum.
3. What are the four general categories of “victims’ rights” that can be established and protected through laws?
4. How many states today have constitutional amendments that guarantee victims participatory rights within the criminal justice system?

**Case Study:
The Criminal Justice
System Continuum**



SECTION 3, CASE STUDY: THE CRIMINAL JUSTICE SYSTEM CONTINUUM**ABSTRACT**

Although a thorough review of history would reveal that victims have long played a major role in the administration of justice, recent history and practice have served to systematically exclude the victim from the justice process. In fact, the “criminal” justice system has only recently begun to establish rights and enhanced treatment for crime victims. This module will present a hypothetical crime scenario presented to a panel of justice system representatives and serve as a vehicle to walk through the “victim justice system.” This examination will demonstrate the existing rights of victims and those circumstances under which additional rights can and should be implemented.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The contrast between the treatment of offenders and the treatment of victims by the justice system.
- How a case proceeds through the continuum of the federal, criminal, and juvenile justice systems from arrest through incarceration/detention or community supervision.
- The roles and responsibilities of key players in the justice process—law enforcement, prosecution, judiciary, probation, corrections, parole, and victim services.
- The critical differences among the federal, criminal, and juvenile justice systems at each stage of the justice continuum, and the challenges to providing victims’ rights and services when a case crosses jurisdictional boundaries.

INTRODUCTION

The American system of justice provides many safeguards to protect the rights of the accused and to ensure the humane treatment of those convicted of crimes. In its institutionalized zeal to protect the rights of alleged and convicted perpetrators, this “criminal” justice system has evolved in a manner that typically does not extend equal rights or protections to the victims of crime. In fact, many victims describe their exposure to the federal, criminal, and juvenile justice systems as a “secondary victimization” inflicted upon them by the agents and practices of those systems.

In order to gain a better understanding of the contrast between the treatment of victims and offenders in the justice system, it is important to review the provisions of that system and the treatment offered to both parties. The following is an analysis and comparison of the justice system's response to offenders and victims.

TREATMENT OF OFFENDERS

In contrast to the victim, the offender makes a cognizant choice to commit a crime or delinquent act against an individual. Most offenders are not arrested, and those who are apprehended are afforded constitutionally protected rights immediately upon their arrest. Offenders must be informed of their rights immediately. If injured, medical attention must be given to them at the earliest opportunity. Offenders are arraigned within specific time periods, and their cases are reviewed for legal findings to ensure that their arrest was legal and that their pre-trial incarceration is warranted. Many offenders are released on their own recognizance or released on bail. In addition, the following accommodations are made to the offender:

- Food, adequate housing, access to a law library, and medical services are provided to incarcerated offenders.
- Indigent offenders are provided with the services of court appointed attorneys.
- Legal provisions provide opportunities for charge reductions or plea bargaining, often without the input of the victim.
- Offenders can waive time for court proceedings or request that the court consider moving the case to a different jurisdiction.
- Various legal provisions and court rulings provide the defendant/offender with myriad protections and opportunities for motions to suppress evidence or dismiss charges.
- Convicted offenders also have the right to appeal their convictions through any number of legal proceedings that can continue for years.

If convicted or adjudicated, defendants or alleged juvenile offenders are afforded a variety of punishment options, with the majority of convicted offenders receiving sentences of probation. Opportunities for job training, education, or some treatment programs are provided to many offenders at full expense to the taxpayers. Due to prison overcrowding, some prisoners are eligible to earn "good time" credits, which serve to reduce their sentences, while others become eligible for early release. Many participate in rehabilitative programs to assist them in the restoration of their lives. Finally, upon release, offenders on parole are given assistance in obtaining jobs, places to live, and additional support services.

TREATMENT OF VICTIMS

Conversely, the victim has no choice in whether or not they become a crime victim. Victims who incur medical expenses as a result of injuries sustained due to crime are generally required to pay those expenses:

- For those who *do* have insurance, many are required to pay deductibles or uncovered expenses. Increases in premiums following claims resulting from crimes are common.
- Additionally, many victims are in need of psychological counseling that is frequently not covered by medical insurance.
- Similarly, those who suffer property loss must assume full responsibility for the replacement of all items lost or destroyed and suffer the irrevocable losses of sentimental items that can never be replaced.
- The economic impact of crime upon victims also includes any losses suffered from brief or extended periods of time in which they are unable to work or are absent due to their need to participate in justice processes.
- Victim compensation programs are seldom able to cover all of a victim's financial losses. Most non-violent crime victims are not even eligible for victim compensation.

Victims in some jurisdictions still have difficulty obtaining information about the progress of their case. In efforts to protect the rights of the offender, victims can be excluded from obtaining select information about the investigation, arrest, prosecution, or incarceration of the offender. Victims often are inconvenienced by the frequent continuances and legal maneuvering of the court process:

- Many victims are required to give numerous statements regarding the circumstances of the offense as they venture through the federal, criminal, and juvenile justice systems.
- Often, victims are excluded from participation or consultation regarding any plea bargain or diversion agreements.
- With the exception of one state, victims are not entitled to legal representation and are only served by the representation of the prosecuting attorney who, in reality, acts "on behalf of the state."
- The victim has no right to make motions or introduce evidence, protest the suppression of evidence, or appeal any rulings or dispositions arrived at by the court.
- Provisions that guarantee "speedy" proceedings do not apply to victims.

In some cases, victims are never notified of the disposition of the case, nor are they afforded an opportunity to provide input into the sentencing process. Most victims do not have any right to *mandatory* restitution or reimbursement for financial losses incurred as a result of the crime. Many victims are subject to continued harassment and intimidation from the offender without consistent, meaningful efforts to protect them from harm.

If the offender is incarcerated or sent to a juvenile detention institution, some victims have no access to information about the offender or opportunities for input into the parole process. Victims receive no “time off” for good behavior, nor does the state afford them comprehensive opportunities for rehabilitation or reconstruction from the impact of the crime upon their lives.

Perhaps most significant, many victims experience a loss of faith and belief in the efficacy and inherent justice they previously thought existed as a part of this country’s well regarded justice system.

JURISDICTIONAL ISSUES

In cases that cross jurisdiction among federal, criminal, and juvenile authorities—and/or cross geographical jurisdictional boundaries—the provision of victims’ rights and services becomes increasingly complex:

- There may be considerable confusion as to which jurisdiction has the authority to determine the application of victims’ rights in a particular case.
- Lack of coordination and integrated management information systems can result in critical victim data that are lost, as well as confusion about agency responsibility for addressing victims’ rights and concerns.
- Victims often discover difficulty in accessing information about their cases and/or supportive services because they do not know whom they should contact for information and referrals.

PANEL DISCUSSION

In order to further demonstrate both the changes made in support of extending rights to victims and the remaining inequities that exist within the justice system, it is beneficial to review a hypothetical case as it progresses throughout that system.

Toward that end, this session has been developed to provide Academy students with an opportunity to observe a panel of justice experts representing the various segments of the federal, criminal, and juvenile justice systems as they are presented with the facts of the hypothetical case.

The panel will include representatives from the following perspectives of the federal, criminal, and/or juvenile justice systems:

- Law enforcement.
- Victim/witness services.
- Prosecution.

- Judiciary.
- Community corrections.
- Institution corrections/youth detention.
- Parole/aftercare.

During this presentation, each panelist will be provided with increasing amounts of information as the case progresses through each juncture of the justice system. At each juncture, panelists will be asked to respond to questions regarding the victim's right to participate in or obtain information or services from the justice systems, especially as the case crosses jurisdictional boundaries.

Throughout the panel, and upon completion of the presentation and discussion by panel members, students will be given the opportunity to ask questions and request explanations regarding the responses of panelists. This interactive process will serve to examine the full continuum of the "victim justice system."

HYPOTHETICAL CASE

Betsy, age 13, is a typical teenager from a small town in Ohio. She loves to talk on the phone with her friends, go to the mall, and has been really excited about the recent acquisition of a home computer. She has found friends on the Internet from all around the country.

Meanwhile, her parents (both computer-illiterate) heard from their neighbor that they should purchase some sort of a "computer chip" that can limit Internet access, but they haven't had time to run down to Computer World and buy one. Betsy had been spending a lot of time on the computer, but her parents thought she was doing research for her homework assignments.

In reality, Betsy was e-chatting with Vince (age 22) and his brother Charles (age 14). Vince is a really sweet talker and suggests that Betsy meet the two of them at a local restaurant in the next town—right over the state line. So Betsy used her babysitting money to purchase a Greyhound bus ticket, and off she went secretly to Kentucky, not even telling her best friend, Susan.

Vince and Charles were fun at first. They treated her to lunch, took her to the mall, then went swimming at the lake. After that, Betsy assumed they were going to take her home, but shortly after crossing the state border back into Ohio, Vince pulled into the Resthaven Motel. Betsy, Vince, and Charles shared a couple of beers, and that was the last thing Betsy remembers—it seems that Vince slipped a Rophynol into her drink. She wakes up bleeding, and notices the burn marks on her wrists where they had physically tied her down.

Betsy stumbles down the street into the local police department, and they call her parents. The police department is a two-person operation without a victim/witness advocate.

Betsy was able to identify the suspects. Law enforcement back in her home town took her computer and confirmed Betsy's ongoing e-mail correspondence with Vince. Both Vince and Charles were arrested in Kentucky.

Vince has a long record of larcenies, physical assaults, and third-degree sexual assault. He is well known to the law enforcement community and is currently on probation (which was revoked upon his arrest). Charles's record, on the other hand, appears to be clean (although police in Kentucky discovered Charles's involvement in two home burglary cases that were diverted, with Charles successfully completing the terms of diversion).

1. What are Betsy's immediate needs? Her parents' immediate needs?
2. Whom should local law enforcement contact for victim assistance and services?
3. What laws have been broken? What charges can be brought against Vince and Charles:
 - Juvenile?
 - State/criminal?
 - Federal?
4. Who is responsible for coordinating this case among the involved jurisdictions (including the provision of supportive services for the victims)?
5. Who is responsible for informing the victim(s) of their rights?
6. Since Vince's parole is revoked, are the victims of the crimes that resulted in his incarceration and parole entitled to be notified of his revocation?
7. What is the likelihood that the victim(s) will find out about Charles's record with the juvenile justice system?

Betsy is scared to death, because Vince's and Charles's father is not happy that his sons are being detained. She has received several threatening calls, which were intercepted by her parents. Vince is in jail, and Charles was released from youth detention after twenty-four hours.

1. Are there any measures of protection available to Betsy and her parents? From which jurisdiction(s): local, state, juvenile, federal?
2. Betsy and her family are clearly traumatized. What type of mental health services are available for them?

3. Betsy's parents' marriage is suffering. They blame each other for not buying the computer blocking program or monitoring Betsy's Internet activities more closely. Are victim assistance services available for them?

(Based upon the possible charges listed above)

Betsy is terrified to see Vince and Charles face-to-face in justice proceedings.

1. Do Betsy and her family have the right to participate at all criminal and juvenile justice proceedings relevant to their case? Will they have to testify at all the proceedings?
2. The laboratory reports relevant to the Rophynol and sexual assault examination are key evidence in both cases. How long is it going to take to get the lab reports? Is this an issue of concern?

The defense attorneys in the different adult/juvenile justice proceedings argue that Betsy willingly went along with the drinking and that it was her idea to go to a motel. They say she chose to talk to Vince on the Internet, and she bought the bus ticket to Kentucky with her own money. They also intend to subpoena her therapist, Dr. Jones, for her treatment records and probably will ask her to testify.

1. Will the judges in any proceedings be compelled to allow this line of defense questioning?
2. Are there any laws that protect Betsy from this type of defense or that protect the confidentiality of her therapy sessions?
3. What are the victims' roles and rights during the court proceedings?

Vince goes to trial where he is found guilty. Charles is adjudicated in juvenile court, which results in a finding of guilt.

1. Can Betsy and her parents submit a victim impact statement? At which point in the proceedings will their input be elicited, and in what format (i.e., oral, written, etc.):
 - Federal?
 - Criminal?
 - Juvenile?

Vince is incarcerated in Leavenworth, and Charles is sent to an Ohio youth detention center under the Department of Youth Services.

1. Is there any information that the Federal Bureau of Prisons and/or the Department of Youth Services provides to victims?
2. Do Betsy and her parents have a right to be notified about the status of the offenders and/or any proceedings related to the possible release of Vince or Charles?
3. If Betsy is intimidated or harassed by Vince, Charles, or their father, does she have any rights?
4. If Vince or Charles eventually end up under parole/aftercare supervision, do Betsy and her parents have any involvement or rights?

Are there any other issues related to these cases, and/or related victims' rights?

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ABA Guidelines Acknowledging Victim Issues Include:

Guidelines for Fair Treatment of Victims and Witnesses in the Criminal Justice System.

Suggested Guidelines for Reducing Adverse Effects of Case Continuances on Crime Victims and Witnesses.

Recommendations for Reducing Victim and Witness Intimidation.

Criminal Justice Sentencing Alternatives and Procedural Standards 18-5.9.

Criminal Justice Prosecution Function 3-3.2.

Guidelines Governing Restitution to Victims of Criminal Conduct.

Guidelines for Fair Treatment of Child Witnesses in Cases Where Child Abuse is Alleged.

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Juvenile Justice

SECTION 1, JUVENILE JUSTICE

STATISTICAL OVERVIEW

- In 1997, U.S. juvenile courts handled an estimated 390,800 delinquency cases in which the most serious charge was an offense against a person. Person offenses include assault, robbery, rape, and homicide. The 1997 person offense caseload was 97% greater than in 1988 (Scahill May 2000).
- The majority of person offenses involved charges of simple assault or aggravated assault. Together, these two offenses accounted for 81% of all person offenses processed in 1997 (Ibid.).
- The number of people under eighteen years old who are sentenced to adult state prison each year more than doubled between 1985 and 1997—from 3,400 to 7,400 (BJS 2000).
- In 1998, law enforcement agencies in the U.S. made an estimated 2.6 million arrests of persons under age eighteen (OJJDP December 1999).
- Juveniles were involved in 12% of murder arrests; 14% of aggravated assault arrests; 35% of burglary arrests; 27% of robbery arrests; and 24% of weapons arrests in 1998 (Ibid.).
- Juvenile victims are substantially less likely than adult victims to have their violent crimes reported to the police or any other authority (OJJDP November 1999).
- In 1998, 18% of all persons arrested nationally were juveniles (ages eighteen and under) (FBI 17 October 1999, 210.)
- Juveniles are more likely to be the victim of a violent crime in the four hours following the end of the school day (roughly 2 p.m. to 6 p.m.) than at any other time of the day (National Center for Juvenile Justice September 1999, 34).
- On a typical day in 1997, nearly 106,000 juveniles were being held in a residential facility as a result of a law violation (Ibid., 31).
- One in five juvenile arrestees carried a gun all or most of the time (Ibid., 69).
- Law enforcement agencies in the U.S. made 2.8 million arrests of persons under the age of eighteen in 1997, or in other words, one in five arrests made by law enforcement agencies involved a juvenile (Ibid., 115-116).

LEGISLATION

Five areas of change have emerged as states passed laws designed to crack down on juvenile crime. These laws generally involve expanded eligibility for criminal court processing and adult correctional sanctioning, and reduced confidentiality protections for a subset of juvenile offenders. Between 1992 and 1997, all but three states changed laws in one or more of the following areas:

- *Transfer provisions.* Laws made it easier to transfer juvenile offenders from the juvenile justice system to the criminal justice system (45 states).
- *Sentencing authority.* Laws gave criminal and juvenile courts expanded sentencing options (31 states).
- *Confidentiality.* Laws modified or removed traditional juvenile court confidentiality provisions by making records and proceedings more open (47 states).

In addition to these areas, there was change relating to:

- *Victims' rights.* Laws increased the role of victims of juvenile crime in the juvenile justice process (22 states).
- *Correctional programming.* As a result of new transfer and sentencing laws, adult and juvenile correctional administrators developed new programs.

The 1980s and 1990s have seen significant change in terms of treating more juvenile offenders as criminals. Recently, states have been attempting to strike a balance in their juvenile justice systems among system and offender accountability, offender competency development, and community protection. Many states have added to the purpose clauses of their juvenile codes phrases such as:

- Hold juveniles accountable for criminal behavior.
- Provide effective deterrents.
- Protect the public from criminal activity.
- Balance attention to offenders, victims, and the community.
- Impose punishment consistent with the seriousness of the crime (OJJDP 1999).

PROMISING PRACTICES

- *National Youth Court Center (NYCC).* To establish a central point of contact for youth court programs, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) established NYCC in 1999 at the American Probation and Parole Association (APPA). There are now more than 650 youth court programs throughout the country, with hundreds of jurisdictions ready to develop new programs. All adhere to the same underlying

philosophy: hold juvenile offenders accountable for their actions, educate youth about the judicial and legal systems, and empower youth to be active in their communities. NYCC manages an information clearinghouse that provides information on operations and practices of youth court programs in the U.S., maintains a searchable database of information about active and developing youth court programs, and maintains a youth court Web site <www.youthcourt.net>. The Center also provides training and technical assistance, including national training seminars consisting of two tracks—a beginner track for new or developing youth court programs and an advanced track for operating programs. NYCC is currently in the process of developing national guidelines to assist youth court programs in developing policy and implementing practices that promote accountability and integrity in the juvenile justice system. National Youth Court Center, PO Box 11910, Lexington, KY 40578-1910 (606-244-8215) (Vickers May 2000).

- The *Deschutes County (Oregon) Juvenile Community Justice Department (JCJD)*, with support from the Office for Victims of Crime Training and Technical Assistance Center (TTAC), developed two victim evaluation/assessment surveys to determine the scope and quality of services the agency provides to victims of crime. In a series of questions that are ranked on a scale, “yes/no”, or open-ended, the JCJD attempted to discern the following information directly from victims:
 1. How would you rate your overall satisfaction with the Juvenile Community Justice staff?
 2. Were you treated respectfully and with consideration by the staff with whom you had contact at Juvenile Community Justice?
 - a. Could you tell us more about your contact with our agency and staff?
 3. Was our staff knowledgeable regarding issues that were important to you?
 4. What services did our staff provide to you?
 5. Were you provided with information about victim services available to you from our agency, as well as other programs in our community?
 - a. If “yes”, was this information helpful and easy to understand?
 6. Were you informed about your rights as a victim of crime?
 7. Did you receive timely notice of the status of court hearings related to your case?
 8. Did you receive information about requesting restitution to help compensate for any financial losses you may have incurred, and to hold the youthful offender accountable?
 - a. If “yes”, was the restitution information helpful and easy to understand?
 9. Did you have the opportunity to give input that defined the harm that was caused by this offense, addressed how the offense affected you and your family, and requested appropriate restitution to compensate for any financial losses you incurred?
 10. If you had any safety concerns resulting from your victimization, did our agency offer you the opportunity to address them?
 11. How would you rate your overall satisfaction with the Juvenile Community Justice staff?

Two surveys were developed for cases that are processed formally and informally. The victim assessment surveys provide opportunity for additional comments, as well as

information about volunteering for the agency. They offer the chance to engage victims in a meaningful manner, and utilize their input to improve the agency's programs and services for victims (Deschutes County JCJD 2000).

- *Teens, Crime and the Community* (TCC), a partnership between the National Crime Prevention Council and Street Law, Inc., funded by OJJDP, is a national program that combines education and action to reduce teen victimization. Through community service projects, TCC provides a forum for youth to take a stand against violence and become part of the solution to improving their schools and communities. With the help of dedicated teachers and other staff, TCC teaches young people about the effects of crime; how to recognize and prevent crime; and how to report crime, be a good witness, and help victims. More than half a million teenagers in forty states have participated in TCC since it began in 1985 (Youth in Action 1999).
- The *Office of Juvenile Justice and Delinquency Prevention* has highlighted key elements of the new accountability-based juvenile justice system role outlined by the Pennsylvania Juvenile Court Judges' Commission in 1997. Among the elements of the new accountability-based juvenile justice system role are the following:
 - To regard crime victims and the community, in addition to juvenile offenders, as clients.
 - To make community restoration and victim reparation by offenders a priority.
 - To ensure that offenders understand the impact of their crimes.
 - To develop community service options that are valued by communities and crime victims.
 - To educate the community about its role (OJJDP September 1999).

SECTION 1, JUVENILE JUSTICE**ABSTRACT**

This section offers an overview of the juvenile justice system as it pertains to the administration of justice and issues of importance to victims of crime. Included within the presentation and discussion is information concerning the differences between the juvenile and criminal justice systems. This section also addresses victims' rights within the juvenile justice system and how victim advocates and juvenile justice agencies can develop programs and services that assist victims of juvenile offenders.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- An historical overview of the juvenile justice system.
- Juvenile justice procedures.
- Victims' rights within the juvenile justice system.
- Initiatives that involve victim/offender programming and creative dispositions that incorporate raising victim awareness among juvenile offenders.
- Victim assistance services in juvenile court.
- Promising practices.

STATISTICAL OVERVIEW

- In 1997, 12% of the violent crime clearances, and 23% of those for property crimes were accounted for by juveniles (ages eighteen and under) (FBI 1998).
- Though the juvenile male violent crime arrest rate expanded by 124% from 1967 to 1996, the juvenile female arrest rate was nearly triple that figure, 345% (Ibid., 288).
- While crimes committed by the very young often receive a great deal of attention, in reality they account for very few arrests. Juvenile males show progressively higher arrest rates as they age. Generally, sixteen- and seventeen-year-old males account for the majority of juvenile violent crime arrests (Ibid.).

- National Incident-based Reporting System data (of the *Uniform Crime Reports*) from 1997 indicate that the victims of both male and female juvenile crimes are predominantly other juveniles. When limited to incidents when offenders are known, offenders tend to victimize juveniles of their same sex (Ibid., 292).
- In 1997, the victim of a juvenile crime was another juvenile in 63% of incidents involving a male offender; the percentage increased to 70% when considering incidents in which the offender was female (Ibid.).
- From 1990-94, in the nation's largest seventy-five counties, juveniles transferred to criminal courts represented about 1% of all felony defendants (BJS 1998).
- In a national random sample of male high school sophomores and juniors, of those juveniles who had carried guns during the twelve months prior to the survey, nearly half (43%) cited the perceived need for personal protection as the primary reason for bearing arms (NIJ 1998).
- In September 1997, the Bureau of Justice Statistics released a Special Report entitled *Age Patterns of Victims of Serious Crimes*. The report found that vulnerability to violent crime victimization varies across the age spectrum—victimization rates increase through teenage years, crest at around age twenty, and steadily decrease throughout adult years. This pattern, with some exceptions, exists across all race, sex, and ethnic groups (Perkins 1997).
- Persons younger than twenty-five were the most vulnerable to serious violent crime, regardless of how age patterns are analyzed. They made up almost 50% of all persons suffering a serious violent crime and almost 56% of rape/sexual assault victims (Ibid., 2, 3).
- Follow-up studies of children who experienced substantiated abuse or neglect found that 26% of these children were later arrested as juveniles (NIJ 1995).

VICTIMS AND THE JUVENILE JUSTICE SYSTEM: RECENT RESEARCH FINDINGS

In 1997, the Office for Victims of Crime sponsored a project entitled "Victims, Judges, and Partnerships for Juvenile Court Reform" that was conducted by the Balanced and Restorative Justice (BARJ) Project at Florida Atlantic University. The Project consisted of four regional focus group discussions involving juvenile court judges, juvenile justice practitioners, and victims of juvenile offenders, and identified nine general findings about victims and the juvenile justice process:

- For virtually all victim participants, the juvenile court and justice system experience had been predominately negative.
- Victim participants were nearly unanimous in concluding that there was often a lack of respect for their dignity as human beings, little in the way of acknowledgment of them as victims, and a perceived lack of understanding among juvenile court professionals about the victimization experience.

- All victim participants felt that crime victims should be considered, and treated as, “clients” of the juvenile court.
- The general consensus among the judges was that the victim is indeed a client of the *juvenile justice system* and has some role in *juvenile court*. The distinction is a very important one because in various jurisdictions the court may include numerous agencies and staff ranging from the judge and clerical assistants to the judge, probation and parole, victim services, and a range of special programs. Variation in judges’ views of victims as “clients” focused around several themes, including the:
 - Differences between property and violent crime victims.
 - Point in the process at which a victim becomes a client.
 - Status of victims as clients *relative to* offenders, families, and others.
 - Perceived motivation of victims to participate.
 - Limits on what information should be available to victims.
 - Perceived value of alternative, informal dispositional options designed to actively include victims in decisionmaking.
 - Perceived challenge to judicial impartiality presented by victim involvement in the court process.
- Many judges expressed feelings of helplessness in responding to victims’ needs, due largely to a lack of coordination among the court, the prosecutor’s office, and probation services:
- Judges almost unanimously reported low rates of victim participation in court processes and, in some groups, seemed to suggest that victims’ lack of motivation to participate, rather than the unfriendliness of the court, was a primary factor in the lack of victim involvement. A few judges felt that the victims did not belong in court because they were sometimes emotionally incapable of rationally participating in the process. On the other hand, some judges viewed court process and management, rather than victim attitude and behavior, as the primary sources of victim dissatisfaction.
- Many judges felt that victims were not adequately prepared for their juvenile court experience.
- There was general consensus among the majority of judges that improvements are needed in processes involving victim notification, participation, victim impact statements, and restitution.
- Nearly all participants expressed appreciation for the opportunities for helpful dialogue that were afforded by the focus group discussions, along with the hope that this format could be further utilized on a continuing basis on a more local level (Bazemore and Seymour 1998).

INTRODUCTION

One of the greatest threats to individual and community safety in the United States has been the astounding increase in juvenile crime and, in particular, *violent crimes* committed by this nation’s youth. They murder, rape, rob, assault, steal, and commit arson at unprecedented rates. They intimidate their family, their friends, and their communities. They flood a

juvenile justice system that is ill-equipped to deal with the steady onslaught of arrests. And “they” are just children, long termed “the future of America” whose futures too often hold promise of despair, dysfunction, or even death by violent means.

In the period between 1987 and 1994, America witnessed large annual increases in juvenile crime and victimization. Significantly and thankfully, this trend has been altered, with serious violent crimes committed by juveniles dropping 25% between 1994 and 1995. (Snyder, Sickmund, and Poe-Yamagata 1997):

- Between 1987 and 1994, the juvenile Violent Crime Index arrest rate increased 70%. After years of increases, however, the rate declined slightly in 1995, down 3% (Ibid.).
- A juvenile was an offender in 14% (or about 1,900) of all homicides for which an offender was identified in 1995—with 2,300 juvenile offenders implicated in these 1,900 homicides. However, after more than a decade of increases, homicides by juveniles dropped substantially (17%) in 1995 (Ibid.).
- In 1994, the rate of violent victimization of juveniles ages twelve through seventeen was nearly three times that of adults (Ibid.).
- While the national downward trend in juvenile crime is heartening, the National Center for Juvenile Justice found that while today’s violent youth commits *the same number of violent acts* as his or her predecessor of fifteen years ago, what is different is that a *greater proportion of juveniles are committing violent acts*. The question for policymakers is: “Why are some kids committing violent acts today who would not have done so fifteen years ago?” (Ibid.)

HISTORICAL PERSPECTIVE

Among the many startling issues that confront crime victims is the realization that the administration of *juvenile justice* differs greatly from that of the criminal justice system. Since its inception in 1898, the juvenile justice system has evolved based upon the underlying premise that juveniles are different from adults and, as such, must be treated differently. The focus has traditionally been on “the best interest of the child.” What has changed a century later is the realization that “the best interest of the child offender” does *not* have to exclude the best interest of the youthful offender’s victim.

In the early 20th century, when formal distinctions were made between the criminal and juvenile justice systems, it was believed that many youthful offenders were errant children who were in need of simple guidance and advice in order to resurrect them from a life of debauchery and crime. During the early years following the turn of the century, juvenile crime was often characterized by acts of truancy, petty thievery, or burglary.

As more and more youthful offenders were housed within jails or other adult facilities, separate courts, detention facilities, rules, procedures, and laws were created for juveniles. This initiative was undertaken by social reformers for the purpose of protecting the children’s

welfare and ensuring that they were offered opportunities for rehabilitation while attempting to maintain some sense of protection for the community. Within this context, the juvenile justice system was introduced into the American legal and social service systems. Juvenile statutes were developed with an emphasis on protecting and salvaging the wayward children of society.

In this separately designed justice process, every effort was made to divert the child from the criminal justice system. Churches, community groups, and social workers were enlisted to provide guidance and assistance to the errant offender in modifying his or her behavior. Youthful offenders were often required to serve periods of time under the supervision of a truant or probation officer, with efforts made to provide necessary assistance through non-institutional treatment. When institutionalization was necessary, youthful offenders were housed within schools of industry where attempts were made to provide them with vocational training.

Within this historical context, it is important for every victim advocate to understand that there are many characteristics about the administration of the juvenile justice system that are clearly distinct from the criminal (adult) justice system. It is also important to note that these characteristics are undergoing close scrutiny regarding their effectiveness in 21st century society. Understanding these distinctions is crucial to providing support and much needed information to victims of juvenile offenders and their families.

CHARACTERISTICS UNIQUE TO JUVENILE JUSTICE

There are a variety of significant differences between America’s juvenile justice and criminal justice systems. While these differences are enumerated throughout this chapter, it is helpful to know and understand differences in terminology, as depicted in the following chart:

CRIMINAL JUSTICE SYSTEM	JUVENILE JUSTICE SYSTEM
Prosecutors	Court advocates
Charge	Petition for a hearing
Trial	Hearing
Conviction	Adjudication
Sentence	Disposition
Being “found guilty”	A “finding”
Parole supervision	Aftercare
Criminals/Delinquents	Wards/Kids
Getting locked up	A placement
Crimes	Incidents

It is important that victim advocates become familiar with the statutory provisions, procedural operation, and terminology of the juvenile justice system within their respective jurisdictions. Victim service providers can not only serve to support the victim or victim's family, but also act to advocate for change where necessary.

In addition, victims of juvenile offenders share many unique characteristics, due in large part to the lack of rights and services afforded to them by juvenile justice agencies throughout the United States. While 30,000 statutes have been passed that designate and enforce crime victims' rights in America, a limited number of these applies to victims of juvenile offenders. Such omissions create tremendous hardships for individuals who are victimized by adolescents and children.

Characteristics unique to victims of juvenile offender include:

- The shock, vulnerability, and trauma victims endure may be increased due to the age of the child offender. Most people *still* want to believe that children are not capable of committing criminal acts, especially those involving violence.
- The victim's vulnerability may be increased *when the victim knows the juvenile offender*. Relationships that have relied on mutual friendship, trust, and respect are often severed.
- Victims of juvenile offenders may "generalize" about people who remind them of the perpetrator. This can affect their lack of trust in, and tendency to avoid situations involving, other children.
- Victims sometimes report feeling "embarrassed" that they were hurt by a child, since adults are expected to have a semblance of "control" over and command respect from children.
- While many victims report increased fear following victimization by a youthful offender, they are not always likely to tell helping professionals that they are afraid, or would like protective measures, for fear of being perceived as "weak" or "irrational."
- When children victimize other children, it often has detrimental effects on those individuals who know both the victim and offender such as their families, neighbors, school staff, and classmates.
- Historically, victims of juvenile offenders have had limited participatory rights in the juvenile justice process. The lack of information about the case, combined with their inability to participate in hearings and activities related to the outcome of the case, can compound victim trauma.
- Confidentiality protections for juvenile offenders also contribute to victims' frustration about getting information relevant to their cases.
- The likelihood of receiving full restitution is believed to decrease with the age of the offender. With limited work opportunities, few children have financial resources to fulfill their restitution obligations, and victims are often left with financial losses as a result of delinquent acts committed against them.

- While victim services in juvenile court and juvenile probation agencies are increasing, they are still much more limited than those available in the criminal justice system.
- Most trauma response protocols have been developed based upon research of victims of adult, criminal offenders. While most of these responses are appropriate for victims of juvenile offenders, more research is needed *to develop responses that are specific to the unique needs and circumstances of victims of juvenile offenders.*
- Training and cross-training opportunities among system- and community-based victim advocates and juvenile justice professionals have been somewhat limited. While such forums are increasing, there is still a need for consistent and comprehensive training and networking among these key stakeholders in providing services to victims of juvenile offenders (Seymour et al. 1998).

JUVENILE JUSTICE PROCEDURES

In most states, the juvenile justice system is governed by specially created statutes generally associated with the administration of social welfare or programming. As such, these statutes are separate from the adult criminal justice statutes and contain significant differences in the provisions for administering justice. Those procedural differences involve defining the youthful offender, diversions from incarceration, probation, community treatment, detention facilities, parole or release hearings, and community supervision.

AGE OF YOUTHFUL OFFENDERS RELEVANT TO JUVENILE JUSTICE

States differ in their definition of youthful offenders who fall under the jurisdiction of and can be governed by juvenile justice statutes:

- Historically, most juvenile offenders were generally described as those persons under the age of eighteen.
- In some states, provisions mandated that the court could make a finding that a youthful offender over the age of eighteen may be tried as a juvenile if the court found that the offender or offenses showed evidence that they lacked in maturity or social development.
- Conversely, other states provided that offenders could be tried as adults when circumstances demonstrated that the offense and the offender exhibited a great degree of criminal sophistication, or the nature of the offense was so heinous that incarceration in a prison setting was warranted.

It is this latter trend that has advanced in the United States during the past decade, with an increasing number of states enacting statutes that provide for youthful offenders to be tried as adults. Many states have enacted statutes that provide that fourteen- to seventeen-year-old offenders can be tried and convicted as adults for serious offenses such as murder, rape, and crimes involving weapons. Some states, such as Missouri, have no age limitations to remand juveniles to adult criminal courts.

One other factor involving age pertains to the period of time a youthful offender can be incarcerated. Many states incarcerate juvenile offenders for a period of up to no more than the age of twenty-five. Others have enacted statutes that provide for the transfer of serious youthful offenders after a given age to the adult penal system to finish the remainder of their designated period of incarceration. Again, it is important for the advocate to become familiar with the various provisions of local statutes as they pertain to age and the juvenile justice systems as they vary greatly from state to state.

DIVERSION

Within the juvenile justice system, most states employ a progressive array of sanctions for juvenile offenders. Among these sanctions are the use of diversionary practices aimed at averting the juvenile justice system and redirecting youthful offenders from their delinquent activity. These diversionary opportunities are generally characterized by programs such as parental and child counseling, police youth activities, community service, drug prevention education, and informal probation; they are generally used with first-time, non-violent offenders.

Every attempt is made to engage juvenile offenders in some endeavor that will serve to provide information regarding the consequences of their actions, while redirecting their "at-risk" behavior into a more positive direction. Often these programs will impose restitution as a provision of diversion. Victims should understand that this sanction is the earliest form of intervention used with first-time offenders. In addition, victims should seek input into any decision to divert a case.

PROBATION

Probation is the sanction used most often in both criminal and juvenile justice cases. This sanction of community supervision is imposed by the juvenile court. Probation is generally characterized by requirements, known as "terms and conditions of probation," which delineate expected behavior that the probationer must adhere to for a given period of time. Terms and conditions can include educational programs (e.g., GED), community service, counseling programs, and participation in alcohol/other drug counseling programs. Terms and conditions can also be imposed that restrict the offender from contacting the victim or from harassing the victim in any way. Restitution can also be ordered as a term of probation. Differing from diversion, the probationer must have regular contact with a probation officer to demonstrate compliance with conditions of probation.

COMMUNITY PROGRAMMING

Often, juvenile courts will commit offenders to community treatment programs. Such residential counseling centers and drug treatment programs are designed to hold offenders accountable while helping them learn the life skills necessary to re-integrate into society. The programs may be located in the local community or within adjoining jurisdictions or states.

YOUTH DETENTION FACILITIES

With the exception of serious, habitual, and violent offenders, youth detention facilities are generally considered the disposition of last resort for young offenders within the juvenile justice system. Usually operated by state government or private corporations that enter into contractual agreements with jurisdictions, the facilities are the modern day counterparts of the schools of industry that emerged after the turn of the century. The detention facilities of today operate using a combination of contemporary correctional and treatment programs that differ from those within adult institutions. Most continue to operate within a framework of rehabilitation, providing educational and vocational training within an institutional setting. The changing profile of the more violent, less responsive, juvenile offender has resulted in a greater emphasis upon operating secure facilities with increased attention to incarceration and safety within the institution. Most states are also experiencing problems with overcrowding of facilities, which further impedes rehabilitation efforts.

It is important for advocates and victims alike to understand the differences associated with the operation and administration of youth detention facilities. Most markedly, youthful offenders are generally required to serve shorter sentences within such facilities than their adult counterparts serve in prison. Finally, it is important for victims to realize that most youthful offenders are eventually returned to the community.

PAROLE HEARINGS

Many states are enacting statutes or administrative policies that afford victims opportunities to participate in juvenile parole hearings. In determining whether an individual should be released from custody, each juvenile parole board considers many factors, including the offender's progress toward educational or vocational goals and his or her overall behavior while incarcerated. In addition, the juvenile paroling authority considers the seriousness of the original offense for which the person was incarcerated, the overall impact upon his or her release back into the community, and the youthful offender's financial/legal obligations, including victim restitution. This information is included in victim impact statements, among other resources. While many states still restrict such statements at juvenile parole hearings, they are increasingly being accepted as an important part of a comprehensive parole eligibility assessment.

PAROLE SUPERVISION

Similar to probation in its design and functioning, parole supervision (also called "aftercare") is granted to juveniles who are released after having served a period of institutionalized detention or incarceration. Parole officers can be a valuable asset to victim service providers in ensuring that youthful offenders refrain from contacting or harassing the victim in any way and fulfill their court-ordered restitution obligations. Generally, when a person successfully completes a period of parole or aftercare supervision, he or she is discharged from the jurisdiction of the state.

VICTIMS' RIGHTS IN JUVENILE CASES

As noted earlier in this chapter, the profile and nature of juvenile criminal activity have changed drastically during the past two decades. In light of the emerging seriousness of crimes now committed by juveniles, and because of the advancement of victims' rights, many states are changing existing statutes to allow victim access to information about the offender's status. It is important that victim service providers have knowledge of these confidentiality constraints, and be able to explain them sufficiently to victims and their families.

- In many states, victims are now able to obtain information regarding the status of the proceedings, the disposition of the hearing and the conditions under which a juvenile is granted probation or detained in a juvenile institution.
- In an increasing number of states, victims and their families are able to attend previously closed juvenile court proceedings.
- Information necessary to obtain restitution, file civil suits, or monitor the location and whereabouts of the offender is also increasingly available in many jurisdictions.
- The federal constitutional amendment introduced by the U.S. Congress in 1996 and its proposed broad participatory rights apply to violent crimes committed by juvenile, as well as adult, offenders.

Victim service providers must be aware, however, that many of these new victims' rights laws are applied only "upon request from the victim." It is crucial that victims of juvenile offenders are informed and fully aware of their rights in each state, in order to access them.

JUVENILE OFFENDER CONFIDENTIALITY

Most states have included provisions within their juvenile justice statutes that mandate confidentiality for the juvenile offender. These laws were enacted to avoid stigmatizing the youthful offender with every expectation that such information would serve only to impede rehabilitative efforts. Consequently, information regarding the name and age of the offender is often unavailable to the victim from law enforcement and juvenile court records.

Juvenile court proceedings are often confidential and generally exclude all persons other than court personnel from the actual hearing. In most states, the records of the juvenile court proceedings are sealed after the offender has reached adulthood, and the dispositions of juvenile cases cannot be considered in any future criminal proceedings as an adult.

However, recent public policy trends give certain organizations and individuals (including victims) access to juvenile information and records. Some states allow victims access to specific information about the status of the case and the offender, while excluding the general public from such access. Others make most information about juveniles a matter of public record.

Victim service providers must be familiar with confidentiality laws pertaining to youthful offenders as they affect crime victims' rights to receive notification; be protected from intimidation, harassment, or harm; make victim impact statements; and seek restitution. In particular, the distinctions between victims' rights to information in *felony* versus *lower-level* cases, as well as *the victim's duty to request* the implementation of his or her rights, should be identified.

VICTIM NOTIFICATION

Victims' rights to notification in the juvenile justice system vary considerably. Recognizing that there are fifty-eight possible points of notification to victims in general (NCVC 1998), victim advocates should determine the specific types of notification that victims of juvenile offenders are entitled to in their states.

The National Council of Juvenile and Family Court Judges recommends that juvenile justice agencies develop policies and procedures to guide their victim notification processes. Since policies and procedures are often guided by state statutes, they should be developed in accordance with state law.

The following ten issues (Seymour et al. 1998) should be considered when developing policies and procedures to guide victim notification in juvenile court:

1. How do victims know they are entitled to notification of certain activities and hearings in juvenile court?
 - Do specific agencies have authorities or mandates to notify victims of key proceedings, rights, or other activities?
 - Are orientation or educational resources provided that describe notification rights? If so, by which agencies are they provided?
2. Which agencies and/or personnel are responsible for notifying victims of key activities and proceedings in juvenile court?
 - Law enforcement.
 - Prosecutors.
 - Court officials.
 - Judges.
 - Victim advocates.
 - Probation departments.
 - Juvenile parole board victim advocates.
 - Others.
3. Which types of victims (and witnesses) are entitled to notification rights?
 - All victims.
 - Only violent crime victims.
 - Only sex crimes.
 - All witnesses.
 - Only witnesses to violent crimes.

4. Are individuals other than the immediate, "direct" victim eligible for notification?
 - Immediate family.
 - Extended family.
 - Close friends.
 - Victim's designated representatives.
 - Law enforcement officials.
 - Prosecutor.
 - Juvenile court judge.
 - Probation departments.
 - Community (particularly with sex offenses).
5. Do victims qualify for notification by law, by agency policy, by judge's order, or by a combination of any of these?
6. How do victims enroll in notification programs to receive notice of key activities and proceedings?
 - Which juvenile justice professionals or criminal justice agencies are responsible for victim enrollment?
 - Are notification requests accepted orally, in writing, and/or on specified forms developed specifically for this purpose?
7. What types of notification are victims entitled to?
8. Are there any requirements relevant to the timing of victim notification?
9. Are victims' requests for notification kept confidential?
 - From juvenile offenders?
 - From defense counsel?
 - Maintained in separate, confidential section of the case file?
10. Do victims have any recourse if notification, as required by statute, does not occur?
 - If so, what are the measures of recourse?

VICTIM PROTECTION FROM INTIMIDATION, HARASSMENT, OR HARM

Many victims describe a "changed view of the world" that they directly attribute to their victimization. In a "just world," bad things should not happen to good people; juvenile victimization drastically changes this perception. Offender confidentiality can exaggerate the victim's feeling of fear and vulnerability to further harm.

Regardless of the severity of the juvenile offense, many victims identify common reactions that result from their victimization, including:

- Shock that such a thing could even happen.
- Anger at the offender, the crime, and even themselves and others (the latter often resulting from misplaced blame).

- Anger at a juvenile justice system that is not equipped or able to sentence violent juvenile offenders to penalties that reflect the seriousness of their crimes.
- Loss of trust in relationships and sometimes a loss of trust in one's own judgement.

Many victims of juvenile offenders report a fear that such a terrible thing could happen to them again. They feel more vulnerable than before. They often articulate that children should not be capable of committing offenses that hurt the property and person of others. They question why they, "the adults," were not able to prevent the offense from occurring in the first place. Victims of juvenile offenders may develop a tendency to generalize about all youth, resulting in increased vulnerability and irrational feelings about teenagers and children in general.

There are usually two types of distinct fears that victims might exhibit:

- *Actual fears*, which result from direct threats to them or their loved ones by the alleged or adjudicated perpetrator, or his or her family and/or friends.
- *Perceived fears*, which result from feelings of helplessness, loss of control, and trauma related to being victimized.

Assessing victims' fears. Victims of youthful offenders do not always articulate their fears to authorities, or even to persons close to them because they belong to the same peer group. In juvenile cases, this tendency may be exacerbated by feelings that it is not rational to be afraid of a child. They may feel foolish or even ashamed that they are afraid for themselves, or often for the safety of those they love (including family members and friends).

Any juvenile justice professionals involved in the investigation or adjudication of a case should ask victims three key questions to assess their level of actual or perceived fear:

- Are you afraid?
- (If yes) Is there anything specific that has happened to you that makes you feel afraid such as direct threats, intimidation, or harassment?
- Can you suggest anything that will make you and your loved ones feel safe(r)?

It is important that these questions be asked consistently by law enforcement, prosecutors, victim advocates, judges, and probation officers. The victim's answers will help authorities develop a response that meets the needs of the victim and promotes solutions that will make the victim feel a greater sense of safety and security.

Promoting safety and security for victims. Many jurisdictions have laws and agency policies that offer victims the right to protection from intimidation or harassment by the alleged or adjudicated offender. Included among such laws and policies are:

- A general statement of a victim's right to protection (this is often included in a state's Victims' Bill of Rights and/or state-level constitutional amendment).

- The right for victims to be informed of protection measures available to them. This right is usually implemented by law enforcement, juvenile prosecutors, court-based victim advocates, and/or probation officers.
- The denial of pre-adjudication release to juvenile offenders who pose a threat to the victim, or to the community. Such actions are usually taken in cases involving serious, violent, and/or habitual offenders.
- “No contact” orders that can or must be a condition of any release of the juvenile offender.
- Notification to the victim regarding the status of the case, as well as the offender, that can help the victim make informed decisions regarding personal safety.
- Designation of waiting areas in the court house that keep the victim and alleged/adjudicated offender separate by sight and sound.
- Options for recourse by victims who feel they are being intimidated or harassed, or will be harmed, by the juvenile offender and/or his family or friends.
- There are also policies and programs that juvenile courts can consider to promote victim safety. While all of these approaches have been utilized for years in the criminal justice system, they are applicable to cases involving juvenile offenders when their victims express fear for their safety.

Guidelines for victims who are fearful. Any victim who expresses fear of contact and/or retaliation by the youthful offender should be provided with the following information:

- Their rights to protective measures, including protective orders issues by the juvenile court.
- The name and contact information for a juvenile justice or law enforcement official who should be notified of any violations.
- The importance of dialing “911” in cases of emergency, or in unwanted contacts or offenses that occur after working hours.
- Referrals to victim assistance programs, victim support groups, or mental health counseling that can help victims cope with their trauma and fear. (Seymour et al. 1998)

VICTIM IMPACT STATEMENTS

Increasingly, victims of juvenile offenders are given the opportunity to submit or make statements prior to dispositions in juvenile court and at juvenile parole board hearings. Victim impact statements (VIS) vary in their method of presentation and format based upon each state’s statutory provisions. Generally, victims of juvenile offenders are provided with an opportunity to submit a written statement for inclusion in the probation report to be read by the court prior to the rendering of a disposition. In other instances, victims may appear in court or at parole board hearings and make statements directly (allocution), and/or submit audio or video recordings for consideration by the court and/or juvenile parole board.

Clearly, victims value and appreciate involvement and a role as “active participants” in juvenile justice processes that are afforded through the VIS process. VIS provide the court with an accurate assessment of the psychological, physical, and financial harm caused to victims, which can be particularly helpful in plea negotiations. VIS also help juvenile paroling authorities understand whether or not the victim has endured psychic trauma, financial losses, and/or physical challenges as a direct result of the juvenile offender’s actions.

In addition to validating the victim’s voice as a meaningful component of juvenile justice processes, VIS offer the juvenile justice system vital information that can be helpful in adjudications, such as input related to:

- Restitution.
- Other financial losses, such as payment for medical bills and counseling, insurance (payment of deductibles and increases in premiums resulting from crimes), and the replacement value of stolen or damaged property.
- Measures requested by victims to promote their safety, such as protective or “no contact” orders, supervised visitation, and special conditions of probation.
- Desire by victims to participate in victim/offender programs or to require the youthful offender to participate in alternative sentencing programs such as victim impact panels, circle sentencing, mediation/dialogue, conciliation, and/or victim awareness classes.
- Victim recommendations for offender treatment, including alcohol and other substance abuse, sex offender, and anger management.
- Community service, particularly service that directly benefits the victim or a cause of his or her choice (often called “restorative community service”) (Seymour 1998).

RESTITUTION

Restitution, as described in other chapters contained in this text, is sometimes available to victims of crime. The requirement of the payment of restitution to a victim is an extremely effective tool to hold youthful offenders accountable. Court-imposed or diversionary agreements of restitution are very constructive forms of rehabilitation. Youthful offenders can learn much about the impact of their crime by being required to make monthly payments in any amount. Such a payment schedule adds a realistic and constant reminder of the financial impact that their actions had upon the victim. In addition, restitution provides the offender with an opportunity to repay the victim and attempt to “right the wrongs” they have committed against another.

Restitution programs are faced with many difficulties, from administration to the inability or refusal of offenders to pay. These are even more pronounced in juvenile restitution programs. This should not deter officials from seeking and enforcing juvenile restitution. When juvenile justice officials express concerns that “a youthful offender cannot afford to pay restitution,” the fact that “few victims can afford to pay for their losses resulting from the juvenile offense” should also be addressed.

Community restitution is also an effective form of rehabilitation and often proves satisfactory to victims as a disposition in their case. Offenders are required to perform some meaningful community service and submit to drug testing and counseling to satisfy the terms and conditions of diversion or probation. This type of activity often serves to provide the youthful offender with some sense of social responsibility while repaying society and the victim for the negative impact of their criminal activity. In some communities, victims are allowed to offer input into the type of community restitution that their youthful offender must complete, including direct service to the victim or to an organization or charity of the victim's choice.

Restitution, in general, offers a significant measure to hold youthful offenders accountable. When financial/legal obligations are not fulfilled or are ignored, the victim ultimately and unwillingly becomes accountable for his or her losses that were caused by another's actions.

VICTIM/OFFENDER PROGRAMMING

As more states and jurisdictions move toward a restorative justice approach to juvenile crime and victimization, dispositions and conditions of community supervision often involve victim/offender programming. Among the two most widely utilized programming approaches are victim impact panels and victim/offender mediation (also called "dialogue" or "offender accountability meetings.")

VICTIM IMPACT PANELS

An increasing number of victims and surviving family members have begun to participate in victim impact panels with juvenile offenders, both in institutional and non-institutional settings. Generally guided by victim service providers or organizations, victims of crime address groups of youthful offenders, describing to them the impact of crime upon their lives. Such panels are conducted for groups ranging from first-time offenders to those serving periods of incarceration. The panels serve as a form of empowerment to participating victims, as they afford them opportunities to symbolically confront and educate a community of offenders whose behavior represents that which caused them injury or personal suffering. For the offender, victims provide some much needed insight into the impact of their criminal behavior in human terms. Research published by MADD National Office in 1995 shows significant benefits for both victims and offenders.

VICTIM-OFFENDER MEDIATION

Victim-offender mediation programs involve face-to-face meetings, in the presence of a trained mediator, between an individual who has been victimized by a crime and the perpetrator of that crime. Victim-offender mediation programs operate within the context of the criminal justice system, rather than in the civil courts. Historically, these programs have been instituted successfully within the juvenile justice system, most significantly in cases involving property offenses. The purpose of such meetings is to provide the victim with an opportunity to gain insight into the reasons why an offender committed the crime, and to confront that offender with the impact of the crime. The meetings also provide the offender with information

regarding the real life human consequences of his or her actions. These meetings often result in agreements in which juvenile offenders perform some restitution-related service directly for the victim and agrees to complete treatment, education, or vocational programming.

Victim-offender programs also focus on the need to express feelings and on greater understanding of the event and of each other. Victim participation in *any* mediation or conciliation programs must be *strictly voluntary*. Great caution must be taken to avoid the specter of even the most subtle, unintended coercion of victims to participate.

OTHER CREATIVE DISPOSITIONS IN JUVENILE JUSTICE

The National Center for Juvenile and Family Court Judges has identified several creative dispositions that involve and serve victims and the community. These approaches hold youthful offenders accountable for their actions in measures that are meaningful while, at the same time, provide activities that offer opportunities for learning and competency development:

- Providing youthful offenders with opportunities for restorative community service to:
 - The victim directly, upon request and with supervision.
 - A charity, cause or public work service of the victim's choice or recommendation.
 - An organization that provides support and assistance to victims, i.e., cutting red ribbons for Mothers Against Drunk Driving's public awareness campaigns, helping to organize or staff activities for National Crime Victims' Rights Week in April, providing volunteer hours for victim-related fund raisers, etc.
- Helping to build homes, victim service agencies, or other buildings that benefit individuals and/or the community, such as Habitat for Humanity or domestic violence shelters.
- Participating in Youth Court programs (a full curriculum and program development manual is available from the American Probation and Parole Association).
- Writing a letter of apology to the victim of the offense (if the victim does not request nor want an apology, the letter can still be placed in the youthful offender's case file).
- Participating in family group conferencing, a process similar to mediation but involving the family of the youth, as well as the family of the victim.
- In shoplifting and larceny cases, attending a Merchant Accountability Board to hear from store owners about how shoplifting affects their businesses, i.e., higher costs for consumers, greater restrictions for youthful shoppers, and lack of trust (utilizing the promising practice developed in Deschutes County [Bend] Oregon).
- Working with the probation or detention official to complete an "Offender Accountability Assessment" that requires youthful offenders to assess *who they are responsible to* and *what they need to be held accountable for*, as a result of their offense(s), *prior* to completing the traditional "needs assessment."
- In property cases, meeting with a panel of (or individual) insurance adjustors to dispel myths related to the common excuse that "s/he had insurance" and to better understand that

when insurance has to cover burglaries and larcenies, collective rates rise, victims must pay deductibles and often higher insurance rates, and the time to file claims can be exorbitant. Insurance adjustors can also have youthful offenders fill out insurance claim forms—an arduous task, to say the least—to help them understand the time and frustration many victims endure when dealing with insurance agencies.

- Participating in supervised work crews that provide crime scene cleanup services to victims of business and household burglaries.
- Participating in supervised work crews that conduct “safety checks” for vulnerable citizens such as senior citizens and people with disabilities to increase personal safety measures at their homes by replacing locks, increasing lighting, trimming bushes by windows, joining a Neighborhood Watch Program, developing a safety plan, etc.
- Participating in paid work service programs that develop the offender’s work and socialization skills, contribute to either direct victim restitution or a collective restitution fund that reimburses victims for losses related to juvenile crimes, and improves the community (such as community recycling programs) (Seymour et al. 1998).

VICTIM SERVICES IN JUVENILE COURT

A significant trend in the 1990s has been the development of victim assistance programs within juvenile courts. Similar to victim/witness programs in the criminal justice system, these offices provide a wide range of information, supportive services, advocacy, and referrals to victims of youthful offenders.

The National Council of Juvenile and Family Court Judges (Tofall 1998) has identified nine critical elements that comprise a comprehensive victim service program within the juvenile justice system:

1. A complete understanding of the mandates of the statutes applicable in the state.
 - Victim rights statute.
 - Juvenile code/statute and confidentiality restrictions.
 - Related statutes: child orders of protection, etc.
2. A complete understanding of the operations of juvenile/family court.
 - Division of responsibilities within the court system.
 - Roles and responsibilities of court personnel.
 - Accessing case information within the system.
3. Knowledge of what aspects of the statute are currently being met and by whom? Basic victims’ rights should include:
 - Explanation of the juvenile justice system.
 - Notification of hearings/proceedings.
 - Establishment of a safe victim waiting room.
 - Submission of a written or oral victim impact statement.

- Orders of restitution.
 - Measures of victim protection.
4. Identification of personnel in the system who support the precepts of victims' rights in conjunction with the protections to be afforded to juvenile offenders.
 - Building relationships based upon an understanding of victimization.
 - Identifying specific concerns or reservations staff may have regarding implementation of victim rights.
 5. Determination of the role of victim service professionals within the system.
 - Staff member of the juvenile justice system (assigned position).
 - Contracted individual whose responsibilities and involvement in court cases is well-defined; what protection is necessary for juvenile confidentiality (statutory restrictions).
 6. Referral of victims to victim service professionals.
 - Review of police reports submitted with admission of juvenile offender to detention facility.
 - Referral of victims by court personnel (utilizing referral form).
 - Self-referral by victims.
 - Referral of victims from community resources.
 7. Development of services to be provided to victims and subsequent training to be provided to juvenile court staff:
 - Explanation of the juvenile court process, terminology and procedures, and roles of various court staff.
 - Crisis intervention, supportive counseling relevant to victimization issues.
 - Availability of Crime Victims' Compensation.
 - Accessing community resources through networking (counseling, etc.) and subsequent referral, as appropriate.
 - Preparing and accompanying victims to hearings.
 - Assisting with the completion of victim impact statements.
 - Providing notification of all court dates (if required).
 - Advocating for victims with law enforcement agencies in order to obtain report information for the victim and to encourage the law enforcement agency to refer the case to the court.
 - Accompanying victims to line-ups held in detention facility.
 - Establishing protocol for assisting families in which the victimization is sibling on sibling.
 - Providing assistance with restitution information.
 - Notification of disposition of case.
 8. Participation on various committees within the juvenile justice system when victim assistance is pertinent to the assignment of that committee.
 - Public relations/community education.
 - Training committees (e.g., police, court personnel, etc.).
 - Any protocol committees involving victim-related issues (notification of release from secured facility, victim/offender mediation, etc.).

9. Program development and program evaluation.
 - Determine source(s) of funding for program.
 - Development of survey for court personnel feedback.
 - Develop protocol for involving volunteers/student interns as victim advocates.

DEVELOPING A COORDINATED RESPONSE TO VICTIMS IN THE JUVENILE JUSTICE SYSTEM

(This section is derived from the “Developing a Coordinated Response” chapter of *The Juvenile Court Response to Victims of Juvenile Offenders* training manual, published in 1998 by the National Council of Juvenile and Family Court Judges, with support from the Office for Victims of Crime.)

While the roles and responsibilities of juvenile justice and allied practitioners in providing victim assistance vary depending upon a jurisdiction’s laws, as well as an agency’s policies, programs, and staff resources, there are some general roles that comprise core victim services. Every practitioner should be capable of providing victims with basic information about their rights and referrals to programs and services that can assist them. In addition, every agency/organization involved in a coordinated response should provide specific contact information to victims about individuals who can assist them.

The major roles and responsibilities of key stakeholders—in the juvenile justice system, the private sector at the local level, and the state level— include:

Law enforcement.

- Responding to the scene of the offense.
- Interviewing victims and witnesses.
- Completing an initial offense report.
- Conducting investigations into offenses.
- Informing victims about how to access information about the status of their case.
- Providing victims with information about victim compensation in relevant cases.
- Providing victims with information about and referrals to services that can assist them.
- Providing victims with information about resources for crime scene cleanup and personal security in property offenses.
- Accompanying victims who need medical attention to the hospital and/or emergency medical services.
- Providing name, badge number, and contact information for future reference.

Juvenile court prosecutors.

- Contacting victims and witnesses about the status of the case and procedures/hearings in which they have the right to participate, or to receive information.
- Interviewing victims who are witnesses in a case.
- Providing information about the juvenile court/juvenile justice process.
- Providing information about victims' rights, i.e., notification, input, information, restitution and protection.
- Providing victims with information about victim compensation in relevant cases.
- Seeking waiting areas in court settings that keep victims/witnesses separate by sight and sound from juvenile offenders prior to their testifying.
- Providing information about and guidance in completing victim impact statements.
- Providing information about and guidance in securing restitution orders.
- Notifying victims about the outcome of their cases.

Juvenile court administrators.

- Maintaining juvenile court dockets.
- In some cases, informing victims of proceedings at which they are needed as a witness, or at which they have the right to participate.
- Notifying victims of case continuances in a timely manner (often by telephone).
- Seeking waiting areas in court settings that keep victims/witnesses separate by sight and sound from juvenile offenders prior to their testifying.
- Maintaining a secure court room environment that contributes to victim safety.
- In some jurisdictions, monitoring the collection and disbursement of victim restitution.

Juvenile court judges.

- Exercising leadership to ensure that victims' rights are honored.
- When possible, establishing a victim services program or unit.
- Seeking separate waiting areas for victims and witnesses prior to their testifying.
- Maintaining a secure courtroom environment that contributes to victim safety.
- Determining whether or not a victim has any concerns for his or her safety.
- Reviewing victim impact statements for disposition decisions.

Juvenile probation.

- Providing victims with information about options available to them, as well as potential programs and services available to juvenile offenders.
- Conducting pre-disposition investigations, including an assessment of the impact of the offense on victims (victim impact statements).
- Determining victims' losses in order to make recommendations for restitution orders.
- Providing victims with information about victim compensation in relevant cases.
- Assessing any victims' needs related to personal safety and protection.
- Informing victims about opportunities for victim/offender programming, including mediation (offender accountability meetings), family group conferencing and victim impact panels or classes.

Juvenile detention.

- Sponsoring programming that holds youthful offenders accountable and increases their awareness of the impact their offenses have on their victims, their own families, their communities, and themselves.
- Assessing any victims' needs related to personal safety and protection.
- Notifying victims of potential release dates and hearings.
- Obtaining victim input (through victim impact statements) into such releases.
- Securing victim input into conditions of a youthful offender's release.

Juvenile justice system-based victim advocates.

- Supporting any/all of the roles and responsibilities noted above.
- Providing victims with information about their rights, as well as available services.
- Serving as the agency's liaison to allied justice agencies and community-based victim service programs.

Community-based victim service providers.

- Providing emergency response to crime scenes.
- Providing victims with information about victim compensation.
- Informing victims of available rights and services to assist them.
- Conducting support groups to help victims cope with emotional and psychological trauma.
- Providing counseling and supportive services.
- Providing advocacy in dealing with the news media (in high profile cases).

- Serving as the victim's liaison to juvenile justice-based agencies and victim service programs.

Community organizations that provide supportive services.

- Providing emergency assistance related to personal security and finances such as crime scene repair crews, funding to repair locks and broken windows, etc.
- Providing information about available services in both the public and private sectors.
- Sponsoring victim/offender mediation and family group conferencing.
- Sponsoring victim support groups.

Mental health professionals.

- Providing mental health counseling.
- Facilitating victim support groups.
- Providing victims with written information and resources to help them understand what they are going through in the aftermath of the crime.

County- or city-level victim service coalitions.

- Coordinating an effective community-wide response to victims of crime.
- Coordinating community outreach and public education about rights and services for victims of juvenile offenders.
- Identifying and filling "gaps" in service delivery to victims.
- Training juvenile justice, criminal justice, and allied professional and volunteer agencies about victims' rights and needs.
- Coordinating cross-training efforts among key community stakeholders.

State victim compensation programs.

- Providing financial remuneration to victims of personal crimes (eligibility requirements vary from state to state).
- In some states, securing "restitution" from detained youth that is dedicated to the state's general victim compensation fund.

State Victims of Crime Act (VOCA) administrators.

- Overseeing funding, training, and other resources for local victim service providers.
- Encouraging and supporting collaborative efforts that benefit victims of crime.

State-level victim service coalitions.

- Collaborating on the implementation of laws and policies that improve rights and services for all victims of crime.
- Sponsoring state-level opportunities for training victim service providers and allied justice professionals.
- Generating public awareness about the availability of services and the enforcement of rights specific to victims of juvenile offenders.

INITIATIVES THAT PROMOTE VICTIMS' RIGHTS AND SERVICES WITHIN THE JUVENILE JUSTICE SYSTEM

FEDERAL INITIATIVES

Juvenile Accountability Incentive Block Grants Program (JAIBG). The Juvenile Accountability Incentive Block Grants program was created in 1998 by Congress to promote greater accountability in the juvenile justice system. The underlying supposition is that young people, their families, and the juvenile justice system must be accountable for improving the quality of life in every community.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP), one of five program bureaus in the Office of Justice Programs (OJP), has been delegated the authority to administer the JAIBG program. The law that created it authorizes the Attorney General to provide grants to the states to strengthen policies, programs, and administrative systems that foster safer communities. This includes providing support for juvenile facilities, probation officers, prosecutors and public defenders, pretrial services, juvenile gun and drug courts, and controlled substance testing. JAIBG also supports interagency information-sharing programs that enable the juvenile and criminal justice systems, schools, and social services agencies to make informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious or violent delinquent acts. Finally, JAIBG authorizes programs that use law enforcement to protect school personnel and students from drug, gang, and youth violence (OJJDP 1999).

In fiscal year 1998, \$250 million was appropriated for the JAIBG program. Appropriations will again be made in FY 1999 (Wilson 1999).

Violent Crime Control and Law Enforcement Act of 1994. The Violent Crime Control and Law Enforcement Act of 1994 created new federal crime provisions for juvenile offenders. The following is a summary of these provisions:

The Act amended current federal law to permit adult prosecution of 13- to 14-year-olds charged with certain crimes of violence, including robbery or aggravated sexual abuse committed with a firearm. It should be noted that this provision does not apply to offenses committed by Indian juveniles in Indian Country if the jurisdiction for the offense is solely within Indian Country. However, exceptions to this can occur if the tribe elects to subject the tribe to the new provision under the Act.

In addition, the Act adds several serious firearms offenses to prosecuting juvenile offenders as adults. For example, in determining whether a juvenile should be tried as an adult, the Act requires courts to consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced others to take part in criminal activities, involving the use of, or distribution of, firearms or drugs.

Firearm safety. The 1994 Violent Crime Control Act establishes a federal offense when juveniles under 18 years of age knowingly possess a handgun or handgun ammunition.

In addition the Act establishes that:

- It is unlawful to transfer a handgun or handgun ammunition to a person the transferor knows or has reasonable cause to believe is under eighteen years of age.
- There are certain exceptions, such as for the armed forces, ranching, farming, hunting and other specific uses. These may require juveniles to possess prior written consent from a parent or guardian.
- Probation is established as a penalty for juveniles in possession of a handgun or handgun ammunition if the juvenile has never been convicted of an offense or adjudicated as a delinquent for an offense. Otherwise, the maximum penalty for a juvenile is one year of imprisonment.

In addition, the penalty for an adult who transfers a handgun or handgun ammunition to a juvenile is generally one year imprisonment. Under the new federal law, if the adult knew or had reasonable cause to know that the juvenile intended to possess or use the handgun or ammunition in a crime of violence, the maximum penalty is ten years of imprisonment.

Previous federal laws state that a licensed firearms dealer who transfers any firearm to a person under eighteen years of age, or any firearm other than a rifle or shotgun to a person under twenty-one years of age, is subject to a maximum penalty of five years of imprisonment.

Juveniles and drugs. With respect to using minors to distribute drugs in or near a protected zone the 1994 Violent Crime Control Act also created new criminal provisions. The Act tripled the maximum penalty for using a minor to distribute drugs around or within 1,000 feet of a protected location, such as a school, college, playground, or public swimming pool. In addition, it tripled the maximum penalty for using a minor to assist in avoiding detection or apprehension for drug dealing at or near a protected location.

ACA RECOMMENDATIONS ON VICTIMS OF JUVENILE OFFENDERS

In 1994, the American Correctional Association (ACA) published sixteen recommendations to initiate and enhance rights and service for victims of juvenile offenders. This landmark publication included the following:

1. The rights of victims of juvenile offenders should mirror the rights of victims of adult offenders in the United States. Crime victims should *not* be discriminated against based upon the age of their offenders.

2. Crime data and statistics must be better categorized and analyzed according to the age of the offender, the classification of crime, and the type of victim.
3. Victims must have access to information about their offenders' status. Therefore, restrictions on confidential information relevant to the victim must be removed from the files of juvenile offenders and the agencies that serve them.
4. Any treatment and/or education programs for juvenile offenders must include a victim awareness component.
5. Juvenile justice, victim service and allied professionals should collaborate on efforts to adopt and implement the balanced approach of restorative justice as a guide to agency and system policies, programs, and services.
6. Victim/witness and victim assistance programs must be expanded to serve victims of juvenile offenders and be housed in juvenile courts, probation, and corrections departments for easy access by victims and witnesses.
7. Juvenile justice personnel—including administrators, managers, and line staff—need victim sensitivity and awareness training included as part of their basic and continuing education. In addition, victim assistance personnel need training on juvenile justice policies, procedures, and programs.
8. Juvenile corrections agencies must adopt protocol, programs, policies, and training for field, custody, and support staff on how to respond to staff victimization and critical incidents.
9. There must be updated comprehensive literature reviews and research into existing statutory and constitutional protections affecting victims of juvenile crime, along with existing programs and policies that pertain to victims of juvenile crime.
10. Existing victim service and victim awareness programs within the juvenile justice and juvenile corrections systems must be evaluated, with the data utilized to enhance, expand, and replicate effective programs nationwide.
11. Juvenile offender management and tracking systems should incorporate databases that include information about crime victims and rights relevant to the juvenile offenders' cases.
12. Improved efforts to network must be made and to provide comprehensive cross-training among local, state, and national juvenile justice officials, juvenile corrections professionals, and associations, and local, state, and national victim service professionals and associations.
13. All programs and services designed to assist victims of juvenile offenders must understand and respect diversity of juvenile offenders and their victims—by culture, gender, geography, race, physical/mental disabilities, and religion—in order to be truly effective.
14. All U.S. Department of Justice agencies that provide research, evaluation, training, and technical assistance relevant to juvenile justice and/or crime victims should designate a staff position specific to victims of juvenile offenders.

15. The American Correctional Association should conduct public hearings to receive testimony from juvenile corrections professionals, juvenile justice officials, victim service providers, crime victims and allied professionals about all topics relevant to victims and victim services within the juvenile justice system.
16. The American Correctional Association should adopt these Victims Committee recommendations as a foundation for Association policy on victims of juvenile offenders.

U.S. DEPARTMENT OF JUSTICE INITIATIVES

In the *National Juvenile Justice Action Plan* published in 1996, the U.S. Department of Justice affirmed its commitment to supporting improved rights and services for victims of juvenile offenders. The *Plan* included the following response to victims' concerns:

As a civilized society, we need to feel safe in the company of people who walk our streets and attend our schools. Even if we improve the juvenile justice system so that it is capable of providing treatment, skills training, and rehabilitation, mechanisms must be in place to provide information about juvenile offenders and support the rights of victims. Simultaneously, however, we need to ensure that reasonable confidentiality protections are afforded to juvenile offenders.

The *Action Plan* endorses the presence of victims in the courtroom, particularly in felony cases. Victims of juvenile offenders should be given the opportunity to address the court and be notified of the disposition, parole status, and release of perpetrators. It also supports programs that help young offenders understand the long-term effects of their behavior and learn how to control anger and resolve conflicts without violence.

In addition, the *Action Plan* endorsed the ACA recommendations cited above relevant to victims' participatory rights, access to information, victim awareness programs for youthful offenders, and training and collaborative efforts among victim services and juvenile justice professionals.

The Office for Victims of Crime has provided leadership and resources to promote victims' rights and services in juvenile justice. In 1995, OVC funded three forums sponsored by the National Organization for Victim Assistance to address these issues. In 1997 and 1998, OVC sponsored two projects that focused on improving the juvenile court's response to victims of juvenile offenders, and incorporating restorative justice initiatives into juvenile justice, based upon input from victims of juvenile offenders, juvenile court judges and other juvenile justice practitioners.

In addition, OVC has provided input and advice to national organizations that are seeking ways to improve victim involvement in juvenile court, treatment and rehabilitation and probation and aftercare processes. OVC-funded projects—such as victim impact statement guidelines, resources for victims of gang violence and promising practices in corrections—include important components relevant to victims of juvenile offenders.

PROMISING PRACTICES

- A series of nine brochures, entitled “How to Be Victim Friendly in Juvenile Court,” was developed in 1998 by the National Council of Juvenile and Family Court Judges, with support from the Office for Victims of Crime. These excellent resources were mailed to every juvenile court in the United States and are available from the National Council.
- A number of juvenile justice agencies have developed mission statements that reflect the importance and value of victims’ rights and services. The Pima County Juvenile Court Center publishes a “Mission of the Juvenile Court Concerning Victims’ Rights” in an informational brochure. This includes:
 - Treating victims with fairness, respect and dignity, and keeping them from intimidation, harassment, or abuse throughout the juvenile justice process.
 - Promoting communication between victims and the court.
 - Ensuring that victims are informed of their rights and given the opportunity to exercise their rights.
 - Helping protect victims from any further loss or injury.

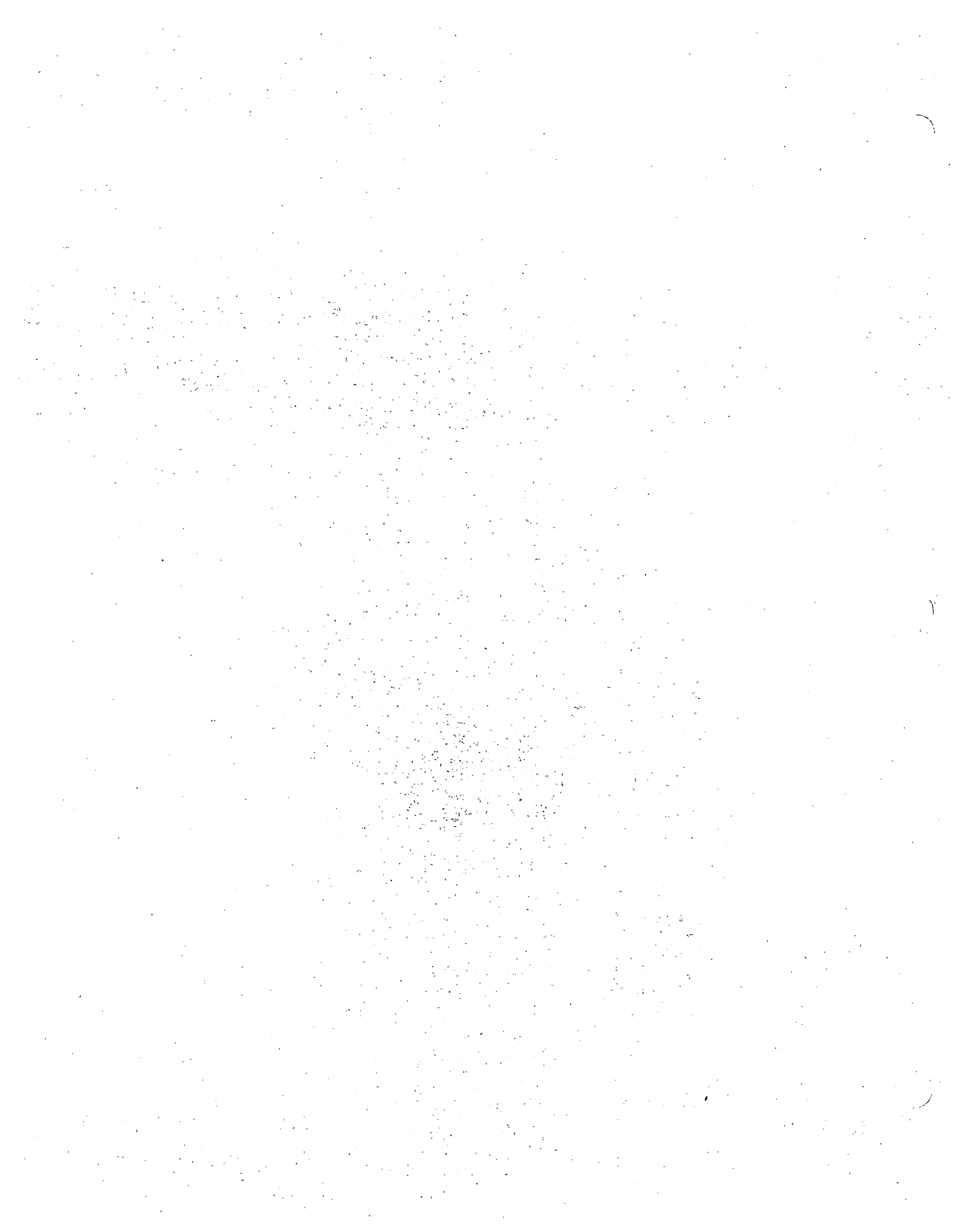
The Probation Department of Stanislaus County, California, articulates the following vision for victims of juvenile crime:

- Include victims in the juvenile justice process.
 - Keep victims’ needs and concerns paramount.
 - Keep victims informed.
 - Advocate services for victims:
 - Increase victims’ knowledge of their rights.
 - Enhance staff awareness of victims’ needs and services.”
- In St. Louis County, Missouri, the goals of the Juvenile Crime Victim Advocate Program “are to provide victims with an overview of the juvenile court process, supportive services such as crisis intervention and court preparation and accompaniment to hearings, referrals to the community to resources and information about the Missouri Crime Victims Compensation process.” Referrals to the program are received from court personnel, law enforcement, school and hospital social workers, or victims who call in to request assistance.
 - The office of the District Attorney in Sedgwick County, Kansas, provides victims of juvenile offenders with *An Information Guide for the Juvenile Justice System*. This publication was developed to be user-friendly and simple to understand. It mostly uses a “question and answer” format. Following a brief introduction from District Attorney Nola Foulston and a copy of the Kansas Victims Bill of Rights is a description of the entire juvenile court process from the victim’s perspective.
 - Youthful offenders in Deschutes County (Bend), Oregon, are required to complete a “victim impact statement” that is quite similar to those completed by their actual victims. The purpose is to have the child assess the harm they have caused as well as provide them with the opportunity to offer suggestions on how they could attempt to repair the harm caused to their victim(s).

- In South Carolina, a videotape was developed with support from the Office for Victims of Crime, U.S. Department of Justice, that “walks” victims through the criminal and juvenile justice system. The juvenile court section highlights differences in victims’ rights and provides an overview of rights and services.
- The “Victims First” program, sponsored by the Lincoln Action Program in Lincoln, Nebraska, identified crime victims who have suffered property damage as a result of crime. Teams of youthful offenders, who are closely supervised and mentored by community volunteers, provide crime scene repair services as well as any other services (such as painting, yard work, or general cleaning) that the victim requests. Then the victims speak to the youthful offenders about how they felt being victimized, including the emotional, physical, and financial losses they endured. The ensuing group discussion helps the young offenders better understand the impact of crime on victims and communities.

1. Describe the original purpose of the juvenile justice system.
2. Identify three of the nine general findings from the BARJ research (1998) about victims and the juvenile court process.
3. Describe three characteristics that are unique to victims of juvenile offenders, and three characteristics that differentiate the juvenile justice system from the criminal justice system.
4. Describe one type of victim/offender program or creative disposition that helps youthful offenders understand the impact of their actions on their victims, their own families, their communities, and themselves.
5. Identify five of the fourteen key stakeholders in assisting victims of juvenile offenders throughout the juvenile justice system.

Federal Justice



SECTION 2, FEDERAL JUSTICE

STATISTICAL OVERVIEW

- During 1998, U.S. Attorneys initiated investigations involving 115,692 suspects for possible violations of federal law. Almost a third (32%) of those investigated were suspected of a drug violation (BJS September 1999).
- Between 1994 and 1998, investigations initiated by U.S. Attorneys have increased by 16.5%—from 99,251 to 115,692. Investigations for immigration violations increased from 5,526 to 14,114; investigations for drug offenses increased from 29,311 to 36,355 (Ibid.).
- Criminal charges were filed against 78,172 defendants in U.S. district courts during 1998—a 25% increase since 1994 (Ibid.).
- In 1998, 89.9% of defendants charged with felonies were convicted in cases terminating in U.S. district courts. This conviction rate was about the same for all major offense categories: 90.1% of violent offenses, 89.8% of property offenses, 89.1% of drug offenses, and 91.3% of public-order offenses (Ibid.).
- Of the 50,494 offenders convicted of felonies and sentenced in U.S. district courts during 1998, a total of 40,879 were sentenced to prison. Another 7,208 were sentenced to probation only (Ibid.).
- During 1998, 92,813 offenders were under federal community supervision. Supervised release has become the primary form of supervision in the federal system: 59.1% of offenders were on supervised release compared to 34.7% on probation, and 6.3% remaining on parole (Ibid.).
- On September 30, 1998, 107,912 offenders were serving prison sentences in federal prison; 58% were incarcerated for a drug offense; 11% for a violent offense; 8% for a weapons offense; 8% for a property offense; 7% for an immigration offense; and 8% for all other offenses (Ibid.).

REVISIONS TO THE *AG GUIDELINES*: 2000 EDITION

A highly significant development in the federal criminal justice system pertaining to victims and witnesses of federal crime is the newly released revisions to the *Attorney General Guidelines for Victim and Witness Assistance*. In October 1996, the Attorney General created the Deputy Attorney General's (DAG) Victims' Rights Working Group, and assigned to it the task of revising the 1995 version of the *AG Guidelines*. Major goals of the revision were to:

(1) update the document with new federal laws pertaining to victims; (2) provide more explicit guidance to the field on “difficult issues” that had never been fully resolved by the Department of Justice; and (3) change the format of the document to make it easier to use.

In accordance with these goals and objectives, the *2000 AG Guidelines* incorporate a number of changes in both substance and format. These changes have made the *AG Guidelines* easier to use and more comprehensible. With respect to format, separate sections were created specifically for the use of the investigative, prosecutive, and correctional personnel to which they applied. Statutory and rule citations were attached to the corresponding guidelines so that the user could refer directly to their text. Finally, a commentary section was added at certain points throughout the document in order to provide additional clarification, guidance, and practical suggestions on how to implement the law and policy that the document contained.

With respect to the substance of victims' rights and services, the revised *2000 AG Guidelines* provide the following clarification and guidance:

- *Clarification regarding the mandatory nature of the Guidelines.* Traditionally, the *AG Guidelines* incorporated the “best efforts” standard contained in 42 U.S.C. §10606 regarding the provision of services. Thus, Department of Justice (DOJ) employees were instructed to use their “best efforts” to provide victims with the services listed in the statute. A closer examination suggested, however, that the provision of victims' rights statutory services was instead mandatory in nature. At the request of the OVC Director, DOJ's Office of Legal Counsel (OLC) prepared and issued an Opinion that the victim service requirements of 42 U.S.C. §10607 are indeed mandatory.
- *Clarification regarding employee discretion.* OLC's legal opinion recognized that although 42 U.S.C. §10607 as modified mandated DOJ personnel to provide victims with the described services, it also appeared to allow for individual judgment in determining “how, when and in some cases, whether to provide the services.” Accordingly, a new section was added to the *2000 AG Guidelines* concerning “Reliance on the Sound Judgment of DOJ Officers and Employees.” This section provides that employees must use their discretion in deciding how best to accord rights and services required under federal law.
- *Clarification regarding the definition of “victim.”* In order to address the many issues that have arisen from the field concerning who qualifies as a victim for the purposes of statutory and guidelines rights and services, a lengthy commentary section was included after the statutory definition (42 U.S.C. §10607 (e)(2)). Several major areas of concern are addressed by the commentary, including:
 - *The “innocent victim” issue.* OLC suggested, and all DOJ components participating on the DAG's Victims' Rights Working Group revisions agreed, that Departmental policy should exclude persons who are culpable for the crime being investigated or prosecuted from being considered victims. The policy does not exclude from victim status, however, persons who may be culpable for some other offense or crime. This example cites persons who may be illegal aliens who are victims of involuntary servitude, victims of witness intimidation, incarcerated persons who are victimized in prison, and persons who may be victims of the excessive use of force by law enforcement officers.

- *“Direct” versus “indirect” victims.* The commentary section also addresses the distinction between direct and indirect victims. Specifically, it states that only those persons suffering *direct* physical, emotional, or pecuniary harm are considered victims for purposes of *AG Guidelines* rights and services. DOJ personnel are *not* prohibited in their discretion, however, from assisting indirect victims to the extent deemed appropriate.
- *Victims of juvenile offenders.* The 2000 commentary section discusses at length legal distinctions concerning proceedings involving juvenile offenders, and limits on information that may be provided to or solicited from victims of juvenile offenders by investigators and prosecutors. One significant exception is cited that allows the corrections agency to respond to a victim’s inquiry about the final judicial disposition and projected release date as computed on the date when the juvenile sentence is imposed.
- *Clarification regarding consultation with a government attorney.* A new provision in the 2000 *AG Guidelines* gives specific guidance on consultation between victims and government attorneys, and sets a standard of “reasonableness.” The provision states that, in general, federal prosecutors should use their “best efforts” to consult with victims about major case events, and cites Congress’ specific suggestion that victims’ views be obtained about case disposition matters such as dismissals, release of the accused pending judicial proceedings, plea negotiations, and pretrial diversion. Specific instruction is then provided concerning consultation about plea bargains, indicating that “reasonable efforts” should be made to notify identified victims of, and consider their views about, any proposed or contemplated plea negotiations. In order to determine what is “reasonable,” the official is instructed to “consider factors relevant to the wisdom and practicality of giving notice and considering views in the context of the particular case . . .” These factors may include the impact on public safety and risks to personal safety, number of victims, the need for confidentiality, and certain other considerations.
- *Guidance for helping to protect victim privacy.* The guideline pertaining to victim privacy cautions staff of the prosecutor’s office not to needlessly or carelessly reveal private victim information to any person. Further, in order to ensure that the language used in the *AG Guidelines* pertaining to victim privacy is consistent with the DOJ’s public position on discovery of witnesses’ names and addresses, language contained in the 2000 edition was revised to provide that the names and addresses of victims and witnesses should be disclosed to the defense only pursuant to proper discovery procedures under Federal Rule of Criminal Procedure 16, any local rules or customs, any court orders, or special prosecutorial need.
- *Guidance for providing rights and services in cases with large numbers of victims.* Implementing *AG Guidelines* provisions presents serious challenges as the number of identified victims in a single case grows into the hundreds and thousands. A new guideline has been added that encourages DOJ employees to attempt to have “personal and individual contact” with victims. In so doing, responsible officials are instructed to “use the means, given the circumstances, most likely to achieve actual contact with and notice to victims.” DOJ personnel are cautioned to “carefully evaluate the type of information relayed and the method of communicating the information” in order to ensure that neither the investigation

nor the victims' privacy are compromised. A variety of methods for achieving this end are suggested in the commentary to the section.

- *Guidance regarding post-sentencing notification responsibilities.* Victims' rights statutes require DOJ employees to notify victims of a variety of case events. Traditionally, this has been interpreted to apply only to trial court proceedings and has not been considered to cover appellate and other post-sentencing matters. A newly-added guideline instructs employees to make "reasonable efforts" to notify identified victims about post-sentencing filings and court proceedings, including appeals and other post-conviction relief proceedings. As with the provision pertaining to consultation, certain factors are cited that help determine what is "reasonable," including the impact on public safety and personal safety, the nature of the relief sought, the number of victims, and certain other considerations.
- *Establishment of mandatory training requirement.* In order to ensure the highest level of compliance with mandated rights and services, the revised *AG Guidelines* make it mandatory for DOJ agencies to distribute the *AG Guidelines* to employees and provide at least one hour of training on the victims' rights laws and *AG Guidelines* within sixty days of an employee taking over responsibilities that will bring him or her into contact with victims of federal crime. Additional training on new laws is required as needed.
- *Addition of new laws.* Finally, the revised *AG Guidelines* incorporates new laws passed since 1995. Of particular significance are two new provisions that came out of the Oklahoma City bombing case. First, a provision allows for closed circuit televising of the trial to victims if the court orders a change of venue of more than 350 miles from the court where the case would normally be tried. A second provision gives victims who are not trial witnesses, but who may testify during the sentencing phase, the right to attend the trial.

In the foreword to the *2000 Attorney General Guidelines for Victim and Witness Assistance*, Attorney General Janet Reno states that "The *Guidelines* reflect my strong belief that victims should play a central role in the criminal justice system and my commitment that all components of the United States Department of Justice respond to crime victims with compassion, fairness, and respect, in accordance with the letter and spirit of the law."

SECTION 2, FEDERAL JUSTICE**ABSTRACT**

Since the passage of the Victim and Witness Protection Act of 1982, there has been considerable emphasis placed on the implementation of victims' rights and provision of quality victim services at the federal level. The *1995 Attorney General Guidelines for Victim and Witness Assistance*, as well as the passage of six major federal laws affecting victims, define the scope of victims' rights and services for victims of federal crimes. Efforts at the federal level to coordinate the delivery of services to victims have produced collaborative initiatives that improve victims' rights and services.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- Major laws affecting federal victims of crime.
- The *1995 Attorney General Guidelines for Victim and Witness Assistance*.
- The Office for Victims of Crime response to coordinate services and assistance to federal crime victims.
- The availability and coordination of victims' rights and services at the federal level.
- Significant federal initiatives that have strengthened victims' rights and services at the federal level.

STATISTICAL OVERVIEW

- During 1996, nearly 98,000 suspects were investigated by U.S. Attorneys for possible violations of the U.S. Code (BJS 1998b).
- Criminal charges were filed in U.S. District Courts against 65,480 defendants during 1996, about 80% of whom were charged with felonies. Of the defendants charged with felonies, 41% were prosecuted for drug trafficking offenses, 27% for property offenses, 25% for public-order offenses, and 7% for violent offenses (Ibid.).
- Eighty-nine percent of defendants charged with felonies were convicted. This conviction rate was about the same for all major offense categories: 88% of violent offenders, 90% of

property offenders, 88% of drug offenders, and 90% of public-order offenders. Most felony convictions were obtained by guilty plea (91%) (Ibid.).

- Of the 53,076 offenders sentenced during 1996, about 69% were incarcerated, another 24% were placed on probation (either alone or with some incarceration), and 7% were ordered to pay a fine (Ibid.).
- At the end of 1996, there were 88,189 offenders under supervision. About 52% were under terms of supervised release; another 38% were on probation; and 10% were on parole. Drug offenders comprised 50% of offenders under terms of supervised release, 56% of offenders on parole, and 12% of offenders on probation. Property offenders comprised 40% of the offenders on probation, 28% of offenders serving terms of supervised release, and 12% of offenders on parole (Ibid.).
- At the end of 1996, the Federal Bureau of Prisons held more than 92,650 prisoners who had been convicted of a federal offense, an increase of 5% over 1995. Sixty percent of those held by the Bureau of Prisons were convicted and sentenced for drug offenses (Ibid.).

INTRODUCTION

Federal and nonfederal courts co-exist in separate, yet highly related judicial systems. The United States is a Federal Republic of generally autonomous states. Article X of the Constitution specifies that “[T]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Thus, the powers not expressly given to the United States government are retained by the states and the people. In the criminal justice system, there is federal criminal jurisdiction for all crimes set forth in the U.S. Criminal Code including:

- Crimes occurring on federal land, e.g., Indian Reservations or National Parks.
- Crimes including an interstate component, e.g., kidnapping, postal service, telephone lines, or Internet.
- Crimes involving a specific connection to the federal government, e.g., counterfeiting, robbery of a federally insured bank, embezzlement of federal funds, or aviation matter (FAA).

Federal crimes are prosecuted in one of the ninety-four United States Attorneys’ Offices throughout the United States, Guam, Puerto Rico and the Virgin Islands. Each United States Attorney’s Office has a victim-witness coordinator who can provide information to victims of federal crime or serve as a resource regarding the federal criminal justice system.

MAJOR FEDERAL LAWS AFFECTING FEDERAL CRIME VICTIMS

Six significant laws affecting federal victims of crime have been enacted in the past two decades:

- The Victim and Witness Protection Act of 1982.
- The Victims of Crime Act of 1984.
- The Crime Control Act of 1990.
- The Violent Crime Control and Law Enforcement Act of 1994.
- The Mandatory Victims Restitution Act of 1996.
- The Victims' Rights Clarification Act of 1997.

THE VICTIM AND WITNESS PROTECTION ACT OF 1982

The Victim and Witness Protection Act of 1982 (VWPA) was enacted “to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process; to ensure that the federal government does all that is possible within the limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendants; and to provide a model for legislation for state and local governments” (*AG Guidelines* 1983).

The VWPA was considered landmark legislation in 1982 because, for the first time, rights for victims of federal crimes were established, including:

- The fair treatment of victims and witnesses in the federal criminal justice system.
- The right to include victim impact statements in presentence investigation reports.
- New criminal penalties to protect victims and witnesses from intimidation, harassment, and retaliation, including provisions for civil restraining orders.
- Restitution for victims.
- Consideration of victims' interests in bail decisions.

Procedures for responding to the needs of crime victims in the federal criminal justice system, including referral services, information and notification services, consultation services, restitution, and victim impact statements were further delineated in *Guidelines for Victim and Witness Assistance* issued by the Attorney General in 1984.

THE VICTIMS OF CRIME ACT OF 1984

Two years following the passage of the VWPA, Congress enacted the Victims of Crime Act of 1984 (VOCA) to provide funding for victim assistance, victim compensation, and training and technical assistance for victim service providers across the nation. VOCA's innovative funding mechanism relies on fines, penalties, and bond forfeitures from convicted federal offenders—not taxpayers—to generate an annual Crime Victims Fund. Congress directed the Office for Victims of Crime (OVC) to distribute the funding to states and U.S. Territories to assist in expanding compensation and assistance to crime victims nationwide.

While the majority of VOCA funding is distributed to states and territories through formula grants, a small portion of the fund is available for federal crime victims, as well as for training and technical assistance in the federal arena and at the national level.

OVC has utilized this funding for significant federal crime victim assistance including:

- The creation of the Federal Crime Victim Assistance Fund.
- Assistance to Native American crime victims.
- Training and technical assistance for all areas of the federal system, including military victim assistance training and U.S. Attorney Victim-Witness Coordinator training.

One very important provision in VOCA is the requirement that in order for state compensation programs to receive federal Crime Victims Fund awards, victims of federal crimes *must* be eligible for state compensation benefits. Following the enactment of VOCA, many state legislatures amended their state laws to include federal crime victims as eligible claimants. Today, victims of federal crimes in all states are eligible to file compensation claims to the state compensation program where the crime occurred.

THE CRIME CONTROL ACT OF 1990

The Crime Control Act of 1990 contained a wealth of new legislation and amendments to the existing federal criminal code affecting the treatment of crime victims, including children.

- Title V, the Victims' Rights and Restitution Act of 1990, in effect, created a Federal Crime Victims' Bill of Rights and codified services that should be available to victims.
- Title II, the Victims of Child Abuse Act of 1990, contained extensive amendments to the federal rules of criminal procedure affecting the treatment of child victims and witnesses in the federal system, e.g. allowing the use of closed-circuit television and videotaped depositions of children.
- Title XXXI, Bankruptcy and Restitution, protected victims by preventing drunk driving offenders from discharging debts arising from offenses under Chapter 13 of the bankruptcy code.

Provisions of the Crime Control Act created a new framework for comprehensive victim assistance on the federal level by specifying new, or clarifying previous, responsibilities of federal officials with respect to implementing victims' rights. Federal officials covered under the Crime Control Act include officials of the U.S. Department of Justice and other federal agencies engaged in the detection, investigation, or prosecution of crime.

Federal Crime Victims' Bill of Rights. The enactment of a Federal Crime Victims' Bill of Rights was historic and paralleled legislative activity in the states. Section 502 of the Act mandated that federal officials . . .

shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b) . . .

1. The right to be treated with fairness and with respect for the victim's dignity and privacy.
2. The right to be reasonably protected from the accused offender.
3. The right to be notified of court proceedings.
4. The right to be present at all court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
5. The right to confer with the attorney for the Government in the case.
6. The right to restitution.
7. The right to information about the conviction, sentencing, imprisonment, and release of the offender (42 U.S.C. Section 10606(b)).

The Attorney General revised the *1983 Guidelines for Victim and Witness Assistance* and re-issued them to "provide definitive guidance on implementation of the 1990 Act as well as continued guidance on the protection of witnesses under the VWPA" (*AG Guidelines 1991*). In addition, many of the approximately seventy-five federal law enforcement agencies that operate within federal agencies (e.g. Inspectors General, Postal Inspectors, Bureau of Indian Affairs Law Enforcement, etc.) took steps to issue guidelines for the treatment of victims and witnesses.

Critical changes. While many outstanding Victim-Witness Programs had been created in United States Attorneys' Offices across the country by 1990, and some federal agencies had responded to implement the Victim and Witness Protection Act (e.g., the Federal Bureau of Prisons' victim notification and restitution programs), the fact that Congress created strong new language "demonstrates the continuing national concern for the innocent victims of *all* crimes and reflects the view that the needs and interests of victims and witnesses had not received appropriate consideration in the federal criminal justice system under the Victim and Witness Protection Act" (*AG Guidelines 1991*).

The *1983 AG Guidelines*, stemming from the passage of the VWPA, required that services to victims and witnesses be provided "whenever possible" and "within limits of available resources." With the passage of the Crime Control Act in 1990, victims' rights and services on the federal level gained new status and it was clearly stated in law, and in the revised *1991 AG Guidelines*, that victims' rights and services "shall be provided."

THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Four years later, Congress enacted comprehensive crime legislation entitled the Violent Crime Control and Law Enforcement Act of 1994 (Crime Act). In addition to the establishment of new victims' rights, and the passage of the historic Violence Against Women Act contained within, the Crime Act encouraged the federal government to form partnerships with state and local communities. The specific rights and services contained in the 1994 Crime Act include:

- Notice and payment for testing and counseling for sexually transmitted diseases for sexual assault victims.
- The right of a domestic violence victim to be heard at a pre-release hearing of the defendant.
- Allocution at sentencing for victims of crimes of violence and sexual abuse.
- Mandatory restitution for the following victims:
 - Domestic violence.
 - Sexual assault.
 - Sexually-exploited and other abused children.
 - Telemarketing fraud victims.

THE MANDATORY VICTIMS RESTITUTION ACT OF 1996

The Mandatory Victims Restitution Act of 1996 amends the federal criminal code to require judges to order mandatory restitution for victims of violent crime, certain property offenses, fraud, and consumer product tampering.

Restitution may now be granted to victims that are not victims of the specific offense resulting in conviction provided that the parties agree to that in the plea agreement. In addition, procedures for issuing and enforcing restitution orders were significantly expanded under the Act. Full implementation of these new provisions will bring new importance to restitution in federal criminal proceedings.

THE VICTIMS' RIGHTS CLARIFICATION ACT OF 1997

This Act expands the rights of victims to attend and observe trial, stating that victims shall not be excluded from the trial of the defendant because the victim may, during the sentencing hearing, make a statement or present any information in relation to the sentence. This right is further expanded in Capital cases to deny exclusion in cases where the victim may, during the sentencing hearing, testify as to the effect of the offense on the victim and the victim's family.

THE 1995 ATTORNEY GENERAL GUIDELINES FOR VICTIM AND WITNESS ASSISTANCE

As a result of the passage of the 1994 Violent Crime Control and Law Enforcement Act, the Attorney General revised and re-issued new comprehensive guidelines to establish procedures for the federal criminal justice system for implementing victim rights and assistance as enacted under federal law. In issuing the *1995 Attorney General Guidelines for Victim and Witness Assistance*, Attorney General Janet Reno stated:

Crime is a shattering experience that affects the lives of millions of Americans. It can destroy a person's sense of safety and security. Of paramount importance to crime victims and witnesses is their treatment by criminal justice personnel, who should care about their suffering, enforce their rights and protections, offer support to help them heal, and hold the criminal accountable for the harm caused . . .

The *Guidelines* reflect my strong belief that victims should play a central role in the criminal justice system and my commitment that all components of the United States Department of Justice shall respond to them with compassion, fairness, and respect, in accordance with the letter and spirit of the law (*AG Guidelines* 1995, Foreword).

In combining the requirements of the Victim and Witness Protection Act of 1982, the Crime Control Act of 1990, and the Violent Crime Control and Law Enforcement Act of 1994, the *AG Guidelines* provide “definitive guidance on implementation of the 1990 and 1994 Acts as well as continued guidance on the protection of witnesses under the VVPA; and shall serve as a primary resource for Department of Justice (investigative, prosecutorial, and correctional) agencies in the treatment and protection of victims and witnesses of federal crimes under these Acts.”

FEDERAL CRIME VICTIMS’ RIGHTS AND SERVICES: SIGNIFICANT ELEMENTS OF THE 1995 ATTORNEY GENERAL GUIDELINES

As in the *1991 AG Guidelines*, the *1995 AG Guidelines* state that under 42 U.S.C. Section 10606(a), officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described under federal law. However, the new *AG Guidelines* increased the accountability of federal criminal justice officials. In the *1991 AG Guidelines*, the Attorney General recommended that the annual performance appraisals of federal law enforcement officers, investigators, prosecutors, and corrections officers include compliance with the *AG Guidelines*. The *1995 AG Guidelines* direct that performance appraisals and reports of best efforts include information on compliance with the *AG Guidelines*.

The *AG Guidelines* provide explicit designations of the individuals responsible for “identifying the victims and performing the services due victims and witnesses under federal law” and require that in each of the investigating field offices, correctional facilities, U.S. Attorney’s office, and the Justice Department Litigation Division, “there must be one individual who shall be designated to specifically carry out victim-witness services.” The sharing of information and cooperation among the various federal agencies, as well as interacting with tribal, state, and local agencies providing victim services, are also required by the *AG Guidelines*.

VICTIM AND WITNESS SERVICES

The *AG Guidelines* delineate a range of services that should be provided to victims and witnesses at each stage of the federal criminal justice process. Moreover, to further insure implementation, specific responsibility is assigned to federal agencies and officials to carry out these services. The services listed in the *AG Guidelines* include the following:

- Information and referral.
- Protection from intimidation and harassment.
- Consultation and notice.
- Secure waiting areas.

- Return of property held as evidence.
- Payment of forensic rape exam.
- Custodial release eligibility information.
- Notice and payment for testing and counseling for sexually transmitted diseases.
- Allocution and victim impact statements to the court.
- Restitution.

In addition, the *AG Guidelines* address other forms of assistance that shall be extended to all victims and witnesses to the fullest extent feasible, including victim privacy for child victims and victims of sexual assault, employer creditor intervention, parking, translator services, and related services.

REVISED AG GUIDELINES

Currently, a revision to the *1995 Attorney General Guidelines* is under consideration by the Deputy Attorney General's Victims' Rights Working Group. The revised guidelines (discussed more fully later in this chapter) are expected to be released in the near future.

COORDINATION AND DIRECT SERVICES AT THE FEDERAL LEVEL

One significant result of the Victim and Witness Protection Act of 1982 was the creation of the position of Victim-Witness Coordinator in United States Attorneys' Offices to ensure compliance with the VWPA as well as with federal crime victim-related laws enacted since 1982. Today, every office of the United States Attorney across the country is authorized to employ a Victim-Witness Coordinator. Over the past ten years numerous federal law enforcement agencies have established their own programs to assist federal crime victims. Among the new initiatives, the FBI created a unit for victim-witness assistance, staffed the unit with a Unit Chief and six supporting positions, and assigned Victim-Witness Coordinators in each of the fifty-six FBI field offices nationwide. The Department of Treasury has recently set about to further develop programs for each of its enforcement bureaus including the Bureau of Alcohol, Tobacco and Firearms, Secret Service, Customs Service, and Internal Revenue Service. The Federal Bureau of Prison has developed a program designed to notify victims and witnesses of the release of convicted federal offenders. Victim-witness programs are also being developed at the Department of State and Drug Enforcement Administration.

FEDERAL LAW ENFORCEMENT

Over seventy federal law enforcement agencies have first line responsibilities to victims of crime. Federal officers and agents are often the first to contact victims following a crime. Many enforcement agencies now require that their officers and agents provide victims with an information brochure highlighting their rights and outlining available services. Information about programs such as crime compensation and what to do if threatened or harassed is

included. In addition, victim-witness coordinators assigned to each local office are responsible for follow-up assistance and referral.

Officers, Case Agents and Victim-Witness Coordinators provide victims with important case status information, advise of case closings, arrests and referral to the U.S. Attorney's Office. The following is a partial listing of federal law enforcement agencies that investigate crimes that are prosecuted in the federal court system:

- Immigration and Naturalization.
- Federal Bureau of Prisons.
- Federal Bureau of Investigation.
- U.S. Customs Service.
- Internal Revenue Service.
- U.S. Postal Inspection Service.
- U.S. Secret Service.
- Drug Enforcement Administration.
- Administrative Office of the U.S. Courts.
- U.S. Marshals Service.
- National Park Service.
- Bureau of Alcohol, Tobacco & Firearms.
- U.S. Capitol Police.
- U.S. Fish and Wildlife Service.
- General Services Administration/Federal Protective Service.
- U.S. Forest Service.

FEDERAL PROSECUTION

One of the important roles of the Victim-Witness Coordinator with each US Attorney's Office is to implement federal laws regarding crime victims rights' and services. The position can be structured in many different ways, depending on the size and configuration of the federal district and the needs of the United States Attorney. As the title implies, Victim-Witness Coordinators generally oversee and coordinate the victim assistance program and services in the United States Attorneys' Offices and work to establish procedures for victim and witness assistance across the entire office. Coordinators work with federal prosecutors and administrative staff to implement a wide range of victims' rights and services, including:

- Consultation with victims prior to plea negotiations.
- Courtroom orientation.

- Court escort.
- Collection of victim impact and restitution information.
- The processing of witness fees forms.
- Notifying victims/witnesses of continuances and delays.
- Referrals to state and local victim assistance and compensation programs.
- Coordination of travel and lodging for victims/witnesses.

An important aspect of the Victim-Witness Coordinator's job is to coordinate victim and witness service efforts with other federal as well as state and local law enforcement officials. Many cases cross jurisdictional lines and require out-of-state resources to assist victims and to effectively prosecute the case. In addition, the networking activities of the Coordinators are helpful in providing services and support to victims who reside in rural-remote locations. In most jurisdictions, Coordinators work closely with state-level and local victim service providers and criminal justice officials, which serves to "fill gaps" in the delivery of services. Activities include cross-jurisdictional training, participating in statewide victim assistance coalitions, making victims service referrals, and participating in commemorative observances such as National Crime Victims' Rights Week and National Drunk and Drugged Driving Awareness Week.

The U.S. Attorney Victim-Witness Coordinator will play an even greater role in coordination in the future. As more agency law enforcement victim-witness coordinators are assigned, an increase in the development and expansion of the Victim-Witness Subcommittees of District's Law Enforcement Coordinating Committees (LECC) can be expected. The LECC brings together representatives from the federal, state, and local criminal justice system for planning, improving communication and coordination, and improving the overall response to crime.

SENTENCING IN FEDERAL COURTS AND THE USE OF VICTIM IMPACT STATEMENTS

In a landmark report sponsored by the Office for Victims of Crime entitled *Victim Impact Statements: A Victim's Right to Speak, A Nation's Responsibility to Listen*, the National Center for Victims of Crime (NCVC) in 1994 addressed victim impact in the federal system. The report stated the following:

Selection of an appropriate sentence is one of the most important decisions made in the criminal justice system. The primary vehicle used to assist the sentencing court in fulfilling this responsibility is the Presentence Investigation Report (PSI). In November 1987, the Sentencing Reform Act of 1984 became effective and radically changed the philosophical model for sentencing offenders in federal courts. Congress relinquished an indeterminate model of sentencing and adopted a determinate model based upon national guidelines. Changes in the content and format of the presentence report were necessary to accommodate the new sentencing process.

As part of the Crime Control Act of 1984, Congress created the U.S. Sentencing Commission to serve as an independent body of the judicial branch. The Commission was assigned responsibility for establishing sentencing policies and practices for the Federal criminal justice system in compliance with the Sentencing Reform Act of 1984. The Commission was further directed to produce guidelines that would avoid unwarranted sentencing disparities while retaining enough flexibility to permit individualized sentencing

when called for by mitigating or aggravating circumstances. Sentencing Guidelines provide for upward departure of sentence based on intimidation or harassment against a victim or witness, vulnerability of the victim, physical restraint of a victim and extreme psychological injury. Most recently additional upward departures have been provided for hate crime motivation and terrorism. If the court is to accurately determine mitigating or aggravating circumstances of each individual case, it must have access to all information pertinent to the case, and this information must include a careful review of victim impact.

The federal criminal justice system took the lead in setting a legal precedent for the inclusion of victim impact information in sentencing with the passage of the Victim and Witness Protection Act of 1982. The Act allows for the submission of victim impact information at the time of sentencing, amending the Federal Rules of Criminal Procedure (Rule 32(c)(1)) to require U.S. Probation officials to include the following victim impact information in their pre-sentence investigative reports to the court:

- Any harm—including financial, social, psychological and physical—done to or loss suffered by, any victim of the offense.
- Any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense.

This created the right for federal victims to provide information on the impact of the crime in the sentencing phase of the federal justice system—commonly referred to as victim impact statements. The *1995 Attorney General Guidelines for Victim and Witness Assistance* address this right further by requiring the following:

- Federal prosecutors apprise victims that the U.S. Probation Officer is required to prepare a victim impact statement, which includes information relevant to restitution and how to communicate directly with the Probation Officer.
- Federal prosecutors shall also advise of or make available to the appropriate U.S. Probation Officer the information in the Federal Prosecutor's possession pertinent to the preparation of the victim impact statement so that the report will fully reflect the effects of the crime upon the victims as well as the appropriateness and amount of restitution.
- With respect to an oral impact statement, federal prosecutors shall also advise victims of violence or sexual abuse, or a designated victim representative, of their rights to address the court at sentencing and of the date, time, and place of the scheduled hearing.

Finally, consistent with available resources and their other responsibilities, federal prosecutors shall advocate the interests of victims, including child victims, at the time of sentencing.

Today, victim impact statements are widely used in criminal cases, including capital cases. Repeated challenges to the constitutionality of the use of victim impact statements in capital cases was resolved when the U.S. Supreme Court in *Payne v. Tennessee* (U.S. 1991) upheld the constitutionality of victim impact statement evidence submitted during the sentencing phase in capital cases.

RESTITUTION

The Victims' Rights and Restitution Act of 1990 (part of the Crime Control Act) provides that victims of federal crime have a "right to restitution." It also requires that if a court does not order restitution, or orders only partial restitution, the court must state on the record the reasons why restitution was either not or only partially ordered. The 1990 Act also extended the court's ability to order restitution to victims of an offense involving a scheme, conspiracy, or pattern of criminal activity, i.e., all victims harmed by crimes of fraud. This extends not only to the victims of charged crimes, but to *all* the victims named in the indictment, even when the defendant was not charged on all counts.

In addition, the 1990 Act extended the right to restitution to all victims in plea agreements:

The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.

The *AG Guidelines* underscore this right by stating that when plea negotiations occur, prosecutors should attempt to obtain the defendant's consent to an order of restitution for all victims of the offense, not just for the victims involved in the courts to which he or she pleaded guilty.

Departing from the previous trend to permit the court to have discretion in ordering restitution, the 1994 Crime Act states very clearly that convictions for four types of crimes must include mandatory restitution as part of an offender's punishment:

- Sex crimes.
- Sexual exploitation and other abuses of children.
- Telemarketing fraud.
- Domestic violence.

The Act also lists expenses for which victim restitution is required:

- Lost income.
- Necessary child care.
- Transportation.
- Other expenses related to participation in the investigation or prosecution of the offense.
- Attendance at proceedings related to the offense.

In addition, the 1994 Crime Act extended and strengthened the right to restitution for other federal crime victims by adding requirements for reimbursement of victims as well for the enforcement of restitution orders against delinquent defendants.

In 1996, the Mandatory Victim Restitution Act further expanded the scope of mandatory restitution to victims of violent crime, victims of certain property offenses, and victims of consumer product tampering.

Enforcement of restitution. To ensure enforcement of restitution orders, the Crime Act and *1995 AG Guidelines* specify that U.S. Attorneys must enforce the restitution order “by all available means.”

The Crime Act provided several mechanisms to enforce restitution payments including the following:

- To reinforce the payment of restitution, the Crime Act requires that all benefits provided to the defendant by a federal agency must be immediately suspended until the defendant makes a “good faith” effort to pay restitution.
- The order may also be enforced by the victim in the same manner as a civil judgment.
- Compliance with a restitution order was established as a condition of probation or supervised release. The *AG Guidelines* specify that compliance with restitution orders *shall* be followed. If an offender fails to comply, the court, upon a hearing, may revoke the probation or term of supervised release, modify the terms and conditions of probation or release, or hold the offender in contempt.

Finally, the Crime Act reinforced restitution payments by amending the federal Bankruptcy Code to prevent defendants who owe restitution from discharging their liability for payments by filing bankruptcy. The Act states that a debt for restitution included as a sentence, on the debtor’s conviction of a crime, would not be discharged in a Chapter 13 bankruptcy filing. The Act also added a new provision in the Bankruptcy Code that addresses drunk driving debts, stating that such debts are not dischargeable under Chapter 7, 11, and 12 proceedings.

FEDERAL BUREAU OF PRISONS VICTIM-WITNESS PROGRAM

In 1998, the Bureau of Prisons listed as one of their national goals and objectives to include victim-witness policies. Their objective was to develop and implement policies and programs designed to support and protect all rights and interests of crime victims-witnesses in the community and among correctional staff and their families and to provide information to victims and witnesses regarding the Bureau’s programs and policies (Federal Bureau of Prisons 1998).

The mission of the U.S. Bureau of Prisons (BOP) is to “protect society by confining offenders in the controlled environment of prisons and community-based facilities that are safe, humane, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens” (Bureau of Prisons n.d.). Since 1984, the Bureau of Prisons has conducted the Victim/Witness Notification Program which provides procedures for responding to a request from a victim or witness who wishes to be notified

regarding a specific inmate's release or release-related activities. Release-related activities about which a victim or witness can request and receive notification include the following:

Release. This would include the date of release, city and state of destination, and if applicable, the supervising U.S. Probation Office.

Escape. The victim or witness would be notified by telephone as soon as possible after the escape. Once the offender is apprehended, the victim or witness will be informed of the apprehension and the location of the offender.

Furlough. This notification includes any approval for an offender's unescorted trip to the community, including beginning and end dates, and destination.

Transfer to community corrections center. This information will include the name and location of the facility, the date of transfer, and the tentative date the inmate is scheduled for release from the center.

Parole hearings. Victims and witnesses are notified of hearings and may appear in person or provide a written statement to the U.S. Parole Commission.

Death. The victim or witness will be notified of the date of death, should such occur during the period of incarceration.

Currently, the Bureau of Prisons monitors 4,289 inmates in the Victim/Witness Notification Program, with more than 13,500 identified victims and witnesses. BOP has also developed a program of victim impact classes for offenders as well as the Inmate Financial Responsibility Program.

OFFICE FOR VICTIMS OF CRIME RESPONSE TO FEDERAL CRIME VICTIMS

The Federal Crime Victims Division was established by the Office for Victims of Crime to assist federal personnel in establishing and maintaining their programs for federal crime victims. This Division has responsibility for the following:

- Providing and improving services for federal crime victims.
- Monitoring compliance with the guidelines on "fair treatment of crime victims and witnesses" contained in the Victim and Witness Protection Act of 1982, the Crime Control Act of 1990, and the Violent Crime and Law Enforcement Act of 1994.
- Providing training and technical assistance to federal criminal justice personnel and Native American organizations on victim assistance issues.
- Implementing the Children's Justice Act Program for Native Americans.

FEDERAL CRIME VICTIM ASSISTANCE FUND

In 1993, OVC established the Federal Crime Victim Assistance Fund (FCVA) to assist federal victims in need of immediate assistance that is unavailable through any other source. Since that time, OVC has set aside funds each year to aid victims of federal crime. These funds, administered by the Federal Crime Victims Division, are made available to U.S. Attorneys' Offices, FBI, Department of State, and DEA through Interagency Agreements. These funds have been used to provide crisis counseling, pay temporary shelter costs, cover travel for victims' participation in criminal justice proceedings, defray emergency medical treatment expenses, and hire interpreters for nonsubpoenaed victims.

FEDERAL CRIMINAL JUSTICE PERSONNEL TRAINING EFFORTS

The Federal Crime Victims Division provides federal criminal justice personnel with numerous training opportunities on effective intervention with federal crime victims. The training includes programs on handling cases and the development of victim-witness policies and procedures for federal criminal prosecutors, investigators, and Victim-Witness Coordinators. The Federal Crime Victims Division, in cooperation with the Federal Law Enforcement Training Center, FBI, Department of Defense, DEA, and other federal agencies, provides victim-witness training to over seventy different federal law enforcement agencies nationwide.

VICTIM SERVICES IN INDIAN COUNTRY

Victim Assistance in Indian Country Discretionary Grant Program. In 1996, OVC modified the Victim Assistance in Indian Country (VAIC) discretionary grant program to recognize tribal sovereignty and the government-to-government relationship between the federal government and Indian tribes. This change allows for directly funding tribes, instead of the past practice of funding states, which then made awards to tribes for establishing "on-reservation" victim assistance programs. During the transition to this new process, OVC provided direct funding in FY 1997 to all tribal programs at the FY 1996 levels. In FY 1998, six new programs were awarded grants through the competitive program. In FY 1999, OVC announced that all VAIC grants will be competitively awarded.

Activities that may be funded under the VAIC discretionary grant programs include:

- Victim advocate staff.
- Victim service volunteers.
- Crisis intervention.
- Twenty-four-hour crisis hotlines.
- Emergency transportation of victims.
- Emergency shelter.
- Mental health counseling.

- Court advocacy and accompaniment.
- Bilingual counseling services.

Overall, since 1988, OVC has provided over \$8.4 million in grants to establish thirty-two victim assistance programs in Indian country. Examples of some recently-funded programs include the first Native American Children's Advocacy Center and four Court-Appointed Special Advocate programs (CASA).

In 1996, the Attorney General launched the Indian Country Justice Initiative at the Pueblo of Laguna and the Northern Cheyenne Tribe. This initiative is a comprehensive approach to tribal criminal justice issues and a laboratory for promising practices that can be adapted in other areas of Indian Country (OVC 1997).

Children's Justice Act Partnerships for Indian Communities (CJA) Program. OVC's Children's Justice Act Partnerships for Indian Communities (CJA) Program supports Indian communities in developing, establishing, and operating programs to improve the investigation, prosecution, and overall handling of child abuse cases, particularly cases of child sexual abuse, in a manner that increases support for and reduces trauma to child victims. The partnership projects are to address shortcomings in the tribal criminal justice system and to make systemic improvements in the overall response to serious child abuse and child sexual abuse cases on the reservation. OVC has committed funding support for three years, contingent upon the grantee's satisfactory performance and the availability of funds.

SIGNIFICANT FEDERAL INITIATIVES

FEDERAL OUTREACH FOR VICTIMS OF CHILD EXPLOITATION

Federal law enforcement has stepped up its efforts to respond to child victims through multi-disciplinary responses. In 1995 the Attorney General established the Federal Agency Task Force for Missing and Exploited Children:

- Composed of representatives from fourteen federal agencies, the mission of the Task Force is to coordinate federal resources and services to effectively address the needs of missing, abducted, and exploited children.
- In addition to serving as an advocate and working to enhance services for missing and exploited children and their families, the Task Force has developed the publication *Federal Resources on Missing and Exploited Children: A Directory for Law Enforcement and Other Public and Private Agencies*. The *Directory* provides information on the resources, technical assistance and support, and services that are available during the investigation of cases involving missing and exploited children (Federal Agency Task Force for Missing and Exploited Children 1996).
- The Child Abduction and Serial Killer Unit (CADKU) of the Federal Bureau of Investigation is a rapid response element of the FBI's Critical Incident Response Group.

Following a request by a law enforcement agency, CADKU staff can provide operational assistance to federal, state, and local law enforcement agencies involved in the investigation of child abduction.

- In May 1998, the Office of Juvenile Justice and Delinquency Prevention published *When Your Child is Missing: A Family Survival Guide*. The *Guide* was written by parents and family members who have experienced the disappearance of a child. It contains their combined advice concerning what you can expect when your child is missing, what you can do, and where to go for help.

SUPPORT FOR OKLAHOMA CITY BOMBING VICTIMS

Since the April 19, 1995, bombing of the Alfred P. Murrah Federal Building in Oklahoma City, the victim assistance community on the local, state, and federal levels has provided tremendous support to the hundreds of victims and survivors. With support from OVC, the National Organization for Victim Assistance nine-member crisis response team arrived on the scene the day of the bombing. OVC worked closely with the United States Attorney's Office, the Office of Elementary and Secondary Education within the Department of Education, and the state of Oklahoma to provide emergency workers and services for the victims and survivors of the bombing.

An important change to the *Federal Rules of Criminal Procedure* was undertaken to allow closed circuit viewing of the trial by the victims and survivors: "Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal proceedings in cases where the venue of the trial is changed—(1) out of the State in which the case was initially brought; and (2) more than 350 miles from the location in which those proceedings originally would have taken place, the trial court shall order closed circuit televising of the proceedings to that location, for viewing by such persons the court determines have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue" (42 U.S.C. 10608, Section 235).

As a result of the many cooperative efforts resulting from the aftermath of the Oklahoma City tragedy, the Office for Victims of Crime has undertaken cooperative initiatives with the American Red Cross, the Federal Emergency Management Agency, the Departments of Education and Health and Human Services, the Federal Bureau of Investigation, and the Executive Office for U.S. Attorneys to be prepared to respond to future large scale crises.

THE DEPUTY ATTORNEY GENERAL'S VICTIMS' RIGHTS WORKING GROUP

In 1996, the Attorney General established the *Deputy Attorney General's Victims Rights Working Group* to assist in bringing the entire Department into greater compliance with victims' rights legislation and the *Attorney General's Guidelines for Victim and Witness Assistance*. The Working Group is composed of high level policy representatives from the FBI, Drug Enforcement Agency, Immigration and Naturalization Service, Executive Office for U.S. Attorneys, Federal Bureau of Prisons, and all Department of Justice litigating divisions that handle criminal prosecutions. OVC is providing assistance to the Working Group.

The Victims' Rights Working Group was designed to:

- Monitor and facilitate agency components' respective efforts to fulfill their victims' rights obligations.
- Recommend policy to address operational and implementation problems.
- Review the revised *AG Guidelines*.
- Review victims' rights training curricula to ensure comprehensiveness and practical usefulness.
- Share "best practices" and expertise among agency components.
- Identify related resource allocation issues and obstacles to implementation and otherwise assist with implementation of victims' rights compliance throughout the Department.

Component heads were asked by the Attorney General to appoint a senior official in their office with the knowledge of the component's mission, specific responsibilities, and operations to participate in the Deputy Attorney General's Victims' Rights Working Group.

The first meeting of the Working Group was held on April 14, 1997. Representatives from every component with responsibilities to crime victims were present. The meeting was chaired by Acting Deputy Attorney General Seth Waxman, who directed each component to prepare a compliance with the *AG Guidelines*. Each component eventually submitted a plan which went into effect in October of 1997.

Since that time, the working group has met on a more or less bimonthly schedule. Deputy Attorney General Eric H. Holder, Jr., chaired a meeting in November of 1997. The working group is overseeing the *AG Guidelines* revision and working on finding solutions for other victims issues with the Department.

NATIONAL SYMPOSIUM ON VICTIMS OF FEDERAL CRIME

In 1997, the Office for Victims of Crime (OVC) sponsored the first National Symposium on Victims of Federal Crime. The symposium brought together for the first time over 800 professionals that serve crime victims from a number of federal agencies for a four-day training program that assisted federal criminal justice professionals in achieving the President's goal of holding the federal system "to a higher standard of victims' rights than ever before." The second symposium, held in February 1999, with nearly 1,000 in attendance, focused on the federal response to acts of terrorism and mass casualty.

AUTOMATED NATIONWIDE VICTIM INFORMATION AND NOTIFICATION SYSTEM

The expected outcome of this system is to develop an automated victims information database and a means to provide timely notification of mandated events in the federal criminal justice system among the FBI, U.S. Attorneys' Offices, and the Federal Bureau of Prisons. Mandated events include hearing notices, trial information, sentencing information, and information on incarceration/release from prison. This system will be easily adapted to other investigative

agencies at a later date. In June 1998, OVC provided funding to the Executive Office for United States Attorneys to take the lead in this project with the assistance of a working group comprised of representatives from the FBI, OVC, and Bureau of Prisons.

NATIONAL SEX OFFENDER REGISTRY ASSISTANCE PROGRAM

According to BJS, as a result of recent federal legislation, the establishment of an effective national sex offender registry that is capable of providing instant access to data on sex offender location on an interstate basis has become a national priority. The development of the National Registry for Sexual Offenders involves a coordinated effort between:

- The FBI, which will maintain and operate the registry.
- The National Law Enforcement Telecommunications System (NLETS), which will operate through states that will communicate registry information between and among themselves and the FBI.
- The states, which have primary responsibility for gathering data on sex offenders for use within the state and for input into the national system.

The permanent National Sex Offender Registry File will be developed as part of the FBI's NCIC-2000 project and will include a fingerprint and photo (mugshot) image of the registered sex offender. The permanent system is expected to be in place by July 1999. Pending the establishment of a permanent system, an interim national pointer system has been established by the FBI that flags criminal history records of persons identified by states as being registered as sex offenders.

As of March 1999, the FBI indicates that thirty-five states are providing data to the interim system and that an estimated 55,000 records are currently being flagged. However, all states operate some type of sex offender registry at this time. In order for the national system to permit law enforcement agencies in each state to have information on offenders initially released in other states, or traveling throughout the nation, individual state registries must be accurate, automated, and interfaced with the national system.

As a result, in March 1998 the Bureau of Justice Statistics (BJS) within the U.S. Department of Justice announced the establishment of the National Sex Offender Registry Assistance Program (NSOR-AP). The program is a component of the BJS National Criminal History Improvement Program. It is designed to help states ensure that state sex offender registries identify, collect, and properly disseminate relevant information that is consistent, accurate, complete, and up-to-date.

Additionally, the program will help states establish appropriate interfaces with the FBI's national system so that state registry information on sex offenders can be tracked from one jurisdiction to another. The program will assist states in meeting the relevant requirements of current federal legislation including: the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; Megan's Law; and the Pam Lychner Sexual Offender Tracking and Identification Act (42 U.S.C. 14071, 14072), as amended by Section

115 of the general provisions of Title I of the Departments of Commerce, Justice, and State, the Judiciary and related Appropriations Act of 1998, P.L. 105-119) and applicable state standards. The 1998 appropriation included \$25 million to support the national sex offender registry (BJS 1998a).

FEDERAL BUREAU OF INVESTIGATION VICTIM-WITNESS PROGRAM

A significant development in federal law enforcement agencies' response to crime victims was the FBI's efforts in 1996 to review and expand its entire victim-witness program. Among the new initiatives, the FBI implemented a comprehensive victim assistance program at the Headquarters level. As part of this new program, the FBI created a unit for victim-witness assistance, staffed the unit with a unit chief and three supporting positions, and assigned victim-witness coordinators in each of the fifty-six FBI field offices nationwide. Emergency funding is available for federal victims of crime when no other funding resource is available and the request must respond to emergency needs that are a direct result of a crime victimization. Services may include crisis intervention, emergency food and clothing, emergency temporary housing and necessary transportation.

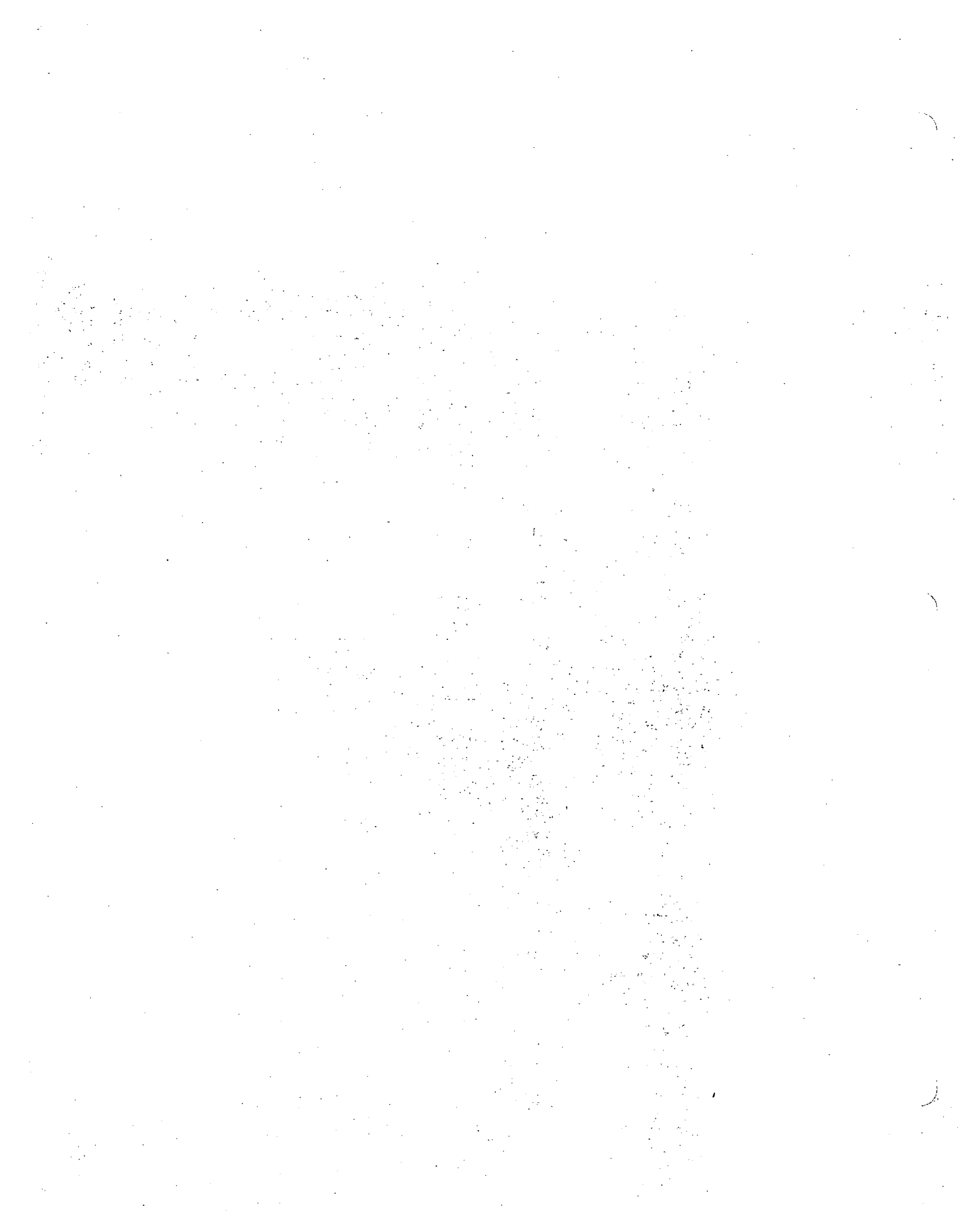
1. What four major federal laws have been enacted to provide rights, services, and funding for federal crime victims?

2. Describe the role of the federal Victim-Witness Coordinator and give an example of the type of interagency assistance Coordinators can provide.

3. Describe the three types of direct services available to victims of federal crime.

4. List two significant federal initiatives undertaken to assist victims of federal crime.

Military Justice



SECTION 3, MILITARY JUSTICE

STATISTICAL OVERVIEW

- In 1997, sexual assault was the most common offense for which inmates were held in military prison, accounting for 30.6% of all military prisoners. Other violent offenses for which military personnel were incarcerated were homicides, 11%; assault, 8.6%; robbery, 1.7%; and other violent crimes, 0.3%. Nonviolent offenses included drug offenses, 20.2%; property crimes, 17.2%; military offenses, 7.6%; public disorder, 1.7%; and other, 1.4% (BJS January 2000).

EXECUTIVE ORDER

To address hate and bias crimes in the military, President Clinton signed an executive order on October 9, 1999, that amended the Manual for Courts-Martial, which establishes procedures for criminal trials in the armed forces. The order makes a number of changes to modernize the rules of evidence that apply to court-martial proceedings. Gay rights advocates called for the order in the wake of the killing in July 1999 of Army Pvt. Barry Winchell at Fort Campbell, Kentucky, because he was believed to be homosexual. He was beaten to death with a baseball bat. President Clinton's order also extends limited protection to homosexuals in the military who confide their sexual orientation to psychotherapists.

The new rule provides that evidence of a violent hate or bias crime may be presented to the sentencing authority as an aggravating factor in the determination of the appropriate sentence. Section 1. Part II of the Manual for Courts-Martial, United States, R.C.M. 1001(b)(4) is amended by inserting the following:

Evidence in aggravation includes, but is not limited to, evidence of financial, social, psychological, and medical impact on or cost to any person or entity who was the victim of an offense committed by the accused and evidence of significant adverse impact on the mission, discipline, or efficiency of the command directly and immediately resulting from the accused's offense. In addition, evidence in aggravation may include evidence that the accused intentionally selected any victim or any property as the object of the offense because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.

As is increasingly the case in civilian courts, this rule sends a strong message that violence based on hatred will not be tolerated. In particular, the rule provides that the sentencing authority may consider whether the offense was motivated by the victim's race, color, religion,

national origin, ethnicity, gender, disability or sexual orientation (Uniform Code of Military Justice, 10 U.S.C. 801-946).

SEXUAL HARASSMENT

Sexual harassment charges were filed in late 1999 by the first three-star and ranking female general in the Army. The case marks the beginning of a new round of investigations into sexual harassment in the military. Groping charges were made against another general, who was the victim's immediate superior, at the time the events were alleged to have occurred in 1996. The harassment was reported at that time and dealt with in a non-public manner. Last year, when the alleged offender was promoted to a higher rank, the victim took her charges to the Army Inspector General's Office. Women make up 15 percent of the army's 479,000 people, but there are only 10 women among the 301 Army generals on active duty (Ricks 5 April 2000).

ADDITIONAL RESOURCES

- The Military Services provides Sexual Harassment and Counseling Hotlines to provide support to victims of sexual harassment and to assist them in discreetly reporting crimes to appropriate officials: Army (800-903-4241); Navy/Marines (800-253-0931); and Air Force (800-558-1404).

SECTION 3, MILITARY JUSTICE**ABSTRACT**

Members of the U.S. military are subject to the same rules of behavior as the civilian population, but as defenders of the nation, they may be ordered to commit acts that are considered criminal in the nonmilitary community. Therefore, they require a justice system that is tailored to their unique tasks and responsibilities. This chapter provides a brief overview of the military justice system—its structure, organization, and procedures for the charging, prosecution, and punishment of offenses. It explains the Victim-Witness Assistance Programs that provide victims and witnesses of military crime with guidance through the justice system. It outlines related programs designed to assist military families in coping with child and spousal abuse and to assist military personnel in coping with sexual harassment, sexual assault, and job discrimination. Finally this chapter discusses the measures the federal government has authorized to compensate victims of military crime and the use of negotiated restitution as a condition for pretrial agreements and parole.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- How offenses are charged, disposed, and punished in the military justice system, including nonjudicial punishments, punitive discharges, and appeals.
- The components of the military's Bill of Rights for victims of crime.
- The types of assistance provided to victims of crime in the military through the Family Advocacy Program, the Equal Opportunity Program, and the Navy's Sexual Assault Victim Intervention Program.
- Laws governing federal compensation for the victimization by military personnel of military dependants and of foreign inhabitants in a foreign country.

INTRODUCTION

The last decade has witnessed heightened interest in the rights and needs of crime victims throughout the military. The Department of Defense (DoD) has issued extensive policy guidance to assign responsibilities and to establish procedures and program standards for

providing victim assistance. Military installations around the world have established comprehensive programs and entered into Memoranda of Understanding with neighboring civilian communities to enhance and protect the rights and of victims throughout the military criminal justice system. Through collaboration with the Office for Victims of Crime, the DoD has provided training and technical assistance to improve victims' rights and services when military personnel are involved in crimes.

OVERVIEW OF THE MILITARY JUSTICE SYSTEM

The Uniform Code of Military Justice (UCMJ), enacted by Congress, contains the substantive and procedural laws governing the military justice system. The President prescribes procedural rules and punishments for violations of crimes in the Manual for Courts-Martial (MCM).

Investigations of serious offenses involving military personnel such as rape, indecent assault, drugs, or larceny are usually conducted by a criminal investigative agency, such as the Army's Criminal Investigation Command (CID). For less serious offenses and most military-connected crimes, the authority rests with military or security police investigators. In cases involving very minor offenses, the immediate commander of the military member suspected will conduct or cause to be made a preliminary inquiry. Lawyers, known as judge advocates, are actively involved in advising commanders throughout the process.

Unlike civilian communities, military commanders exercise discretion in deciding whether an offense should be charged and how the offenders should be punished. The disposition decision is one of the most important and difficult decisions facing a commander. The commander has a number of options available for the resolution of disciplinary problems. Briefly summarized, they are as follows:

- The commander may choose to take no action. The circumstances surrounding an event actually may warrant that no adverse action be taken. The preliminary inquiry might indicate that the accused is innocent of the crime or that the only evidence is inadmissible. The commander may decide that other valid reasons exist not to prosecute.
- The commander may initiate administrative action against a service member. The commander might determine that the best disposition for this offense and this offender is to take administrative rather than punitive action. Administrative action is not punitive in character; instead, it is meant to be corrective and rehabilitative. Administrative actions include measures ranging from counseling or a reprimand to involuntary separation.
- The commander may dispose of the offense with nonjudicial punishment. Article 15, UCMJ, is a means of handling minor offenses requiring immediate corrective action. Nonjudicial punishment hearings are non-adversarial. They are not a "mini-trial" with questioning by opposing sides. The commander conducts the hearing. The service member may request an open or closed hearing, speak with an attorney about his case, have someone speak on his behalf, and present witnesses who are reasonably available. The rules of

evidence do not apply. In order to find the service member guilty, the commander must be convinced beyond a reasonable doubt that the service member committed the offense. The maximum punishment depends on the rank of the commander imposing punishment and the rank of the service member being punished. The service member has a right to appeal the imposing commander's decision to the next higher commander.

- The commander may dispose of the offense by court-martial. If the commander decides that the offense is serious enough to warrant trial by court-martial, the commander may exercise the fourth option, preferring and forwarding charges. The commander may choose from three potential levels of court-martial: summary, special, or general. These courts-martial differ in the procedures, rights, and possible punishment that can be adjudged:
 - A summary court-martial is designed to dispose of minor offenses. Only enlisted service members may be tried by summary court-martial. A single officer presides over the hearing. The accused has no right to counsel but may hire an attorney to represent him or her.
 - A special court-martial is an intermediate level composed of either a military judge alone, or at least three members and a judge. An enlisted service member may ask that at least one-third of the court members be enlisted. There is both a prosecutor, commonly referred to as the trial counsel, and a defense counsel. In addition, the accused may be represented by civilian counsel, at no expense to the government, or by an individually requested military counsel.
 - A general court-martial is the military's highest level trial court. This court tries service members for the most serious crimes. The punishment authority of the general court-martial is limited by the maximum authorized punishment for each offense in the Manual for Courts-Martial. Before any charge is sent to a general court-martial, an Article 32 investigation must be conducted. The Article 32 investigation is closely akin to the civilian grand jury investigation. At the close of the hearing, the Article 32 officer makes a recommendation concerning the disposition of the charges. The recommendation is not binding on the convening authority. The general court-martial may take either of two forms. It may consist of a military judge and not less than five members, or solely of a military judge. The accused may elect trial by judge alone in all cases except those referred as capital cases. In a trial with court members, a minimum of five members must be present. An accused enlisted service member is entitled to at least one-third enlisted membership upon request.

The trial of a court-martial is not unlike a civilian criminal trial. The differences lie in the procedural requirements. The military follows rules of evidence patterned after the Federal Rules of Evidence. The members or judge hears evidence and renders a decision concerning the accused's guilt. In order to convict the accused, the members must be persuaded beyond a reasonable doubt that the accused is guilty. If the accused is convicted, a sentencing hearing is held.

An accused convicted by court-martial is entitled to review of his or her trial. Before approving a court-martial conviction and sentence, the convening authority must be satisfied beyond a reasonable doubt that the findings are supported by the evidence. The type of review

depends on the level of trial and nature of the approved sentence. Some appeals may proceed all the way the United States Supreme Court.

The initial step in the appellate process is a review by the convening authority. The convening authority may approve all or any part of a legal sentence; he or she may mitigate a sentence or change the punishment to one of a different nature so long as the severity of the punishment is not increased.

If the convening authority approves a punitive discharge (either a bad-conduct discharge, dishonorable discharge, or dismissal) or confinement in excess of one year, the record of trial must be reviewed by the Department's Court of Criminal Appeals. This court, composed of military judges, will weigh the evidence and decide whether the findings and sentence are legally correct and, if so, whether the sentence is appropriate. The court may set aside the findings and sentence or may reduce the sentence, but it cannot increase the severity of the punishment.

The next court in the appellate process, the Court of Appeals for the Armed Forces, is composed of five civilian judges appointed by the President for fifteen year terms. This Court reviews questions of law only. Both the accused and the government may petition the Supreme Court for a writ of certiorari from the Court of Appeals for the Armed Forces. The review by the Supreme Court is entirely discretionary and extremely rare.

DoD VICTIM AND WITNESS ASSISTANCE PROGRAMS

DoD Directive 1030.1, *Victim and Witness Assistance* (November 23, 1994) and DoD Instruction 1030.2, *Victim and Witness Assistance Procedures* (December 23, 1994) implement statutory requirements for victim and witness assistance and provide guidance for assisting victims and witnesses of crime from initial contact through investigation, prosecution, and confinement.

Together, the Directive and Instruction provide policy guidance and specific procedures to be followed for victim and witness assistance in all sectors of the military. They apply to the Office of the Secretary of Defense and the following military components:

- The Chairman of the Joint Chiefs of Staff.
- The Unified Combatant Commands.
- The Inspector General of the Department of Defense.
- Department of Defense Field Activities and Defense Agencies.
- The Military Services, including the Coast Guard (when operating as a Service in the Navy).

The Directive includes a Bill of Rights which closely resembles the Federal Crime Victims' Bill of Rights. DoD officials are responsible for ensuring that victims of military crimes are afforded the rights to:

- Be treated with fairness and respect.
- Be reasonably protected from the offender.
- Be notified of court-martial proceedings.
- Be present at court-martial proceedings.
- Confer with the government attorney.
- Available restitution.
- Know outcome of trial and release from confinement.

The DoD victim and witness assistance programs cover the entire military justice process—from investigation through prosecution and confinement.

In providing services and assistance to victims, the DoD programs emphasize an interdisciplinary approach involving the following:

- Law enforcement personnel.
- Criminal investigators.
- Chaplains.
- Family advocacy personnel.
- Emergency room personnel.
- Family service center personnel.
- Equal opportunity personnel.
- Judge advocates.
- Unit commanding officers.
- Corrections personnel.

DoD victim and witness assistance programs use standard forms to advise victims and witnesses of their rights during all stages of a case. The following chart lists the DoD forms, when they are used, and their purpose:

DD 2701	DD FORMS 2702/2703	DD FORMS 2704/2705	DD FORM 2706
Initial Contact	Prosecution	Confinement	Annual Report
Provides notice to victims and witnesses on rights and information on the military justice system.	Provide notice to victims and witnesses on rights during court martial proceedings and information about court-martial process.	Provide information to victim on the offender's sentence, confinement status, clemency and parole hearings and release from confinement.	Provides statistical information to DoD on assistance rendered to victims and witnesses.

An Interdisciplinary DoD Victim and Witness Assistance Council provides a forum for the exchange of information and the coordination of policy recommendations. The Council helps to foster the implementation of consistent and comprehensive policies and procedures to respond to crime victims and witnesses in all of the military services. A Senior Program Specialist with the U.S. Department of Justice, Office for Victims of Crime, serves as a liaison member.

Each branch of the military has issued regulations to further implement victim and witness programs and assign program responsibilities. [Army: DA Reg. 27-10, Chapter 18 (24 June 1996); Air Force: AF Instruction 51-201 (September 1996); and Navy/Marine Corps: SECNAV INSTR. 5800.11A (16 June 1995) and OPNAVINSTR 5800.7 (30 April 1996)]. All of these programs implement the guidelines and policies set forth in the DoD Directive and Instruction described above. There are some differences in the programs within each service. The Air Force and Army have designated the Service Judge Advocate General as component responsible official to provide oversight over the respective programs. The Chief of Naval Personnel is the component responsible official for the Navy.

Each military department has also established an interdisciplinary Victim and Witness Assistance Council, as well as a central repository for tracking notice of the status of offenders confined in military correctional facilities. In addition, as required by DoD policy, local councils have been established at each significant military installation to ensure that an interdisciplinary approach is followed by victim and witness service providers.

The following offices provide oversight for the implementation of victim assistance programs within the Office of the Secretary of Defense and in each military service:

- *Office of the Secretary of Defense*, OUSD (P&R) Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Phone 703-697-3387; Fax 703-693-6708.
- *Department of the Army*, OTJAG Criminal Law, 2200 Army Pentagon, Washington, DC 20310-2200 . Phone 703-588-6755; Fax 703-588-0144.
- *Department of the Air Force*. AFLSA/JAJM, 112 Luke Avenue, Room 343, Bolling Air Force Base, Washington, DC 20332-8000. Phone 202-767-1539; Fax 202-404-8755.
- *Department of the Navy*, Navy Personnel Command, Office of Legal Counsel (NPC-06), 5720 Integrity Drive, Millington, TN 38055-0600. Phone 901-874-3161; Fax 901-874-2615.

- *Marine Corps*. CMC, HQMC Judge Advocate Division (JAM), 2 Navy Annex, Washington, DC 20380-1775. Phone 703-614-1242. Fax 703-695-5111.
- *Coast Guard*, DIV CHIEF, OFFICE OF WORKLIFE/EAPPROG COMDT (G-WPW-2), 2100 Second Street S.W., Rm. 6400, Washington, DC 20593-0001. Phone 202-267-1329; Fax 202-267-4862.

RELATED SPECIAL MILITARY PROGRAMS

Family Advocacy Program. Each branch of the military services has a Family Advocacy Program that operates in accordance with DoD Directive 6400.1. They are designed to prevent child and spouse abuse, to promote early identification and intervention in cases of alleged child and spouse abuse, and to provide programs of rehabilitation and treatment for child and spouse abuse problems. To the maximum extent possible, DoD cooperates with responsible civilian authorities in efforts to address the problems to which this Directive applies. Each branch of service maintains a central registry containing data on reports of alleged child and spouse abuse.

If more than one child is a victim of sexual abuse in an out-of-home care setting, DoD may convene a multidisciplinary team of specially trained personnel to provide technical assistance. Technical assistance may include law enforcement investigations, forensic medical examinations, forensic mental health examinations, and victim assistance to the victim and family.

Equal Opportunity Program. DoD Directive 1350.2 establishes a system of discrimination complaint processing and resolution for all forms of unlawful discrimination and sexual harassment. Under DoD policy, the chain of command is responsible for creating and maintaining an environment to ensure that human relations and equal opportunity matters are taken seriously and to correct discriminatory practices. This includes the processing and resolving of complaints of unlawful discrimination and sexual harassment. It also provides for the training of all military personnel on how the complaint system functions and the protection against reprisal it affords individuals making complaints.

Navy's Sexual Assault Victim Intervention Program (SAVIP). The Navy SAVIP was established in 1994 as a comprehensive, standardized, victim-sensitive system response to sexual assault. The program provides sexual assault awareness and prevention education programs and victim advocacy and intervention services; and collects accurate data on sexual assault in the Navy. There are 28 SAVIP Coordinators working in 26 Family Service Centers.

SPECIAL COMPENSATION PROGRAMS IN THE MILITARY

TRANSITIONAL COMPENSATION [10 U.S.C. §1059]

Federal law authorizes payment of monthly transitional compensation for abused family members. DoD Instruction 1342.24, *Transitional Compensation for Abused Dependents* implements this law. Transitional compensation is designed to partially alleviate the financial hardship to the abused dependents for coming forward with the information needed to take action against the alleged abuser.

Dependents of members of the Armed Forces are eligible for transitional compensation if the military member was:

- Separated from active duty under a court-martial sentence resulting from a dependent-abuse offense.
- Administratively separated from active duty if the basis for separation includes a dependent-abuse offense.
- Sentenced to forfeiture of all pay and allowances by a court-martial which has convicted the member of a dependent-abuse offense.

Monthly payments to a spouse will be at the rate in effect for the payment of dependency and indemnity compensation (DIC). This amount is currently \$811 for the spouse and \$120 for each child. If the spouse has custody of a dependent child(ren) of the member, the amount of compensation to the spouse will increase for each child. If there is no eligible spouse, compensation is paid to a dependent child or children in equal shares. Transitional compensation beneficiaries are also entitled to commissary and exchange privileges as long as payments are received. The minimum duration of the transitional compensation is the length of the member's remaining active duty commitment or twelve months, whichever is longer. The maximum duration of the compensation payments is thirty-six months.

Payments will be forfeited if the spouse remarries and are not resumed if remarriage ends. If payments to the spouse terminate due to remarriage and there is a dependent child not living in the same household as the spouse or member, payments will be made to the dependent child. In addition, payments end on the date the abuser begins residing in the household and will not be resumed once terminated.

PAYMENTS FROM RETIRED PAY FOR ABUSED DEPENDENTS [10 U.S.C. §1408(H)]

Federal law also authorizes payments of portions of retired pay to help alleviate the financial hardship to the abused dependents for coming forward with the information needed to take action against the military sponsor. Spouses of members of the Armed Forces are eligible for these payments if the military member was retirement eligible and separated from active duty under a court-martial sentence resulting from a dependent-abuse offense or administratively separated from active duty if the basis for separation includes a dependent-abuse offense.

In order to receive payments from retired pay, the spouse or former spouse must obtain a civilian court order (typically done as part of a legal separation or divorce action) setting forth the spouse's portion of the accused's retired pay. The spouse/former spouse must have been married to the abusive member for at least ten years during which the member performed at least 10 years creditable service towards retirement (the ten-year periods must overlap). The spouse may not receive payments under both this program and the Transitional Compensation Program. If the spouse is eligible for both, the spouse must elect which payment to receive.

ARTICLE 139, UCMJ-PROPERTY CLAIMS

Under article 139, UCMJ, commanders may direct that service members pay victims for *willful damage* or theft of property. The damage or theft must have been intentional and not caused inadvertently or thoughtlessly through simple or gross negligence. It does include damage caused through riotous, violent or disorderly conduct or theft caused by larceny, forgery, embezzlement, fraud, or misappropriation. Claims must be filed within ninety days of the damage or loss, unless good cause is shown. Claims should be made to the commander of the alleged offender.

FOREIGN CLAIMS ACT

Under some circumstances, the Foreign Claims Act authorizes payment of claims for property damage, personal injury, or death caused by military personnel to a foreign inhabitant in a foreign country. Under the Act, the United States can pay for intentional acts committed by service members abroad. Victims must file a claim under the Act within two years of the damage or injury.

RESTITUTION FROM OFFENDER

The Uniform Code of Military Justice does not authorize restitution as a form of a court-martial sentence. DoD policy, however, encourages military prosecutors, in appropriate cases, to include a requirement to pay restitution as a condition to a pretrial agreement. Payment of restitution to a victim may also be included as a condition of parole.

COMPENSATION FOR MILITARY VICTIMS UNDER STATE PROGRAMS

Victims of crimes committed by military personnel may be eligible for compensation from state compensation programs. To be eligible for grants from the Crime Victims Fund, state compensation programs must cover crimes falling under federal jurisdiction within the states, including crimes occurring on Indian reservations, National Park lands, or military installations. State compensation programs also must include coverage for their own residents who are victims of terrorism in foreign countries. Accordingly, military personnel and those accompanying the armed forces may obtain compensation from their state of residency for financial losses stemming from overseas terrorism incidents.

State compensation programs vary in scope and procedures. Most programs pay for medical care, mental health counseling, lost wages and, in cases of homicide, funerals and lost support, and can help victims preserve some financial stability and continuity. With very few

exceptions, compensation programs pay only for expenses related to personal injury and do not cover property that is stolen, lost, or damaged. (Eyeglasses, hearing aids, and medical prostheses are exceptions, and some programs cover crime-scene cleanup.) Most states cover mental health counseling for family members of homicide victims, and in some cases, relatives and household members.

State compensation programs are “payers of last resort,” meaning that they cannot offer benefits for expenses covered by “collateral resources,” such as military benefits, medical and automobile insurance, other public assistance programs, and restitution received. State compensation programs generally impose an overall cap on the amount of compensation payable to a victim for a crime and caps on specific expenses, such as funeral expenses, and also contain time limits for applying for compensation.

1. Describe two significant differences between the military justice system and the criminal justice system in the way crimes are prosecuted.
2. Briefly describe the DoD interdisciplinary approach to providing services and assistance to victims.
3. Describe one victim assistance program available to victims of crime in the military justice system.
4. Under what circumstances may victims of crimes committed by military personnel be eligible for compensation from state victim compensation programs?

Tribal Justice

SECTION 4, TRIBAL JUSTICE

TRIBAL LAW

Collaborative initiatives between state and federal agencies and tribal courts are taking a serious look at crime, delinquency, and abuse in Indian Country to develop judicial procedures and interventions addressing criminal activity that merge the Native American and the criminal justice approaches to dispute resolution and sentencing. An integral part of the programs is the investigation into the cultural and economic conditions that give rise to higher than average levels of alcoholism and other substance abuse, child abuse, and other violent crimes in Indian Country.

**PROTOCOLS FOR THE DISPOSITION OF CHILD SEXUAL ABUSE CASES
IN INDIAN COUNTRY**

The investigation and prosecution of child sexual abuse in Indian Country are complicated by multi-jurisdictional issues that create confusion among victim service providers and conflicts among tribal and state and federal law enforcement and prosecutors. Victim service providers are frustrated by overlapping investigations and repeat interviews of child victims. The lack of clear jurisdictional protocols that cause an overlapping of responsibilities among criminal justice professionals and tribal leaders also negatively affects the well-being of the victim and the victim's nonoffending family.

Factors that lead to confusion over criminal jurisdiction in Indian Country are:

- *The location of the act*—whether or not it has occurred in Indian Country, on public lands, or both.
- *The type of crime*. Sixteen major criminal offenses (one of which is child abuse) establish federal jurisdiction in Indian Country. In incidents of child sexual abuse committed by Indians against Indian children within Indian country, there is a shared federal and tribal jurisdiction.
- *The race of the alleged offender and the child victim*. Tribal courts have only civil jurisdiction over non-Indian alleged offenders who commit child sexual abuse in Indian Country.

Furthermore, the U.S. Supreme Court has ruled that charging a defendant in both federal court and tribal court does not amount to double jeopardy, a ruling which provides greater flexibility to tribal and federal courts in the handling of child sexual abuse cases (*United States v. Wheeler*, 435 U.S. 313 (1978)). Because the tribal court is in a better position to proceed

quickly with an investigation and intervention into the abuse, they frequently make the first move to punish the offender. Nevertheless, investigations may eventually be carried out by federal, tribal, and even state agents, leading to multiple interviews and a longer, more frustrating process for the victim. Clear written protocols clarifying agency roles for the coordinated investigation of child abuse cases in Indian Country, agreed upon by the participating agencies, are essential to minimize further trauma to the child victim and the victim's nonoffending family.

The Office for Victims of Crime (OVC) has moved to address unnecessary trauma to child victims of sexual abuse during investigation and prosecution through the Children's Justice Act (CJA) Partnerships for Indian Communities Program. The goal is to facilitate the better coordination of the investigation and prosecution procedures. The creation of multidisciplinary teams comprised of law enforcement, social services, medical, child welfare, victim assistance, and judicial agencies with tribal representation on state- and federal-based teams, and federal and state criminal justice representation on tribal-based teams, is an approach that can minimize onerous investigative and prosecutorial procedures.

In addition, the U.S. Department of Justice has implemented several programs to improve coordination between federal and tribal courts:

- The Tribal Courts Project created to strengthen tribal courts' ability to respond to family violence and juvenile issues.
- The addition of criminal lawyers with expertise in child sexual abuse in Indian Country.
- The creation and awarding of grants under the Violence Against Women Act for improved domestic violence programs.
- A demonstration project that will become a model for Tribal Children's Advocacy Centers.
- Programs that provide training and technical assistance to facilitate the development of the above programs.

(Portions of the preceding section are summarized from *Improving Tribal/Federal Prosecution of Child Sexual Abuse Cases Through Agency Cooperation*, U.S. Department of Justice, Office for Victims of Crime, Washington DC, June 1999).

THE TRIBAL DRUG COURT INITIATIVE: HEALING TO WELLNESS COURTS

A high rate of violent crime and victimization committed by Native Americans under the influence of alcohol prompted the U.S. Department of Justice, Drug Courts Program Office (DCPO) to launch the Tribal Drug Court Initiative in 1997. Research has shown that in tribal communities, alcohol is the most abused substance by both adults and juveniles (the use of the term "drug" for purposes of the initiative includes alcohol). Planning and implementation and, later, continuation and enhancement grants have been awarded to tribal governments through applications to the DCPO. Specialized training and technical assistance programs assist tribal communities with the development drug court programs that work effectively within tribal justice systems and tribal culture (Tribal Law & Policy Institute and DCPO July 1999).

There are currently twelve operational Native American and Alaska Native tribal drug courts, and thirty-three are in pilot or planning stages. There is a special name for the program within each tribal court, but they are referred to generally throughout Indian Country as the Healing to Wellness Courts. Their challenge has been to merge the traditional, sociocultural, restorative aspects of the American Indian justice system with the criminal justice model for drug courts that helps offenders achieve abstinence and alter criminal behavior through a combination of judicial supervision, treatment and drug testing, incentives, sanctions, and case management. Each tribe attaches its unique interpretation to the program. For example, one Indian chieftain described the drug court as a “council of responsible professional elders and their warriors of both genders coming together in harmony to do battle against both a visible and an invisible enemy—the disease of alcohol and drug abuse. The tactic that the team/council/war party takes is to act as a legal and culturally sanctioned authority that meets the patient/client/tribal member where he or she is at in relation to his or her abusive relationship with the mood and behavior altering chemical” (Ibid.).

PROMISING PRACTICES

- *The Tribal Law and Policy Institute* is an Indian owned and operated non-profit corporation that designs and delivers education, research, training, and technical assistance programs that promote the health, well-being, and culture of Native peoples. Its goal is to facilitate the sharing of legal resources among Indian Nations and tribal justice systems that can be adapted to the individual needs of their communities, by linking tribal justice systems with other academic, legal, and judicial resources such as law schools, Indian law clinics, tribal colleges, Native American Studies programs, Indian legal organizations and consultants, tribal legal departments, other tribal courts, and other judicial/legal institutions. Among their many programs that address the needs of Indian offenders and victims are:
 - Project Peacemaker, a collaboration with the UCLA American Indian Studies Center and tribal colleges, develops, pilots, and implements Tribal Legal Studies curricula for tribally controlled colleges.
 - The Tribal Law and Policy Institute provides technical assistance to the Tribal Drug Courts in developing tribal court specific resource materials and also serves as the training and technical assistance provider for OVC’s CJA program.
 - The Tribal Law and Policy Institute collaborates with Tribal Court CASA and the National Court Appointed Special Advocate Association (CASA) for training and technical assistance in the development and enhancement of tribal court CASA programs.

Tribal Law and Policy Institute, P.O. Box 460370, San Francisco, CA 94146
(415-647-1755) <<http://www.tribal-institute.org>> .
- *Collaboration in Services Among Tribal and County Victim/Witness Professionals.* To enhance collaboration and increase understanding between county and tribal victim/witness professionals in Santa Fe, Los Alamos, and Rio Arriba Counties in New Mexico, the Domestic Violence Unit at the District Attorney’s office applied for and received a VAWA grant for victim services in the county that they share with pueblo victim advocates. Eight different tribal nations dwell within the county, each with different customs and often

conflicting procedures for dealing with victimization within their pueblos. In addition, while a misdemeanor domestic violence incident in the pueblo is treated as a family matter in tribal court and the judgment in punitive terms tends to be mild, the disposition of a similar incident committed by a Native American off reservation and prosecuted in county courts may result in jail time. Confusion develops when victim/witness professionals from the District Attorney's office deliver services to Native American victims of domestic violence and advise them of their rights. Native American crime victims often initially rejected help from prosecutor-based victim services as an invasion of privacy, and Native American pueblo-based victim advocates resented the presence of outsiders. It has been important that all parties give up the idea of "ownership" of the victim as a piece of evidence and find the best way in each circumstance to respond to the victim's needs. Furthermore, a three-year-old program for state certification of victim advocacy through Western New Mexican University has created a neutral environment for Native American victim advocates and prosecutor-based victim advocates to overcome territorial disputes. Networking through the university program has contributed to greater communication and healthier relationships. Native American and prosecutor-based advocates welcome calls from each other to come to the assistance of a victim, whether it be an Anglo involved in a pueblo based-crime or a Native American victim involved in a county-based crime. Domestic Violence Unit, District Attorney's Office, P.O. Box 2041, Santa Fe, New Mexico, 87504 (505-827-1881).

- The *Tucson Restorative Justice Program* is an effort by the U.S. Attorney's Office in Tucson to improve services for victims of violent crime, increase their meaningful participation in the criminal and juvenile justice system, and assist them and their communities in healing from their victimization. The Project focuses on two Southern Arizona Indian reservations: the Pascua Yaqui, a small urban reservation, and the Tohono O'Odham Nation, a rural area with many small isolated villages and the second largest Indian reservation in the country.

Tribal prosecutors, officials, and elders work with law enforcement, probation, and victim service providers to make a concerted effort to understand the needs of the victim, the victim's family, and the community. Victim impact statements are obtained in person through a team member's visit to the victim's home on the reservation. In juvenile cases, they seek the court's permission for victims and their families to participate in the hearings and sentencing. Efforts are made to see that restitution is ordered appropriately and routinely, including payments for traditional healing ceremonies, death anniversary ceremonies, and third-party reimbursement for tribal costs incurred for counseling or other services to crime victims. U.S. Attorney's Office, District of Arizona, 110 S. Church Street, Suite 8310, Tucson, AZ 87501.

- *CJA Program at Salt River*. The Salt River Pima-Maricopa Indian Community is located east of Phoenix, in south-central Arizona, adjacent to the cities of Scottsdale, Tempe, Mesa, and Fountain Hills. The CJA program at Salt River has developed strong services for victims of child abuse. Through the efforts of the CJA program, there are services in place that protect and serve children who are victims of child abuse, including child sexual abuse. The services include the special child abuse prosecutor, child victim witness advocates, victim assistance information disseminated at schools, a child interview-room at the police

department, a children's waiting room at the prosecutor's office, and a codified children's Bill of Rights. An interagency protocol has been developed at Salt River that can be useful to other tribes. This protocol represents the culmination of long-term efforts to establish tribal victim services in the midst of a metropolis with agencies once reluctant to work with tribal service providers. Over the past six years, Salt River service providers have gathered the resources and experience to stand alongside state service providers and work together for victims of crime at Salt River.

- *Volunteer Program: Confederated Tribes of Warm Springs, Oregon.* The Confederated Tribes of the Warm Springs Reservation are comprised of numerous bands of three different tribes: the Sahaptin-speaking Warm Springs Tribe, the Upper Chinook-speaking Wascos, and the Northern Paiute. The volunteer program at the Warm Springs Reservation defies prevailing attitudes concerning the difficulties of getting Indians to volunteer on reservations, environments that are usually laden with poverty and unemployment. Volunteers were recruited through the tribal newspaper and the tribal radio station, utilizing pleas that not only asked for volunteers but also provided information about the victim assistance program and the needs of the community. During the interview process, volunteers were assured that they would be fully trained and would apprentice with a staff member or experienced volunteer. Volunteers are treated with great appreciation and respect by staff members. They have lunches and annual banquets to honor the volunteers and the work they do, furthering the objectives of community outreach as well. The training is ongoing for the volunteers, both in-service and training away from the reservation.

SECTION 1, JUVENILE JUSTICE

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SECTION 4, TRIBAL JUSTICE

ABSTRACT

This section describes the tribal justice systems operating in Indian communities and their ability to respond to Indian victimization issues. Also provided is a description of the unique relationship that Indian Nations have with the state and federal governments, which influences the operation of their tribal justice system and ability to respond to victim issues. The unique issues in providing adequate victim response and services encountered by tribal justice systems are also discussed.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- Historical and jurisdictional issues related to the structure of the tribal justice system.
- Structure and characteristics of the tribal justice response systems.
- The unique construct of Indian Nation justice systems and the relationship of these justice systems to other local, state, and federal systems.
- Differences between the tribal justice system and American criminal justice system.
- The socioeconomic factors influencing Indian Nations.
- Victimization problems faced by Indian people and communities on and off Indian lands.
- Specific concerns and problems of victims and the impact on their families and the community.
- Federal support for Indian Country programs.

INTRODUCTION

In recent years, Indian Nations have been increasingly concerned with the rising number of violent crimes resulting in some type of victimization occurring in their communities. Violent crimes range from misdemeanor assault and battery; to serious criminal and delinquent offenses such as domestic violence, child abuse, aggravated assault and gang-related offenses;

to violent felony crimes such as assault with a deadly weapon, drive-by shootings, sexual assaults, child sexual abuse, and homicides.

While all the problems and issues victims face have not been clearly identified or examined, there are many indicators that validate the concerns of Indian Nation governments. A 1999 report on American Indians and Crime prepared by the Bureau of Justice Statistics (BJS) provides the following insights into victimization experienced by American Indians. The BJS data were derived from American Indian households throughout the U.S. in urban, rural, reservation, and off-reservation settings.

- American Indians are victimized by violent crime at a rate more than twice that of the general U.S. population.
- At least 70% of violence experienced by American Indians is committed by persons not of the same race, a substantially higher rate of interracial violence than experienced by white or African-American victims.
- Violence against Indian women is particularly severe—nearly 50% higher than that reported by African-American males.
- American Indians suffered seven rapes or sexual assaults per 1,000 compared to three per 1,000 among African-Americans, two per 1,000 among whites, and one per 1,000 among Asians.
- Nearly a third of all American Indian crime victims were between the ages of eighteen and twenty-four years old. This group experienced the highest per capita rate of violence by any racial group.
- In 55% of violent crimes against American Indians, the victims reported the offender was under the influence of alcohol, drugs, or both.
- The arrest rate among American Indians for alcohol-related offenses in 1996 was more than double that among all races.
- An estimated 63,000 American Indians age eighteen or older (about 4%) are under the care, custody, or control of the criminal justice system on an average day. At the end of 1996, about 16,000 American Indians were held in local jails, a rate of 1,083 per 100,000 adults, the highest of any racial group. Over 65% of the youth in federal custody are Indian youth, although this statistic can be misleading because Indian youth are almost always subject to federal jurisdiction.

The above data provide an understanding of the magnitude of crime victimization problems faced by Indian people of all ages. Many Indian Nations have limited resources with which to adequately respond to the problems, identify the gaps in services to victims, and effectively hold offenders accountable for their actions and obligations to victims and the community. Victims of crime, and often their families and friends, undergo a traumatic experience and disruption in their lives as a result of the crime inflicted upon them. Sometimes the trauma is exacerbated by the way they are treated by tribal police and the tribal justice system, which may appear to victims to be uncaring and insensitive with little interest in addressing victims'

needs for safety, protection, and justice. To effectively assist victims, it is crucial that they be in control of their healing and that tribal institutions, such as tribal courts, be visibly and affirmatively engaged in addressing victims' issues and needs.

HISTORICAL AND JURISDICTIONAL ISSUES

American Indian and Alaska Native justice exists in a jurisdictional maze as a result of fluctuating and confusing American Indian legislation and policies that have often strained the relationship between states and Indian Nations and with federal agencies. The establishment of the Court of Indian Offenses in 1883 and the unilateral imposition of law and order codes in 1884 significantly changed the structure of tribal justice systems from community controlled to government controlled systems. The Major Crimes Act, 18 U.S.C. § 1153 (1885, Supp. 1986), the Indian Country Crimes Act, 18 U.S.C. § 1152 (1817), the Assimilative Crimes Act, 30 STAT. 717 (1898), Public Law 83-280, Indians—Criminal Offenses and Civil Causes - State Jurisdiction, 18 U.S.C. § 1162, 25 U.S.C. §§ 1321-1326, 28 U.S.C. § 1360 increased government control by ending exclusive tribal jurisdiction and allowing the federal government to have shared jurisdiction in certain crimes committed in Indian Country. Adding to the structural and jurisdictional changes, the Indian Civil Rights Act placed limitations on the power and authority of tribal courts by limiting their sentencing powers. Since the late 1800s these and other legislative acts and policies have contributed to the complexity of tribal jurisdiction and intergovernmental relationships.

Federal court decisions have added to the complexity of legal policy by limiting the enforcement of tribal laws on Indian lands. For example in *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, the Supreme Court ruled that Indian Nations lacked criminal jurisdiction over non-Indians committing crimes in Indian Country. A major problem created by the limitation on tribal criminal jurisdiction is that non-Indian misdemeanor crimes often go unpunished. Often U.S. Attorneys are reluctant to prosecute these cases because they want to concentrate resources on more serious crimes. Nonetheless, these are crimes that pose great potential harm, especially in those cases involving domestic violence or child physical abuse by a non-Indian perpetrator. The lack of federal prosecution may contribute to the high number of Indian people who are victimized by non-Indian perpetrators (BJS 1999).

Partial solutions have included using the U.S. Magistrate Courts and appointing tribal prosecutors to serve as Special Assistant U.S. Attorneys to prosecute these cases as federal misdemeanor crimes. Indian Nations are reluctant, however, to use the U.S. Magistrate Court as a solution to the problem of non-Indian crime in Indian country. Tribal officials feel that their tribal laws need to be the ones applied instead of federal law because it is the Indian communities that have the greatest stake in correcting the problems. Instead of applying federal law, Indian leaders feel that tribal jurisdiction should be expanded to include, at a minimum, jurisdiction over non-Indian misdemeanor crimes and allow for tribal laws to be applied. The reluctance to expanding tribal jurisdiction over non-Indians is due to the perception that the protections provided by the U.S. Bill of Rights do not apply in tribal

jurisdictions. While this is technically true, it is misleading because the Indian Civil Rights Act fundamentally includes all the protections covered under the U.S. Constitution.

To understand the jurisdictional issues, the basic question that needs to be resolved in criminal and juvenile delinquency cases in Indian Country is “which mix or level of government assumes jurisdiction?” Depending on the identity of the victim(s), suspect(s), the seriousness of the offense, and the state in which the offense was committed, it can be a combination of the federal, states, or tribal governments. The answer involves the interrelationship of three factors:

- Personal jurisdiction: which persons are subject to the authority of tribal courts (Indian/non-Indian).
- Territorial jurisdiction: over what land area may tribal courts exercise authority.
- Subject matter jurisdiction: the particular statute violated that outlines what conduct may be punished as a criminal or juvenile offense by tribal courts (see Table 1).

The three major federal laws governing jurisdiction over crimes committed in Indian country are:

- PL 83-280 Indians–Criminal Offenses and Civil Causes–State Jurisdiction, 18 U.S.C. §1162 (Supp. 1968), which grants six states jurisdiction over crimes committed in all or part of Indian country within the state, except those normally included under federal jurisdiction:
- The Major Crimes Act, 18 U.S.C. §1153 (Supp. 1986), which applies to crimes committed in Indian country, except for crimes committed in PL 280 states.
- The General Crimes Act, 18 U.S.C. §1152, which applies to all crimes committed by non-Indians against Indians in Indian country and are subject to exclusive federal jurisdiction regardless of the seriousness of the offense.

SUMMARY TABLE OF CRIMINAL JURISDICTION IN INDIAN COUNTRY

PERSONS INVOLVED	FEDERAL JURISDICTION	TRIBAL JURISDICTION	STATE JURISDICTION
Indian Offender v. Indian Victim	Major Crimes Act, the U.S. can prosecute 16 listed offenses. Among these, burglary, involuntary sodomy, and incest are defined and punished in accordance with the State law, all others are defined by federal statute.	Tribal courts may have concurrent jurisdiction over crimes under the Major Crimes Act. All other offenses, tribal courts have <i>sole</i> jurisdiction (except where federal statute specifically provides otherwise).	None, except under PL 280 as amended, or other federal statute or by tribal vote pursuant to 25 U.S.C. §1321. The tribe <i>may</i> retain concurrent jurisdiction.
Indian Offender v. Non-Indian Victim	Major Crimes Act General Crimes Act Assimilative Crimes Act	Tribal courts may have concurrent jurisdiction over crimes under the Major Crimes Act. They do have concurrent jurisdiction over offenses, which can be prosecuted by the U.S. under the General Crimes Act. Except for major crimes, tribes may preempt federal prosecution. For any other offenses, (as defined by tribal codes) tribal courts have exclusive jurisdiction.	Same as above.
Indian Offender Victimless Crime	The U.S. probably can prosecute under the General Crimes Act as explained above or Assimilative Crimes Act.	Same as above.	Same as above.
Non-Indian Offender v. Indian Victim	General Crimes Act, plus a substantive offense defined by federal statute or a substantive offense defined by state law incorporated by the Assimilative Crimes Act.	Tribal courts have no jurisdiction to prosecute non-Indians, unless Congress delegates such power to them.	Probably no state jurisdiction except under PL 280, as amended or with tribal consent pursuant to 25 U.S.C. §1321.
Non-Indian Offender v. Non-Indian Victim	No federal jurisdiction except for distinctly federal offenses.	Same as above.	State courts have jurisdiction over all offenses defined by state law and involving only non-Indians.
Non-Indian Offender Victimless Crime	General Crimes Act, plus a substantive offense defined by federal statute or a substantive offense defined by state law incorporated by the Assimilative Crimes Act. The law is still questionable whether federal jurisdiction is exclusive or concurrent with the state.	Same as above.	State courts probably have concurrent jurisdiction with the U.S., although the law is unclear.

Table 1

(Adapted from the National Indian Justice Center Legal Series, Petaluma, CA.)

STRUCTURE OF TRIBAL JUSTICE SYSTEMS

The overall history, structure, and jurisdiction of American Indian justice systems have been greatly affected by the experience of Indian Nations with the federal government. As a result, tribal courts and victim response systems vary tremendously. Some Indian Nations have justice systems that mirror the structure of American courts, while others have retained their indigenous justice forums. Some tribal courts have developed separate court components such as traffic, civil, small claims, family, and juvenile court divisions. Most indigenous justice systems include victim-sensitive components in their structure. Recently, more of the American style tribal justice systems have developed support services such as victim-witness services, probation departments, correctional alternatives, and other programs to address the needs of victims and communities. Many Indian justice systems are enhancing victim services with policy and protocol revision and development.

While the demographic and socioeconomic profile of American Indians and Alaskan Natives may be similar to other ethnic groups within the United States, they differ from all these other groups in the unique relationship Indian Nations have with the federal government. In general, the administration of justice, law, and order is a governmental function in which the Indian Nations have always retained both their preconstitutional and extraconstitutional sovereignty.

Indian Nations continue to possess four key characteristics of their sovereign status:

1. A distinctive permanent population.
2. A defined territory, with identifiable borders.
3. A government exercising authority over territory and population.
4. The capacity to enter into government-to-government relationships with other nation-states (Valencia-Weber and Zuni 1995).

Indian Nations retain the authority to determine the legal structure and forums to use in administering justice and to determine the relationship of the legal structure with other governing bodies. They also exercise personal jurisdiction over both member and nonmember Indians, territorial jurisdiction over their lands, and subject matter jurisdiction over such areas as criminal, juvenile, and civil matters. While limited by the Indian Civil Rights Act in sentencing, Indian Nations have concurrent jurisdiction over the felony crimes enumerated under the Major Crimes Act.

TRIBAL JUSTICE FORUMS

The impact of federal Indian policies, Supreme Court decisions, the historical trauma of conquest, colonization, and modernization explains the variations in tribal justice forums. Current tribal forums have in some way been affected by a combination of all these influences. As a result, Indian Nations have developed tribal courts that are hybrids borrowing and implementing different approaches to administering justice (Vicenti 1995). Since European contact, Indian Nations have struggled to retain their sovereign powers, especially in

maintaining the type of forums they use to address the internal affairs of their people and communities. In part, Indian leaders continue the struggle to ensure that Indian Nations provide justice that is meaningful to their people. In many tribal communities, dual justice systems exist, one based on an American paradigm of justice and the other based on an indigenous paradigm. Varying combinations of the following forums outlined in Table 2 may be used by Indian Nations: family and community forums, traditional courts, Court of Indian Offenses (also called CFR Courts) and tribal courts (Melton 1995).

Family forums. Elders or community leaders usually facilitate family forums such as family gatherings and talking circles. Problems typically involve interpersonal transactions such as family problems, marital conflicts, juvenile misconduct, violent or abusive behavior, parental misconduct, or property disputes. Customary laws, sanctions, and practices are used to resolve the problem(s). When the family forum cannot resolve a problem or conflict, the matter may be pursued through one of the more formal processes described below. Offender compliance is obligatory and monitored by the families involved. It is discretionary for decisions and agreements to be recorded in any formal manner by the family. Although family forums are the least official, they are the most inclusive and actively engage participants in discussing problems and fashioning solutions.

Community forums. Community forums require more formal protocols than family forums, but draw upon the families' willingness to discuss the issues, events, or accusations with tribal community members or tribal officials who may or may not be a part of their family. Some Indian Nations have citizen boards that provide peacemakers or facilitators (Red Lake Tribe 1994; "The Tribal Community Boards Peacemaking Project" 1985; "Akwesasne Community Peacemaking Process" 1993). These boards use customary laws, sanctions, and practices to guide the process. These types of forums are the most community-based in that they reach outside the immediate family, to relatives, friends, and other concerned citizens, in discussing problems, reaching solutions, and ensuring offender compliance as well as victim assistance, protection, and safety.

Traditional courts. Although traditional courts incorporate some modern judicial practices regarding criminal and juvenile matters, the process for handling cases is similar to the community forum. These courts exist in tribal communities that have retained an indigenous government structure such as the Southwest Pueblos. Cases are initiated through written criminal or civil complaints or petitions, but the justice process is indigenous. Family and relatives often accompany defendants to court appearances and hearings. Generally, anyone with a legitimate interest in the case is allowed to participate in the process from arraignment through sentencing. These proceedings are presided over by the heads of tribal government, such as the governor, lieutenant governors, or other appointed tribal officials, and are guided by customary laws and sanctions. Some Indian Nations have written criminal codes with prescribed sanctions. Offender compliance is mandated and monitored by the tribal officials with assistance from the families and relatives. Non-compliance by offenders may result in more punitive sanctions such as arrest and confinement. While there is more native-based formality in traditional courts, they continue to rely on immediate family, other relatives, and friends in exploring problems and developing appropriate solutions.

Courts of Indian Offenses. Also referred to as CFR (Code of Federal Regulations) Courts, Courts of Indian Offenses are federal courts. These courts have limited jurisdiction pursuant to Title 25, the Code of Federal Regulations. Only about a dozen of these courts are left, and they exist mostly in Indian communities with few resources.

Tribal courts. Tribal courts are judicial forums based on the Anglo-American legal model using written codes, rules, procedures, and guidelines. These courts handle criminal, civil, traffic, domestic relations, and juvenile matters. They are presided over primarily by lay judges who are from the community or another Indian community rather than by law-trained judges who may or may not be Native American. Some Indian Nations limit the types of cases that are handled by these courts. For instance, in several Pueblo communities land disputes are generally handled through the family and community forums. The tribal courts are courts of record and appellate systems are in place. Noncompliance by offenders may result in more punitive sanctions such as arrest and confinement. Several tribal courts use peacemaking principles to process cases, particularly in cases that involve youth.

Of all the tribal justice forums in Indian Nations, the most prevalent are tribal courts, which handle primarily misdemeanor cases (National American Indian Court Judges Association 1995). The bulk of these cases involve assaults, public intoxication, disorderly conduct, juvenile offenses, and traffic infractions. The remaining are civil actions involving domestic relations, property disputes, personal injury, contracts, and juvenile and family matters such as juvenile delinquency, child welfare, and child custody.

Tribal courts are generally in session five days a week with regular days set for arraignments, bench trials, juvenile and family hearings, and other civil hearings. Most defendants or plaintiffs represent themselves. Some courts have prosecutors and public defenders available to represent cases. Since the Indian Civil Rights Act does not require the Indian Nations to provide legal counsel, parties may hire their own legal counsel or advocates to represent them. Decisions by tribal judges are briefly written and in some cases oral. Some tribal courts keep trial records, but few keep complete transcripts.

Some tribal courts incorporate indigenous justice methods as an alternative resolution process for juvenile delinquency, child custody, victim-offender cases, and other types of civil matters. The trend of tribal courts has been to use the family and community forums for matters that are highly interpersonal, either as a diversion alternative, as part of sentencing, or for victim-offender mediation.

TRIBAL JUSTICE FORUMS

FAMILY AND COMMUNITY FORUMS	TRADITIONAL COURTS	COURTS OF INDIAN OFFENSES	TRIBAL COURTS
Established by unwritten customary law and traditions.	Established by the tribal council and tribal religious leaders according to unwritten laws.	Established by the Secretary of Interior under Title 25, Code of Federal Regulations.	Established by the tribal council, usually under the authority of the tribe's Constitution.
Subject only to authority of traditional clan systems and/or family elders, based on consensus of participants.	Subject only to authority of Tribal council and religious leaders.	Subject to authority of Tribal council <i>and</i> Interior Dept. Council may adopt ordinances or resolutions affecting CFR Court but Interior Dept must approve them.	Subject to authority of Tribal council or Law and Order Committees. Tribal Constitutions may require Interior Dept approval of Council ordinances or resolutions affecting the Tribal Court.
Procedures & offenses defined according to unwritten, customary laws, traditions & practices.	Procedures & offenses defined according to unwritten, customary laws, traditions & practices.	Procedures & offenses defined in Title 25, Code of Federal Regulations. Judges may develop Rules of Court for conduct of hearings and trials.	Procedures & offenses defined by Tribal council in codes, ordinances, or resolutions. Tribal judges may develop Rules of Court for conduct of hearings and trials.
Presided by family elders, chosen elders, or adults from the community, or traditional tribal officials	Judges are Governors or chief executive officers of the Pueblo who serve without pay. They are appointed by the Pueblo council, which is composed of ex-Governors and tribal religious leaders.	Judges are appointed by the Commissioner of Indian Affairs, subject to approval by the Tribal council, and are paid w/federal funds.	Judges may be elected by the tribal membership or appointed by the Tribal council if paid by the tribe.
Usually cannot be appealed, but matters may be pursued through formal tribal courts.	Appeals of decisions by the Pueblo Governor are heard usually by the Pueblo Council.	Appeals of CFR Court decisions may be heard by an appellate court composed of judges appointed under the Code of Federal Regulations.	Appeals of Tribal court decisions may be heard by a tribal appellate court, composed of judges or by the tribal council.

Table 2

ENHANCING THE RESPONSE TO CRIME VICTIMS

There is a resurgence among Indian people to strengthen, re-image, and re-traditionalize their tribal justice systems. This stems from the discontent with the ability of American-styled tribal courts to address the crime, delinquency, victimization, and social and economic problems in tribal communities (Fairbanks 1991). Members of mainstream American society have joined this effort due to their own disillusionment with justice in this country and their own doubts in the retributive justice model. They are now moving towards a more balanced and restorative justice framework (Umbreit 1989; Van Ness 1990; and Zehr 1990). This restorative perspective is based on the values and assumptions that—

. . . All parties should be included in the response to crime—offenders, victims, and the community. Government and local communities should play complementary roles in that response. Accountability is based on offenders understanding the harm caused by their offense, accepting responsibility for that harm, and repairing it . . . restorative justice guides professionals in the appropriate and equitable use of sanctions to ensure that offenders make amends to victims and the community (Bazemore and Umbreit 1994).

Many supporters of restorative justice recognize that this approach to justice is an ancient philosophy that only gained its impetus in mainstream society in the 1970s and 1980s. It is now being promoted as a promising paradigm for criminal and juvenile justice, especially to deal with young offenders (Bazemore and Umbreit 1994).

In many Indian communities, tribal leaders, criminal and juvenile justice practitioners, and policy makers in collaboration with victim advocates are assessing the impact of violent crime and the tribal response to victim and witness needs. This self-assessment has caused many Indian people to revisit and rediscover their historical and traditional ways of dealing with crime and violence in their communities. It is important then to understand what promise lies in the indigenous justice paradigm that is different from the traditional criminal justice paradigm in mainstream society.

INDIGENOUS PEACEKEEPING SYSTEMS

Indigenous peacekeeping systems involve a holistic approach that connects all the affected persons on a continuum of shared and balanced power and responsibility. They are based on customary laws, practices, and traditions that require the involvement of the individuals in conflict, their families, and when necessary, tribal officials. The processes used are non-adversarial and facilitate discussion between people in conflict in a safe environment that promotes resolution of underlying problems and keeping relationships intact. The methods used are based on restorative, distributive, and reparative justice concepts and principles of peace, healing, and living in harmony with all beings and with nature. This group approach contradicts the adversarial system, which is focused on the individual offender, and limits participation to strangers who have little to no investment in the individual offender, the victim, the community, or the relationships involved. The paradigm differences are outlined in Table 3.

RESTORATIVE JUSTICE

Restorative principles refer to the mending process for renewal of damaged personal, family, and communal relationships. The restorative aspects focus first on the victims' needs with a goal towards healing, renewing, and strengthening the victim's physical, emotional, mental, and spiritual well-being. This aspect prepares the victim to regain responsibility for their healing. This is done by strengthening their will to overcome the fear, anger, hurt, loss, and sorrow they may have undergone due to the violence they experienced. While the primary focus is on the victim's needs, it also involves deliberate acts by the wrongdoer/offender to regain his or her dignity and trust, and to return to a healthy physical, emotional, mental, and spiritual state of being. It is especially important for some victims who have strong personal

relationships with the offender to believe that there will be some real change in him or her before they can trust the offender again.

REPARATIVE JUSTICE

Reparative principles refer to the process of making things right for oneself and those affected by the offender's wrongful behavior. To repair relationships, it is essential for the offender to make amends through apologizing, asking forgiveness, making restitution, and engaging in acts that demonstrate his or her sincerity to make things right. The communal aspect allows for crime to be viewed as a natural human error that requires corrective intervention by families and elders or tribal leaders. Thus, offenders remain an integral part of the community because of their important role in defining the boundaries of appropriate and inappropriate behavior and the consequences associated with misconduct and especially violent crime. It also reinforces the community to be responsible for taking the corrective actions necessary to redirect the offender and to provide assistance, protection, and safety for the victims and their families.

DISTRIBUTIVE JUSTICE

Distributive justice principles permeate the indigenous system because it includes everyone affected by a problem or conflict to participate in the process. The distributive aspect generalizes individual misconduct or violent criminal behavior to the family and relatives of the offender; hence, there is a wider sharing of blame and guilt. The offender and his or her relatives are held accountable and responsible for correcting behavior and repairing relationships (Melton 1989). The lack of correctional facilities for offenders or shelter for victims makes this an essential aspect because it engages family members and the community in providing support for compliance by offenders and protection for victims.

THE ROLE OF LAW FOR INDIAN COMMUNITIES

It is important for non-Indian policy makers and practitioners to understand the difference between Indian and non-Indian societies regarding their understanding of the role of "law" in Indian communities. For many Indian people law is a way of life, which makes law a *living* concept that one comes to know and understand through experience. Law as life is linked to the elaborate relationships that make up the communal lifestyle in many Indian communities. It is exemplified, in some Indian Nations, by the moiety and clan that are legal systems prescribing the individual and kin relationships of members and the duties and responsibilities that individual and group members have to one another and to the community. Inherent differences in world view, the role of family, and social interaction within and outside of one's community environment mandate awareness of culture as a factor in administering justice for Indian crime victims.

DIFFERENCES IN THE PARADIGMS OF JUSTICE

AMERICAN JUSTICE PARADIGM	INDIGENOUS JUSTICE PARADIGM
Vertical.	Holistic.
Communication is rehearsed.	Communication is fluid.
English language is used.	Native/tribal language is used.
Written statutory law learned from rules and procedure, written record.	Oral customary law learned as a way of life by example.
Separation of powers.	Law and justice are part of a whole.
Separation of church and state.	The spiritual realm is invoked in ceremonies and prayer.
Adversarial and conflict oriented.	Builds trusting relationships to promote resolution and healing.
Argumentative.	Talk and discussion is essential.
Isolate behavior, freeze-frame acts.	Reviews problem in its entirety, contributing factors are examined.
Fragmented approach to process and solutions .	Comprehensive problem-solving.
Time oriented process.	No time limits on the process; long silences, patience are valued.
Exclusive and limits participants in the process and solutions.	Inclusive of all affected individuals in the process and solving problems.
Representation by strangers.	Representation by extended family members.
Focus on individual rights.	Focus on victim and communal rights.
Punitive and removes offender.	Corrective, offenders are accountable and responsible for change.
Prescribed penalties by and for the state.	Customary sanctions used to restore victim-offender relationship .
Right of accused especially against self-incrimination.	Obligation of accused to verbalize accountability.
Vindication to society.	Reparative obligation to victims and community, apology, and forgiveness.

Table 3

© This chart represents differences noted by Ada Pecos Melton and Christine Zuni.

Although there have been many efforts to change the way tribal justices systems are structured and limit their jurisdiction, Indian Nations retain the authority to determine the legal structure and forums to use in administering justice and to determine the relationship of the legal structure with other governing bodies. Tribal justice systems are viable peacekeeping institutions that perform a vital function of government. These structures need to be respected and financially supported by the state and federal governments.

THE IMPACT OF SOCIOECONOMIC FACTORS UPON VICTIMIZATION

Social issues affect all American Indians and Alaskan Natives. The median income among Indian Nations is below the poverty level and unemployment exists at very high rates in Indian communities resulting in severe stress for families. Substance abuse is a major factor in many victim-related cases (BJS 1999). It not only disrupts the ability of tribal justice systems to provide victim services with proper care, it can also disrupt the intervention process by making communication with and cooperation by the family very difficult.

Indian societies have become increasingly modernized, straining the traditional ways of life that offered support systems and coping mechanisms. As Indian people become more and more removed from their traditions, they have become increasingly prone to abusive behaviors and victimization. Rates of victimization such as child abuse have increased (BJS 1999). Modernization has also meant that generations of children have lived and are living in institutional settings, isolated from their families and community support networks.

Indian families are *large families* because they are comprised of more than the mother, father, and children; the *immediate family* also includes grandparents, aunts, uncles, and cousins. The large Indian family can be an asset or a problem. The extended family has traditionally played an important role in Indian societies. Families can provide support and foster care, share responsibility for children, and pass on traditional values and ways of life. However, entire families may be rendered dysfunctional due to the generational effects of child maltreatment, substance abuse, and poverty. This can place victims at high risk for abuse and may also interfere with successful intervention and treatment. Often family members may protect a perpetrator and impede an investigation.

Every tribe is unique in its customs and traditions. What is socially correct in one tribal setting may be inappropriate in another. Each tribe has its own ceremonies, medicine, methods of conflict resolution, and ways of healing. These can be valuable tools for the intervention process and a source of great strength for victims and their families. Service providers must make a commitment to be aware of tribal history, traditional sanctions, myths, language, and medicine. This can help facilitate trust and communication between service providers and families.

ADDRESSING VICTIMIZATION ISSUES

Some of the unique issues Indian Nations face in providing safety to victims of crime include the lack of "safe houses" on the reservation where victims can receive shelter until (or if) the danger they face is subdued. On most reservations, everyone knows everyone else and where everyone lives; this lack of anonymity creates problems for victim safety and protection. Intrafamilial violence threatens the makeup of the large Indian family because it can set up conflicting relationships by pitting family and clan members against one another. Violent altercations within the family can create strain and friction that often requires intervention from

resources outside the family. This type of intra-family and tribal violence places a burden on Indian Nations to develop innovative responses.

Some age groups are more susceptible to certain types of crimes. For example, elders and young children have been reported as easy targets of gang violence because they are not as able to protect themselves or are more likely to respond to the intimidation exhibited by gangs. Elderly citizens are more subject to gang violence, theft, and property crimes than young children, but youth are more likely to be intimidated by gangs and pressured to join them and to commit crimes once they join (Melton 1998).

Indian crime victims of domestic violence, child physical abuse, and child sexual abuse have had difficulty having their needs met (Indian Child Protection and Family Violence Act of 1990). The inadequate response to victims' needs includes lengthy law enforcement response to incidents, lengthy investigations, no prosecution or poor prosecution of cases, the lack of immediate medical attention and/or shelter care, and insensitivity to the cultural needs of victims and witnesses by federal, state, and tribal service providers.

UNIQUE VICTIMIZATION ISSUES IN INDIAN COMMUNITIES

Victimization issues in Native American communities need to be understood from historical, political, economical, environmental, and social perspectives. The impact of violence and victimization is not limited to individual victims but extends to families and communities. Violence and victimization issues are not limited to current problems. The impact of historical trauma and cultural oppression by the dominant society has greatly contributed to the social problems existing in Indian communities today, including the new crime phenomena presented by Indian gangs, sex offenders and the escalation of violence against women. Acknowledgment of the historical experiences of Indian Nations is an important factor in understanding how social problems occur and how they can be addressed in tribal communities.

The following issues have been consolidated from various focus groups conducted with Indian and non-Indian criminal and juvenile justice practitioners, policymakers, and citizens by American Indian Development Associates from January 1997 to December 1998. It provides a perspective of the range of issues that Indian justice systems must address to effectively meet the needs of Indian crime victims.

ISSUES AFFECTING INDIAN VICTIMS

Limited resources for victims. Most Indian communities are rural and geographically isolated, which limit the resources that come into the community or that can be provided by the tribal government. Generally victims live in the same community as the offender or perpetrator and are limited in their willingness and/or ability to relocate within or outside their tribal community. Many victims lack financial and family resources to leave their tribal community. Elderly victims are especially reluctant to leave. Fear of being asked to leave their home prevents some elderly from seeking or asking for victim assistance; hence they are silent

victims. Victims' rights are compromised when victims are the ones who are removed from their community or are coerced to leave for safety and protection rather than the perpetrator. This contributes to the lack of confidence in the tribal response systems to provide public safety and protection to its citizens who are victimized. As a result, tribal citizens alienate themselves due to the fear that their needs cannot be met on the reservation.

Poor law enforcement services diminish victim confidence in the system. There is greater victim trauma and injury due to the lengthy police response time. Inadequate financial support for law enforcement services in Indian communities inhibits timely police response to crime and provision of adequate assistance, protection, and safety to victims. Many Indian Nations do not have 911 emergency response numbers available. These conditions weaken the effectiveness of responses. As a result, witnesses and victims are often reluctant to talk because there is time and opportunity for intimidation to occur from the perpetrator. All of these conditions inhibit a response to the victim's need for mental and emotional health, safety, protection, and medical attention.

Limited training for service providers. Often tribal police, social services, probation, and other court-related service providers are not adequately trained in victim response, and therefore are limited in their ability to identify the specific needs and to provide adequate assistance to victims. Strained budgets limit the ability to provide ongoing specialized training in such areas as sexual assault, child abuse, gang violence, intimidation, etc.

Lack of system reliability. Victims often do not have confidence in the tribal system response system due to the lack of infrastructure, such as protection codes, adequate staff, facilities to hold offenders, or capacity to provide safe havens or shelters for victims. This lack of confidence continually prevents victims from seeking help. As a result, many suffer in silence and remain victims. System reliability is further hindered by the lack of coordinated approaches and responses among the various tribal, state, and federal governments that can become involved in victim-related cases. There is minimal communication between victims and the various tribal, state, and federal representatives who can become involved in a case. This decreases victims' confidence that their cases will be handled properly or that there is a safe way for them to confront the offender(s) and assert their rights.

Often victims fall between the cracks because they are unsure of which level of government they need to contact to receive assistance. Victims are generally uninformed about the judicial process and do not know where to go for assistance or protection either within the tribal community or from outside agencies. Families are often uninformed about how cases are proceeding regarding the victims and/or the offender. Families of victims often do not know how to assert their needs or how to make inquiries to support them in helping a family member who is a victim.

ISSUES AFFECTING INDIAN FAMILIES

Influence from the dominant society. Influence from non-Indian cultures, lifestyles, and negative peer influence has diminished the authority of parents to discipline their children, provide guidance, and instill the cultural values, lifestyle, and traditions of their tribal communities. There has been a breakdown of the extended family due to the increased mobility of tribal members. Historical government policies designed to assimilate Indian Nations through the reservation system, termination policies, boarding schools, and relocation programs have been more harmful and damaging to the extended family and communal lifestyle of Indian people. All these governmental policies have contributed to the lack of heritage identification that affects Indian people today.

New crime phenomena. The infiltration of gangs into the Indian community has threatened the fabric that constitutes family strengths, extended family relations, and cultural values that keep them together. Parents do not understand the gang's control of their children, how to regain their leadership and authority status over their children, how to prevent them from joining gangs, or how to protect them from gang violence. A dominant society highly values the pursuit of individual happiness and success while Indian communities highly value and depend on communal harmony over individual rights. The lack of clear cultural values from the home contributes to low self-esteem and increases negative Indian identities to be developed by youth, which make them more vulnerable to join gangs and become engaged in acts of violence. These have all increased the incidence of family disruption and intrafamilial violence by youth and weakened the extended family.

ISSUES AFFECTING INDIAN TRIBAL COMMUNITIES

Lack of education and awareness. Indian Nations have been taken by surprise by the occurrence of different types of violent crime in their communities and are therefore unprepared to respond effectively. This surprise factor has caused some Indian Nations to minimize the violence, making it appear that they have a tolerance for crime and violence. The lack of information about violent crime and victim assistance issues contributes to community apathy.

Lack of community involvement. Community input and participation are essential components to successfully implement strategies for preventing and intervening in violent behavior and providing the needed services to victims. Without a concerted effort to mobilize the tribal community into action as a partner in combating violence, any tribal system response will have difficulty in achieving its goals to impose sanctions, rehabilitate offenders, assist victims and their families, and provide public safety.

Lack of leadership. Victims and tribal citizens need to demand accountability by tribal leaders to address problems of crime and violence in their community. It is essential for tribal leaders to demonstrate a committed concern for victims' rights and needs and to provide leadership in institutionalizing victim assistance programs. Tribal leaders need to model zero tolerance for violence in their own lives and in their community.

Prejudice. Prejudices from within the tribal community can impede services to victims. Often the close-knit nature of tribal communities can create even more negative experiences for individuals or families because of their status in the community. Some victims may come from families with highly visible social problems, i.e., alcoholism or other substance abuse, domestic violence, unemployment, divorce, etc., or they may come from another tribal or nontribal community. Biases may arise because of power imbalances between the victim and the offender or when the offender receives more support than the victim does.

Prejudice is also an issue when Indian people must rely on non-Indian resources. Often Indian victims are refused services because non-Indian agencies have the perception that all “Indian problems” are the responsibility of the Bureau of Indian Affairs or Indian Health Service. These kinds of attitudes by non-Indian agencies and service providers limit the resources Indian victims can access.

Geographic isolation. The rural nature and geographic isolation of many Indian Nations strain resources and limit the influx of new resources. Depressed tribal economies limit opportunities for employment and thus restrict the tax base needed to acquire the financial resources to provide needed services to its members.

ISSUES AFFECTING TRIBAL RESPONSE SYSTEMS

Limited options for violent offenders. Tribal justice and law and order systems are hindered by the lack of sentencing alternatives to handle violent offenders. Sentencing alternatives involving incarceration and other programmatic alternatives are not possible because most Indian Nations do not operate or have access to detention or correctional facilities, and many do not have operational probation and aftercare programs. This makes it difficult to impose immediate sanctions upon violent offenders and provide safety and protection to victims. The lack of resources and alternatives makes it difficult to hold offenders accountable to their victims, for victims to feel safe, for the community to feel empowered, and for tribal leaders to feel confident in their ability to address violent crime and take care of their citizens.

Furthermore, judicial powers are compromised by the sentencing limitations of the Indian Civil Rights Act, which limits tribal courts sentencing authority to a one-year jail term and/or up to \$5,000 fine. The sentencing limitations make it difficult for the tribal court to impose penalties that are commensurate to the severity of violent crimes committed. Serious violent offenders are not deterred from future criminal behavior by the sentence.

Lack of communication, coordination, and collaboration. A general lack of communication between internal and external agencies during all phases of case processing hinders the ability to track and monitor offenders and to provide victims with notification of case proceedings, status, and outcomes. Communication among victims, their families, the community, the tribal government, and other governmental and nongovernmental agencies needs to be established. For example, acts of violence committed by gangs in public schools are often handled by the school system independent of any input or participation from tribal justice systems. This is a lost opportunity for Indian Nations to become involved in cases at the earliest point of

intervention when problems can be contained, violence can be averted, and students can remain in school. This same situation occurs when a felony is committed, and prosecution occurs in the federal courts. The tribe and victim are often left out of the process, which makes it difficult for the tribe to stay involved and be a resource to the victim. Coordination and collaboration of efforts to address violence-related problems are essential for all levels of tribal, state, and federal agencies.

Little support for local solutions to local problems. Support for Indian Nations is weakened by the image or belief by insiders and outsiders that Indian people cannot handle their own problems. This promotes the idea that solutions and model programs need to be imported to deal with tribal problems that are similar to problems in mainstream society. While problems may be similar, the approaches to solving them need to be designed within the realities of the tribal context. Indian Nations need to view problems from their perspective and receive support for the solutions they design to address problems. The lack of infrastructure makes Indian Nations more prone to accept programs and services or model codes that are designed by criminal justice experts outside Indian country. Often these imported programs are experimental, causing Indian people to feel as though their community is being used as a laboratory by social scientists or technical assistance providers who have nothing invested in the community but rather are pursuing their own interests. Only programs that are germane to the needs of Indian communities should be supported by governmental and nongovernmental agencies.

Limited infrastructure development. The limited infrastructure of tribal response systems in courts, law enforcement, social services, health, and education impedes the ability to adequately address victims' concerns and needs. The basic need to build infrastructure such as codes, facilities, basic training, and funding, hinders the development and implementation of promising or innovative victim assistance programs. Laws, policies, procedures, and protocols that protect the community from violence need to be developed and implemented. Clear definitions or criteria about what defines a violent crime are not uniform across tribal communities and jurisdictions. The lack of statutes, clear policies, guidelines, and definitions makes it difficult to distinguish victim-related crime from other types of crime and to understand the unique needs of victims. This impedes the ability to plan and develop appropriate programs and services to address the specific needs of crime victims. Unclear definitions make it harder to collect accurate statistics and to determine the prevalence of crime, delinquency, magnitude of violent crimes, and type of crimes being committed against victims.

Limited financial resources and direct funding streams. Depressed tribal economies make it difficult for tribal governments to fund their own programs and crime initiatives without substantial state and federal assistance. Many Indian Nations lack a sufficient tax base or profit-making tribal enterprises that they can tax for financial capital to support government programs. Indian Nations do not receive direct federal formula grant monies as are given to states. Instead they are required to go through the state to access federal funds targeted for different initiatives to combat crime and violence or to provide victim assistance. This

situation compromises the government-to-government relationship the Indian Nations have with the federal government and treats them as a local unit of state government, conflicting with their status as Indian Nations. This political issue takes attention away from victims' issues and hinders the response to their needs.

Lack of long-term and comprehensive solutions. Violent crime often creates long-term trauma and injury to victims and their families. Without any long-term service and advocacy programs for victims within their tribal community, victims' ability to heal physically, emotionally, mentally, and spiritually are lessened and in some cases the trauma is increased and prolonged. Long-term services are lacking in most tribal communities due to economics and the tribe's geographic location. The lack of resources and facilities on tribal lands challenges tribal systems to develop and provide a range of services which adequately address offender accountability and rehabilitation as well as to develop and provide a spectrum of services and resources to address the needs of victims and their families.

Jurisdictional conflicts. Due to overlapping jurisdictions, Native Americans are subject to tribal, state, and federal criminal jurisdiction. Often there is no communication to the tribe and to victims when a violent offense occurs off tribal lands. There should be accountability at all levels. Indian offenders and victims are often subject to the "assembly line justice" practiced in mainstream law and order systems that are insensitive to their needs, particularly those relating to their culture. Assembly line justice is often based on prescribed penalties that limit opportunities for special attention to be given to the cultural or individual needs of offenders, victims, or the tribal community by non-Indian law and order systems. There is usually no time for special care or a personal touch to be provided to victims. As a result, victim trauma is increased.

Dependence on external processes and authorities. Services to victims are delayed when tribal prosecution of cases is delayed to await the outcome of federal prosecution. Services to victims should not depend on the outcome of cases in either tribal or federal court. Threshold requirements of when assistance can be provided by different federal agencies should be lowered in order to acquire assistance from the U.S. Attorney, FBI, and BIA for investigation and prosecution of cases and accessing victim assistance. Tribal investigation and prosecution of cases are hampered by the reluctance of federal agents to share information about their investigative findings when federal prosecution is declined.

Indian Nations either have no control over the federal process or lack sufficient political power to influence it. Indian Nations are often left out in the cold when federal-level offices established to specifically assist Indian Nations are disbanded because they are not institutionalized enough to withstand the political changes in government.

Limited access to needed data and information. The lack of criminal justice data management and collection systems makes it difficult to establish a universe of reported violent crimes in Indian country. Hence, much of what is known is collected in a fragmented fashion and pieced together to form an understanding of the crime, violence, and victimization issues in Indian

communities. Basic information about the types of crime and the victimization that results from crimes being committed is needed. Victim data and tracking systems also need to be developed to determine victim/offender demographics, monitor offender compliance and mobility, determine whether victims are being served or victims' rights are being enforced, track the types of services victims are using, and identify gaps in services.

In conclusion, although there are tremendous obstacles and barriers to providing effective victim services in many Indian communities, there is great potential for the needs of victims to be addressed. Those interested in increasing victim services should understand how the interrelationship of response systems existing in Indian communities can help to provide effective assistance. In the end, it will take joint efforts by Indian and non-Indian criminal and juvenile justice practitioners, policymakers, victim advocates, victims, their families, communities, and governments to adequately and effectively address the needs of Indian crime victims.

FEDERAL SUPPORT FOR INDIAN COUNTRY PROGRAMS

The Office of Justice Programs (OJP) within the U.S. Department of Justice administers several substantial grant programs that provide funding to Indian tribes and tribal organizations to tackle issues of law enforcement, domestic violence, child abuse, juvenile justice, and victim services.

- Since 1987, the Office for Victims of Crime has focused discretionary funds on improving services for victims of crime on Indian reservations through its Victim Assistance in Indian Country (VAIC) program. Since its inception, the program has provided \$8,446,152 to establish fifty-two new programs at tribes and tribal organizations and has supported training to assist tribes with program development and implementation.
- Under VAIC, tribal victim assistance programs may fund a number of the following direct services:
 - Crisis intervention.
 - Emergency shelter.
 - Twenty-four-hour crisis lines.
 - Mental health counseling.
 - Hiring of victim advocates.
 - Emergency transportation of victims.
 - Court advocacy and accompaniment.
 - Provision of bilingual counseling services.
- Disclosure of extensive child sexual abuse in reservation boarding schools and several multiple-victim child molestation cases on Indian reservations resulted in an amendment authorizing OVC to use Children's Justice Act (CJA) funds in Indian country to improve the handling of child sexual abuse cases. This amendment, which is contained in the Anti-Drug Abuse Act of 1988, authorized OVC to make grants directly to Indian tribes for a three- to five-year period to help Indian communities improve the investigation, prosecution, and

handling of cases of child sexual and physical abuse in a manner that increases support for and reduces trauma to child victims.

- The CJA program is the only federal program for tribes that focuses exclusively on lessening the trauma to American Indian children who participate in criminal justice proceedings.
- Since its inception in 1988, the program has provided \$8,133,102 to establish CJA programs at thirty-eight tribes and tribal organizations and supported training to assist the tribes with program development and implementation.
- Since 1995, the STOP Violence Against Indian Women discretionary grant program has made a total of \$12.04 million available for Indian organizations to enhance the tribal justice system response to domestic violence and improve services to Indian women in abusive situations.
- Other comprehensive grant programs with specific allocation requirements for tribal governments include the Local Law Enforcement Block Grants Program, which is administered by the Bureau of Justice Assistance (BJA), and the Native American Pass-Through Program under the Juvenile Justice and Delinquency Prevention Act.

OJP encourages innovative program development and improved service delivery in Indian Country. The Executive Office for Weed and Seed set aside \$600,000 of its fiscal year 1996 discretionary funds for pilot projects in Indian Country, aimed at weeding out crime and seeding economic development and healthy communities. The Drug Courts Program Office supports the development of drug courts in Indian Country as a promising alternative method in dealing with nonviolent drug offenders. To improve case tracking and enhance the adjudication of criminal cases in Indian Country, the Bureau of Justice Statistics is working with the Bureau of Indian Affairs of the U.S. Department of Interior and the Bureau of Justice Assistance to develop a case-based, criminal justice tracking system. Such a system would also allow tribal law enforcement to monitor the effectiveness of various processes and conduct more accurate needs assessments for future planning.

Other OJP programs provide direct assistance to members of Indian communities. In conjunction with the National Crime Prevention Council, the Bureau of Justice Assistance publishes educational materials targeting areas of concern for Native American youth through the highly successful "McGruff the Crime Dog" campaign. The Office for Victims of Crime provides discretionary grants to tribes to improve the investigation, prosecution, and handling of child sexual abuse cases through the Children's Justice Act grant program for Native Americans. Other programs support community services, such as Boys & Girls Clubs in Indian communities and Court Appointed Special Advocates (CASAs) for Indian children in abuse cases.

To maximize the effectiveness of these programs, a variety of culturally appropriate training and technical assistance opportunities are available to Indian tribes and tribal organizations. In addition, BJA funds such programs as Tribal Strategies Against Violence, a tribal-federal partnership that empowers tribal communities through the development and implementation of a comprehensive reservation-wide strategy to reduce crime, violence, and substance abuse.

Also, through the National Institute of Justice, studies on the effectiveness of OJP's programs in Indian Country and research into the causes of crime and violence, measures the effectiveness of current efforts and leads to the development of innovative and responsive new programs.

Lastly, in response to concern about the increasing number of violent crimes committed by juveniles and youth gangs in many Native American communities, Congress has established the Tribal Youth Program (TYP), setting aside \$10 million in fiscal year 1999. TYP will be administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and is the first OJJDP program dedicated to prevention, control and juvenile justice system improvement in Native American communities. Grants will be awarded on a competitive basis, with the grant program designed to meet the unique needs of each Native American community applicant to prevent and control delinquency and improve its juvenile justice system. All federally recognized tribes and Alaskan native villages are eligible to apply for a three-year grant, ranging from \$75,000 to \$500,000. OJJDP will consider the size of the tribe, geographical location, and whether the tribe is located in an urban or rural area in making funding decisions (Andrews 1999).

1. What are the four key characteristics of sovereign status for Indian Nations?
2. Describe one of the three indigenous peacekeeping systems highlighted in this chapter.
3. What are three of the challenges that affect Indian victims and the provision of victim services?
4. Describe one U.S. Department of Justice initiative that provides funding for victim assistance to Indian tribes and tribal organizations.

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STATISTICAL OVERVIEW

In a nationwide survey of states to determine their laws, policies, and programs within juvenile justice, based upon the principles of restorative justice and the balanced and restorative justice (BARJ) models, the BARJ Project at Florida Atlantic University found that:

- 19 states have adopted restorative justice statutes.
- 20 states articulate restorative justice in agency policies.
- 32 states articulate restorative justice in agency mission statements.
- 36 states incorporate restorative justice into program plans.
- 13 states have developed evaluation/outcome measures for restorative justice programs and activities.
- 33 states articulate restorative justice principles in multiple documents.

The nineteen states that have restorative juvenile justice statutes include Alabama, Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Louisiana, Maine, Maryland, Missouri, Montana, Oregon, Pennsylvania, South Carolina, Utah, Virginia, and Washington (O'Brien, Bazemore, and Umbreit 1999).

LEGISLATION AND POLICY

AMERICAN PROBATION AND PAROLE ASSOCIATION (APPA)

In 2000, APPA adopted a new position statement on community justice that includes a definition, a summary of the principles and core values, the relationship between community justice and restorative justice, and a recommended community justice strategy. This is a comprehensive model that can be used by agencies and communities that seek to promote the concepts of community and restorative justice (APPA 2000).

APPA working definition of community justice. Community justice is a strategic method of crime reduction and prevention, which builds or enhances partnerships within communities. Community justice policies confront crime and delinquency through proactive problem-solving practices aimed at prevention, control, reduction, and reparation of the harm crime has caused. The goal is to create and maintain vital, healthy, safe, and just communities and improve the quality of life for all citizens.

APPA position statement. APPA believes that, at times, traditional criminal and juvenile justice policies and practices have not been able to attain genuine peace and safety and may have alienated and ignored victims and citizens. Community justice principles of crime prevention plus victim and community reparation offer greater hope of securing genuine peace and justice and of gaining community satisfaction with its justice system.

APPA therefore resolves that the principles of community justice will guide the work of the organization in keeping with its proclaimed motto of “Community Justice and Safety for All.” The vision of APPA is a community justice vision. This vision will guide the organization in promoting adult and juvenile probation and parole policies and practices that are grounded in community justice principles and values.

Principles of community justice. The community is the nexus of community justice; therefore, each individual community must ultimately define the concept and practice of community justice. The work must nonetheless remain true to an ideal as expressed by the following guiding principles.

- The community, including individual victims and offenders, is the ultimate customer as well as partner of the justice system.
- Partnerships for action, among justice components and citizens, strive for community safety and well being.
- The community is the preferred source of problem solving; citizens work to prevent victimization, provide conflict resolution, and maintain peace.
- Crime is confronted by addressing social disorder, criminal activities, and behavior and by holding offenders accountable for the harm they cause to victims and the community.

Core values. The justice system benefits the community by:

- Striving to repair the harm caused by crime to individual victims and communities.
- Working to prevent crime and its harmful effects.
- Doing justice by addressing problems rather than merely processing cases.
- Promoting community protection through proactive, problem-solving work practices plus interventions aimed at changing criminal behavior.

These efforts help to create and maintain vital, healthy, safe, and just communities where crime cannot flourish.

The relationship between community justice and restorative justice. Community justice and restorative justice often are used as synonymous terms. While the terms are complementary, they are not interchangeable. Community justice is a strategic method to control and reduce crime and therefore affects the system in which we work. Restorative justice is a process of

responding to criminal acts and affects how we do our work. In other words, community justice seeks to transform the justice system to one that is inclusive and works in partnership with the community in order to affect the community *environment*. Restorative justice practices promote reparation for all parties harmed by criminal acts. The desired results are peaceful, harmonious, and just *relationships* among individual victims, offenders, and their communities. Positive human relationships contribute to a positive community environment. Restorative justice is therefore crucial to the success of a community justice strategy.

Community justice strategy. A comprehensive community justice strategy:

- Includes restorative justice practices and processes.
- Includes both adult and juvenile offenders.
- Focuses on creating safer communities rather than on doing things *to* or *for* offenders.
- Pursues the goal of public safety within a scope of preventing victimization.
- Places a high priority on the rights and needs of victims and the community.
- Seeks harmonious working relations among all justice components and practices, citizens, community and social service organizations, educational systems, and faith communities.
- Focuses on problems *causing* as well as *caused by* crime.
- Promotes correctional programming that is based on sound research and measurable for effectiveness (APPA 2000).

PROMISING PRACTICES

- *The Ohio Department of Rehabilitation and Correction (DRC)* bases its agency's mission and programs on cornerstones of community justice. Its new mission statement articulates a vision that balances the interests and needs of victims, offenders, and community:

The Ohio DRC protects and supports Ohioans by ensuring that adult felony offenders are effectively supervised in environments that are safe, humane and appropriately secure. In partnership with communities, we will provide citizen safety and victim reparation. Through rehabilitative and restorative programming, we seek to instill in offenders an improved sense of responsibility and the capacity to become law-abiding members of society.

The DRC publishes a quarterly newsletter, the "Community Justice Beacon," that contains editorials, articles, and numerous resources relevant to community and restorative justice. It sponsors annual awards for "Excellence in Community Justice" that are presented by the Director. In addition, the DRC sponsors five Community Justice Councils that collaborate to promote the Department's mission and vision. They include Prison Council, Parole and Probation Council, Staff Council, Victims Council, and Local Programs Council.

- The *Travis County, Texas Community Justice Accountability Sentencing Initiative (CJAS)* is a partnership between the District Attorney's Office and the Crime Prevention Institute. It is a community-based restorative justice model designed to:
 - Use crime as an opportunity to strengthen the community by involving the public in the criminal justice process. CJAS develops and implements a structured system through which victims and the community collaborate with system representatives on appropriate sentencing options.
 - Promote citizen reclamation of the criminal justice system through involvement in victim healing, accountability sentencing, and other restorative justice measures.
 - Empower community members and system representatives to address criminal justice and community issues through the ongoing provision of appropriate education, training, advocacy, and system support.

Types of accountability sentencing include sentencing circles, conferences, and reparative panels. Circles are practiced for some kinds of nonviolent property crimes that have an impact on the community, such as drug dealing and criminal mischief. The most important element of accountability sentencing is that the victim wishes to take part in the process. If victims, prosecutors, or law enforcement involved make the referral, their opinion is heavily weighted and valued.

Referrals may be made to the Victim-Witness Division of the District Attorney's office by anyone involved in the case. The cases are then passed on to the Screening Panel, which consists of community members, probation officers, prosecutors, law enforcement, and victim advocates. The Screening Panel determines if:

- Information from the case file suggests the offense is appropriate for circle sentencing.
- The victim desires the process.
- The offender desires and would be affected positively by the process.

Cases that are accepted are assigned to a case manager and facilitator to organize accountability sentencing. Cases not accepted by the screening panel return to the assigned prosecutor and court docket. For additional information, contact Ellen Halbert, Director, Victim-Witness Division, Travis County District Attorney's Office (512-473-9079).

- Restorative justice "signposts" specific to crime victims have been developed by Howard Zehr of the Mennonite Central Committee in Virginia and Mary Achilles, Victim Advocate for the Commonwealth of Pennsylvania (1999). The ten "signposts" include the following:

We are working toward appropriate victim involvement (in restorative justice) when:

1. Victims and victim advocates are represented on the governing bodies and initial planning committees.
2. Efforts to involve victims originate from a desire to assist in their recovery/reconstruction.
 - Benefits to the offender are not the primary motive of the program for victim involvement.
 - Victims should be free from the burden of rehabilitation or assisting offenders (unless they choose to do so).
3. The safety of the victim is a fundamental element of program design.

4. Victims are presented with clear understandings of their roles, including potential benefits and risks to themselves and offenders.
 5. Confidentiality is provided within clear guidelines.
 6. Victims are provided as much information as possible about the case, the offense, and the offender.
 7. Victims are able to identify and present their needs, and are provided options and choices.
 8. Victim opportunities for involvement are maximized.
 9. Program design provides for referrals for additional support and assistance.
 10. To the extent possible, program services are made available to victims even when their offender has not been arrested.
- *Youth Violence Alternatives Project, Victims First.* The Lincoln Action Program in Nebraska sponsors a Youth Violence Alternatives Project that includes an innovative program called *Victims First*. The goal of *Victims First* is “to help victims of property damage crime, while giving youth a firsthand look at the impact of crime on family, friends, neighbors, and the community.” At-risk youth and nonviolent offenders are supervised by adult mentors—both staff and volunteers—in cleaning up and enhancing security for victims of property crimes. Following the victim-specific community service, the youth have the opportunity to hear from the victim about the physical, emotional, and financial effects of the crime. *Victims First* also sponsors fundraisers that benefit crime victims organizations (Lincoln Action Program 2000).

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ABSTRACT

Restorative justice offers a different framework for the administration of justice and the promotion of individual and community safety. The concept of restorative justice involves the offender, the victim, and the community in efforts to create a balanced approach that addresses all stakeholders' needs.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- The guiding principles, values, and concepts of restorative justice.
- The differences between *traditional* and *restorative* approaches to justice.
- The victim's role in restorative justice as it translates to practical programs and services.
- The balanced and restorative justice (BARJ) approach to juvenile justice.
- A comparison of the tenets and practical applications of restorative justice and community justice.

INTRODUCTION

Traditionally, America's systems of criminal and juvenile justice have focused on crimes committed against the state, on seeking justice through what many view as an "adversarial process," and on punishment of the offender. In the United States, victims' involvement in the criminal justice system has emanated from their roles primarily as *witnesses* rather than as *active, welcome participants*. While this involvement has changed with the advent of increasing victims' rights and programs, the justice system still tends to be more "offender directed" than "victim centered."

This traditional approach has been challenged by the new paradigm of a more balanced vision. Restorative justice, the guiding philosophical framework for this vision, promotes maximum involvement of the victim, the offender, and the community in the justice process, and presents a clear alternative to sanctions and intervention based on retributive or traditional treatment assumptions (Bazemore and Umbreit 1994, 1). Restorative justice is both a philosophy and an approach that seeks to balance the interests and needs of crime victims, offenders, and the community (Seymour 1997).

Unlike America's framework for criminal justice and juvenile justice, restorative justice is *not* a system or a network of agencies. Rather, restorative justice is based upon a shared set of values that determines how conflicts can be resolved and how damaged relationships can be repaired or improved. This value-based approach to justice can cause confusion in justice professions that have traditionally been based on structures and agencies. However, the ultimate goal of restorative justice is to infuse its shared values and practical applications into America's traditional approaches to criminal and juvenile justice.

THE HISTORY OF RESTORATIVE JUSTICE

In *Restorative Justice: An Overview* (1998), Tony Marshall described the genesis of the idea of restorative justice:

The first use of the term is generally ascribed to Barnett (1977), referring to certain principles arising out of early experiments in America using mediation between victims and offenders. These principles have been developed further over time, as commentators have thought them through further, and as other innovative practices have been taken into account, but their basic justification is still grounded in practical experience. Innovation in criminal justice has mainly been in response to frustrations that many practitioners have felt with the limitations, as they perceived them, of traditional approaches. In the course of their normal work, these practitioners started to experiment with new ways of dealing with crime problems. Practice developed through experience of "what worked" in terms of impact on offenders, satisfaction of victims, and public acceptability. In particular, it was realized that the needs of victims, offenders, and the community generally were not independent, and that justice agencies had to engage actively with all three in order to make any impact. For instance, public demands for severe punishment, which those working to reform offenders found to be counter-productive, could only be relieved if attention was paid to victims' needs and healing the community, so that offender rehabilitation could only occur in parallel with the satisfaction of other objectives. Similarly, the overloading of courts and other justice agencies was due to the increasing lack of capacity of local communities to manage their indigenous crime problems, so that escalating costs could only be prevented by agencies working in partnership with communities to reconstruct the latter's resources for crime prevention and social control.

Restorative justice is not therefore a single academic theory of crime or justice, but represents, in a more or less eclectic way, the accretion of actual experience working successfully with particular crime problems. Although contributing practice has been extremely varied (including victim support, mediation, conferencing, problem-oriented policing, and both community- and institution-based rehabilitation programs), all these innovations were based on recognition of the need for engagement between two or more of the various parties (victim, offender, community). Coming from very different directions, innovating practitioners found themselves homing in on the same underlying principles of action (personal participation, community involvement, problem-solving, and flexibility). As practice is refined, so is the concept of restorative justice.

In the course of this development, there has been much inspiration from examples of "community justice" still in use (or recently so) among other non-western cultures, particularly among the indigenous populations in such New World countries as North America (Native American sentencing circles) and New Zealand ("Maori justice"). These practices have particularly contributed to the development of "family (or community) group conferencing," and were effective in moving restorative justice ideas away from the excessive individualism of victim/offender mediation practices, providing a new community-oriented focus . . .

GUIDING PRINCIPLES AND VALUES OF RESTORATIVE JUSTICE

The transition from an adversarial justice process to one that is more restorative requires significant change in both practice and principles. While there are many practical applications of restorative justice, it is important that *such practices be based upon a shared set of principles and values*. In a 1996 national teleconference on restorative justice sponsored by the National Institute of Corrections, participants offered seven basic principles of restorative justice upon which stakeholders can begin to evaluate existing efforts and create new approaches to justice practices:

- Crime is an offense against human relationships.
- Victims and the community are central to justice processes.
- The first priority of justice processes is to assist victims.
- The second priority is to restore the community, to the degree possible.
- The offender has personal responsibility to victims and to the community for crimes committed.
- The offender will develop improved competency and understanding as a result of the restorative justice experience.
- Stakeholders share responsibilities for restorative justice through partnerships for action (National Institute of Corrections 1997).

FUNDAMENTAL CONCEPTS OF RESTORATIVE JUSTICE

In 1997, the Mennonite Central Committee published *Fundamental Concepts of Restorative Justice*, which focuses on three key theories that form the foundation of both the philosophy and practices of restorative justice.

Crime is fundamentally a violation of people and interpersonal relationships.

- Victims and the community have been harmed and need restoration.
 - The primary victims are those most directly affected by the offense but others, such as family members of victims and offenders, witnesses, and members of the affected community, are also victims.
 - The relationships affected (and reflected) by crime must be addressed.
- Victims, offenders, and the affected communities are the key stakeholders in justice.
 - A restorative justice process maximizes the input and participation of these parties—particularly victims as well as offenders—in the search for restoration, healing, responsibility, and prevention.
 - The roles of these parties will vary according to the nature of the offense and the capacities and preferences of the parties.
 - The state has circumscribed roles, such as investigating facts, facilitating processes, and ensuring safety, but the state is not a primary victim.

Violations create obligations and liabilities.

- Offenders' obligations are to make things right as much as possible.
 - Since the primary obligation is to victims, a restorative justice process empowers victims to effectively participate in defining obligations.
 - Offenders are provided opportunities and encouragement to understand the harm they have caused to victims and the community and to develop plans for taking appropriate responsibility.
 - Voluntary participation by offenders is maximized; coercion and exclusion are minimized. However, offenders may be encouraged or required to accept their obligations if they do not do so voluntarily.
 - Obligations that follow from the harm inflicted by crime should be related to making things right.
 - Obligations may be experienced as difficult, even painful, but are not intended as pain, vengeance, or revenge.
 - Obligations to victims, such as restitution, take priority over other sanctions and obligations to the state, such as fines.
 - Offenders have an obligation to be active participants in addressing their own needs.
- The community's obligations are to victims and to offenders and for the general welfare of its members. The community—
 - Has a responsibility to support and help victims of crime to meet their needs.
 - Bears a responsibility for the welfare of its members and the social conditions and relationships which promote both crime and community peace.
 - Has responsibilities to support efforts to integrate offenders into the community, to be actively involved in the definitions of offender obligations, and to ensure opportunities for offenders to make amends.

Restorative justice seeks to heal and put right the wrongs.

- The needs of victims for information, validation, restitution, testimony, safety, and support are the starting points of justice.
 - The safety of victims is an immediate priority.
 - The justice process provides a framework that promotes the work of recovery and healing that is ultimately the domain of the individual victim.
 - Victims are empowered by maximizing their input and participating in determining needs and outcomes.
 - Offenders are involved in repair of the harm insofar as possible.
- The process of justice maximizes opportunities for exchange of information, participation, dialogue, and mutual consent between victim and offender.
 - Face-to-face encounters are appropriate in some instances while alternative forms of exchange are more appropriate in others.

- Victims have the principal role in defining and directing the terms and conditions of the exchange.
- Mutual agreement takes precedence over imposed outcomes.
- Opportunities are provided (but not *expected*) for remorse, forgiveness, and reconciliation.
- Offenders' needs and competencies are addressed.
 - Recognizing that offenders themselves have often been harmed, healing and integration of offenders into the community are emphasized.
 - Offenders are supported and treated respectfully in the justice process.
 - Removal from the community and severe restriction of offenders are limited to the minimum necessary.
 - Justice values change above compliant behavior.
- The justice process belongs to the community.
 - Community members are actively involved in doing justice.
 - The justice process draws from community resources and, in turn, contributes to the building and strengthening of community.
 - The justice process attempts to promote changes in the community to prevent similar harms from happening to others.
- Justice is mindful of the outcomes, intended and unintended, and its responses to crime and victimization.
 - Justice monitors and encourages follow-through, since healing, recovery, accountability, and change are maximized when agreements are kept.
 - Fairness is assured, not by uniformity of outcomes but through provision of necessary support and opportunities to all parties and avoidance of discrimination based on ethnicity, class, and gender.
 - Outcomes that are predominately deterrent or incapacitative should be implemented as a last resort and involve the least restrictive intervention while seeking restoration of the parties involved.
 - Unintended consequences, such as the co-optation of restorative processes for coercive or punitive ends, undue offender orientation or the expansion of social control, are resisted (Zehr and Mika 1997).

NEW ROLES IN THE BALANCED APPROACH OF RESTORATIVE JUSTICE

The traditional and accepted roles of *all* parties in the criminal and juvenile justice systems are challenged by the framework of restorative justice. The following values and assumptions should be considered by victim service providers in developing roles and responsibilities that are relevant to restorative justice:

- All parties should be included in the response to crime—offenders, victims, and the community.
- Government and local communities should play complementary roles in that response.
- Accountability is based on offenders understanding the harm caused by their offenses, accepting responsibility for that harm, and repairing it (McLagan 1992).

The new roles in the balanced approach of restorative justice, as articulated by Dr. Gordon Bazemore, are included in the second column, and the implications of these roles on victims are summarized in the third column of the following chart:

Traditional and Restorative Justice Assumptions and Implications for Victims of Crime

TRADITIONAL* JUSTICE	RESTORATIVE JUSTICE	IMPLICATIONS FOR VICTIMS
The criminal justice system controls crime.	Crime control lies primarily in the community.	The community—including victims and their allies—participates in and directly benefits from deterrence.
Offender accountability defined as taking punishment.	Accountability defined as assuming responsibility and taking action to repair harm.	Offenders are held directly accountable to victims.
Crime is an individual act with individual responsibility.	Crime has both individual and social dimensions of responsibility.	Prevention, intervention, and breaking the cycle of violence are important considerations.
Crime is an act against the state, a violation of the law, an abstract idea.	Crime is an act against another person or the community.	The victim is individualized as central to the crime and the criminal justice system process, with the community duly noted as also affected by crimes.
Punishment is effective: a. Threat of punishment deters crime. b. Punishment changes behavior.	Punishment alone is not effective in changing behavior and is disruptive to community harmony and good relationships.	Punishment is augmented by direct accountability to the victim and to the community, with victims having a strong, consistent voice.
Victims are peripheral to the process.	Victims are central to the process of resolving a crime.	Restorative justice principles are “victim-centered.”
The offender is defined by deficits.	The offender is defined by his or her capacity to make reparation.	Reparations to the victim and to the community are a priority.
Focus is on establishing blame, on guilt, on past (did he/she do it?).	Focus is on problem solving, on liabilities/obligations and on the future (what should be done?).	A central goal is to deter future criminal action through conflict resolution, problem solving, and fulfilling obligations to the victim and to the community.
Emphasis is on adversarial relationship.	Emphasis is on dialogue and negotiation.	Victims are active participants in determining appropriate reparations.
Imposition of pain to punish and deter/prevent.	Restitution as a means of restoring both parties; goal of conciliation/restoration.	Restitution holds the offender accountable and is meaningful to both him/her and the victim.

TRADITIONAL* JUSTICE	RESTORATIVE JUSTICE	IMPLICATIONS FOR VICTIMS
Community is on the sideline, represented abstractly by the state.	Community as facilitator in restorative process.	Just as the community is negatively affected by crime, it is positively affected by restorative justice process.
Response is focused on the offender's past behavior.	Response focused on harmful consequences of the offender's behavior; emphasis on the future.	Crime deterrence in the future focuses on victim and public safety.
Dependence on proxy professionals.	Direct involvement by participants.	Victims and their allies are directly involved in the criminal and juvenile justice and restorative justice processes.

* In original publication, called "retributive" justice.

RESTORATIVE JUSTICE ASKS THESE QUESTIONS

Kay Pranis, Restorative Justice Planner for the Minnesota Department of Corrections, offers nine questions (1997) that should be answered in developing restorative justice partnerships and practices:

1. How can we increase opportunities for victim involvement in defining harm and potential repair?
2. How can we increase offender awareness of injury to the victim?
3. How can we encourage offender acknowledgment of wrongness of his/her behavior?
4. How can we involve the offender in repairing the harm?
5. How can we acknowledge victim harm and confirm that the victim is not responsible for what happened?
6. How can the community send messages of disapproval while not banishing offenders?
7. How can the community provide opportunities for the offender to repair the harm?
8. How can the community be involved in the process of holding offenders accountable?
9. How can the community be supportive of victims and help meet their needs?

RESTORATIVE JUSTICE AND CRIME VICTIMS

While restorative justice holds great promise for victims, many crime victims and service providers remain suspect of both the concept and the practical applications of restorative justice. Some of their fears and concerns are based on *actual experiences*, i.e., judges ordering victim/offender mediation without the victim's knowledge and/or consent, or victim/offender programs being developed without input from victims or those who serve them, with the expectation that they will be willing participants. Other fears and concerns are based upon victims' *perceptions* such as reading early publications about restorative justice that

are offender-focused with little attention paid to victims' needs or concerns. If victims and service providers are truly to be stakeholders in restorative justice, their fears and concerns must be addressed in a meaningful way.

Restorative justice provides victims with a viable alternative to an adversarial justice process that has traditionally ignored their interests and needs. While victims are increasingly being afforded considerable constitutional and statutory rights and improved services, they are seldom considered "partners in justice." Restorative justice offers victims the opportunity to join as *equal partners* with community representatives, professionals who assist offenders, justice practitioners, and victim service providers in planning, implementing, evaluating, and improving restorative justice programs and practices. When crime victims are excluded or diluted in restorative justice partnerships, the end result is likely to be continued growth in adversarial opposition to restorative justice.

Victims and those who serve them must *contribute to* and *validate* a community's shared values of restorative justice. This includes input into, as well as a shared understanding of, the following:

- How should conflicts be resolved in a community? What would the process look like?
- What types of services and support will victims receive?
- How can offenders be held accountable and offered supportive services that help reintegrate them back into a community as law-abiding, pro-social individuals?
- How can the community be involved in a meaningful way in justice processes, victim assistance, offender accountability and reintegration, and public/neighborhood safety?

While there are generally accepted shared values of restorative justice, a community's guiding principles must "fit" the interests, needs, and challenges inherent among a locale's *restorative justice community*.

Restorative justice practitioners must also clearly define how their initiatives are beneficial to victims. In the 1997/98 Restorative Justice Regional Symposia sponsored by the U.S. Department of Justice, ten "marketing messages" for victims and those who serve them were proposed:

1. Crime victims' traditional roles solely as "witnesses" or "complainants" are expanded to incorporate victims as clients of the criminal and juvenile justice systems and welcome members of the community concerned about justice and safety.
2. Victims are given an active voice in the system and in other matters related to their cases.
3. Restorative justice approaches offer victims important choices related to their cases that can help return a sense of control to their lives in the aftermath of a crime or delinquent act.

4. The five core victims' rights are: information, input, notification, restitution, and protection. All should be afforded through restorative justice principles, programs, and practices.
5. Victim satisfaction is often directly related to the levels of participation and respect they are afforded by the criminal and juvenile justice systems—levels that are substantially increased through restorative justice approaches.
6. Important partnerships are forged among crime victims, victim advocates, justice and allied professionals, and community representatives to prevent and respond appropriately and sensitively to crime and delinquency.
7. Victim/offender programs offer crime victims the opportunity to seek answers to crucial questions they may have resulting from their victimization.
8. Offender accountability to the victim provides opportunity for both remorse from the offender and constructive, positive recourse for the victim.
9. Many victims believe their involvement in restorative justice programs and approaches will help offenders develop empathy and understanding for the harm and pain they have inflicted upon their victims, their own families, their communities, and themselves.
10. Restorative justice approaches provide opportunities for communities to learn about and support sensitive responses to victims of crime (Seymour 1998).

THE LANGUAGE OF RESTORATIVE JUSTICE

One of the most significant barriers to victim involvement in, and acceptance of, restorative justice is the *language* that is sometimes used within a restorative context. Victims' concerns extend beyond mere semantics to the *expectations* some words imply—that victims *will* heal, or that forgiveness *should* be an end result of restorative justice.

The word “restorative,” for instance, is appropriate and powerful when describing a context or approach to *justice*. When the term “restoring victims” is used, many crime victims and service providers express viable concerns. Rather, “restoring justice *to* victims” through comprehensive, meaningful services and implementation of victims' rights is a more appropriate reference.

The term “victim/offender reconciliation” implies that there was a conciliatory relationship in the first place. While this may be true in some cases—particularly those involving interfamilial offenses—it is *not* true for many others. As such, caution should be utilized with this word.

The crucial concepts of “healing” and “closure” are frequently cited in restorative justice literature, policies, and programs. It is important to remember and respect that *healing is a journey, not a destination*. For many victims, “closure” is not only an unrealistic word; it is an unrealistic expectation. Neither healing nor closure should be cited as expected outcomes of restorative justice.

Perhaps the most inflammatory concept within a restorative justice framework is that of “forgiveness.” Again, forgiveness should never be *expected*. If forgiveness emerges through restorative justice processes, it is healthy and welcome. Yet forgiveness from the victim—especially for offenses that cause horrendous acute and chronic trauma (both physical and emotional)—can be extremely difficult. Forgiveness without any display of remorse, sorrow, or rehabilitation from the offender can be impossible. Deschutes County, Oregon Chief Community Justice Officer Dennis Maloney emphasizes the importance of “earned redemption,” that is, offenders must make diligent efforts to earn the victims’ understanding that can lead them to mercy for the suffering and losses they have endured.

RESTORATIVE JUSTICE AND VICTIM TRAUMA

An in-depth understanding of victim trauma is essential for restorative justice practitioners, including:

- How participation in justice processes—criminal, juvenile, and/or restorative—can exacerbate victim trauma.
- Victims’ most salient needs (based upon a rich body of research)—information about the status of their case, being believed, and not being blamed.
- The various needs victims may have immediately after a crime has occurred, as well as in the short- and long-term, and how best to meet those needs.
- Supportive services available (both system- and community-based) for victims to help them reconstruct their lives in the aftermath of a crime.

An increased understanding of victim trauma emerges from comprehensive training and from speaking directly to—and soliciting feedback from—crime victims and those who serve them. It is also important to recognize that the majority of victims do *not* report crimes to law enforcement; therefore, it is imperative that restorative justice values and practices incorporate approaches that attend to the needs of nonreporting victims.

In addition, restorative justice must recognize and respect that *each victim*, and *each case*, is unique. While a substantial body of research offers a general understanding of what many victims *might* go through, it can be detrimental to “paint all victims with a broad brush.” Previctimization factors, socioeconomic status, presence or absence of a support system, and treatment by the justice system all contribute to how a victim may—or may not—react to restorative justice initiatives. The unique aspects of victimization are critical, in that they can affect a victim’s willingness or ability to participate in or appreciate restorative justice practices.

RESTORATIVE JUSTICE AND VICTIMS’ RIGHTS

The effective implementation of victims’ rights should form the foundation of restorative justice initiatives. There are strong rationales for integrating core victims’ rights within a restorative justice context, most notably implementation of victims’ rights is key to victim

satisfaction and involvement with justice processes. The five victims' rights within a restorative justice framework include the following:

Victim notification. Notification to victims, upon request, about the status of their cases and offender should systematically take place from the time the offense occurs through any appellate processes. Restorative justice practitioners should be aware of the fifty-eight possible points of notification to victims (NCVC 1997), and promote interagency collaboration to “fill in the cracks” of notice and information. It is also important to note that “notification” should include the provision of information to victims about opportunities to participate in restorative justice-related programs and services, such as victim/offender mediation, victim impact panels, and completion of victim impact statements.

Victim impact statements. Victim impact statements can be truly restorative when they elicit the following information from victims:

- How did the crime affect you and your family?
- What was the emotional impact of the crime?
- What was the financial impact of the crime?
- What was the physical impact of the crime? *(for personal offenses)*
- What do you want to happen now? *(This question provides an opportunity to offer parameters for what the system can and cannot do.)*
- Would you like an opportunity to participate in victim/offender programming? *(This question should only be utilized if the victim has been provided with a thorough overview of victim/offender options and what they entail.)*
- Do you have a recommendation for community service if it is ordered as part of the sentence? *(This question can include direct service to the victim [upon request]; service of the victim's choice; and/or having the victim select the community service from a list of options provided by the court or supervising agency.)*
- Is there anything else you would like to tell the court/agency?

The combination of “specific” and “open-ended” questions will elicit valuable insights into the victim's opinions, recommendations, and desire to participate in victim/offender programming. In addition, the victim impact statement can include a question regarding whether or not the victim wishes to be notified of the offender's status (such as violation of probation or release from incarceration/detention). The victim impact statement should be forwarded to the proper authority.

Victim/witness protection. Victims and witnesses should *always* be asked if they have any safety concerns, recognizing that many victims will not disclose this important information unless they are given a clear opportunity to do so. Restorative justice practitioners should directly solicit input from victims as to their need and recommendations for protective

measures, such as “no contact orders” from offenders who are under both community and institutional supervision. Special attention should be paid to screening victims for participation in victim/offender programming and ensuring that the program’s environment maximizes victim security.

Restitution. Restorative restitution is the first priority of offenders’ financial/legal obligations (with the exception of child support, in which case the “first priority” is shared). Offender accountability through restitution is emphasized. If restitution poses a financial hardship on an offender—or if he or she is unable or unwilling to pay restitution—a clear determination must be made whether or not the victim endures undue financial hardship as a result of the crime (which is usually the case).

Interdisciplinary systems must be established that order, monitor, collect, and disburse restitution payments to victims. Practitioners should provide help to victims in documenting losses (see “Restitution” chapter of this text) and guide them in seeking civil or other recourse for nonpayment. Offenders’ satisfactory completion of terms of restitution can be reinforced with incentives such as supervised out-of-state or community travel. Victims should also be allowed to seek restorative community service from the offender in lieu of, or adjunct to, actual restitution orders.

Victim information and referrals. While all restorative justice practitioners are not required to be “experts” in victim advocacy, they should be knowledgeable about and able to make qualified referrals to victim services. Information about victims’ rights and services available to help victims at the local, state, and national levels should be universally available. In addition, all restorative justice programs should have at least one designated staff member or volunteer to serve as the “primary point of contact” for victims who need information and/or referrals.

MEASURING THE EFFECTIVENESS OF RESTORATIVE JUSTICE FOR VICTIMS

As the victims’ rights discipline increases its attention to program evaluation, and as more states and jurisdictions move toward performance-based evaluative measures, so must restorative justice consider effective approaches to measuring success and to identifying components that need improvement. In 1999, the Victims Committees of the American Probation and Parole Association and American Correctional Association are developing recommendations for evaluating restorative justice programs and initiatives (Seymour 1999). The following are measures included in the Committees’ original draft:

- Does the agency’s and/or programs’ mission or value statement incorporate language that addresses victims as *clients* and victims’ needs?
- Are there staff and/or volunteers designated to provide victims with assistance, information, and referral either in a full-time capacity or as a percentage of one’s job requirements? Do job descriptions and/or duty statements clarify specific responsibilities to victims and to restorative justice initiatives?

- Does the agency or initiative utilize victims and service providers in an advisory capacity to guide the development of restorative justice policies, procedures and programs, and related victim services? What is the structure of the Victim Advisory Council or Community Advisory Council? Has its recommendations and efforts had a measurable impact on program implementation, the delivery of victim services, and victim/offender programming?
- Does the agency or program provide orientation, continuing education, and training to its staff and volunteers about crime victims' needs, victims' rights, victim trauma, and supportive services available to assist victims? If so, how often are training programs held? How many professionals and volunteers are trained? Are participants' retention and application of what they learned measured at follow-on intervals?
- What is the effect of restorative justice on victims' awareness of their rights and available services? What are the scope and specific activities/products utilized to inform and involve victims? Are these services and products available in multiple languages, TTY, and Braille and in measures commensurate with victims' ages and cognitive development? Are they available in jurisdictions large and small, urban and rural?
- Can an increase in the number of victims who are accessing their core rights be determined? Such increases include the number of crime victims who *request* (and *receive*):
 - Notification of the case or offender status.
 - Restitution and/or other financial/legal obligations.
 - Protective orders or other measures to increase victim safety and security.
 - The right to submit a victim impact statement, written, oral, through audio/video tape, and/or by teleconference to the hearing site.
 - Information about and referrals to supportive services, offered either in the community or by the criminal or juvenile justice system.
- Does the agency or initiative measure victim satisfaction with its programs and services, either through victim satisfaction surveys, focus groups, or direct victim interviews? What are the cumulative results of victim satisfaction assessments?
- Can any reduction in victims' short- and/or long-term trauma be directly attributed to their participation in restorative justice processes and programs?
- How many restorative community service hours were requested, ordered, and/or completed, with victims:
 - Requesting direct service from the offender?
 - Having direct input into the community service placement from a list provided by the community corrections agency?
 - Requesting that offenders provide community service to the victim assistance or community-based agency of the victim's choice?
- How many victims voluntarily participate in victim/offender programming, which includes the following:
 - Community reparative boards.
 - Family group conferencing.

- Healing or sentencing circles.
 - “Impact of Crime on Victims” programs.
 - Victim/offender mediation or dialogue.
 - Victim impact panels.
- How many of these programs are sponsored? What were the outcomes of such programs? What was the level of victim satisfaction in participating in such programs?
 - How many community volunteers are involved in restorative justice initiatives, particularly those that provide victims with assistance and support? How many community volunteer hours are performed?

In addition, the job performance measures of criminal and juvenile justice professionals must be changed to reflect the delivery of victim assistance and services. In the traditional justice system, great emphasis is placed on the numbers of cases processed, their outcomes in terms of sentences and findings, and services/programs provided to defendants, convicted offenders, and adjudicated youthful offenders. With a restorative justice approach, the evaluation measures for victim assistance and services described above should be incorporated into job descriptions and duty statements. *Only when professional advancement is based upon victim assistance* will the victim component of restorative justice be *fully* realized and implemented.

CHANGING ROLES IN RESTORATIVE JUSTICE

The traditional roles of professionals and volunteers within the justice system and victim services change in a restorative justice context. Practitioners must be willing and able to cross the habitual and customary boundaries that tend to isolate justice agencies (law enforcement, prosecution, courts, and community/institutional corrections) from each other, with limited consideration given to victims’ rights and services as well as to community participation. In a restorative justice framework, partnerships work to eliminate boundaries and forge meaningful relationships that benefit victims, offenders, the community, and justice processes as a whole. The elevation of crime victims, those who serve them, and the community to “partner status” as restorative justice stakeholders holds tremendous promise for altering traditional roles in positive ways.

These changing roles must be reflected through changes in laws, agency policies, and interagency policies that define and integrate restorative justice, either into existing justice practices or into community-based initiatives. Most justice-related efforts are guided by legal mandates and agency policies and protocols. Serious attention should be focused on initiating or enhancing *all* guidelines and mandates that determine how “justice” operates and its roles and responsibilities to crime victims and those who serve them.

RESTORATIVE JUSTICE AND THE COMMUNITY

Just as the role and involvement of victims change considerably within a restorative justice framework, so do those of the community. Restorative justice validates the fact that communities, as well as individuals, are hurt by crime. It reflects a core belief that *there is no such thing as a “victimless crime”*—that any offense, no matter how “minor,” has a detrimental impact on at least one person, and often on an entire neighborhood or community. It provides opportunities for communities to define the harm they endure as a result of criminal activity and involves them in developing solutions that promote both individual and community safety.

In the 1997/98 Restorative Justice Regional Symposia sponsored by the U.S. Department of Justice, Kay Pranis offered four assumptions about the relationship of the community to crime:

1. The community is an entity affected by criminal behavior.
2. The community is a collective, responsible for the welfare of its members, including victims and offenders.
3. The community is a stakeholder in broader policy issues.
4. Community strength is the ultimate outcome measure for (restorative justice) interventions.

Pranis also identified four key community responsibilities in responding to crime as follows:

1. Rally around the victim and attend to the wounds of the victim.
2. Provide the opportunity for the offenders to make amends for the harms caused by their behavior.
3. Establish norms and hold community members accountable to those norms.
4. Address underlying issues revealed by crimes.

With restorative justice approaches, a number of processes emerge that build a sense of community relevant to public safety, victim assistance, and offender accountability and reintegration:

- Creation of new positive relationships or strengthening existing relationships.
- Increasing community skills in problem solving.
- Increasing the community sense of capacity and efficacy in addressing problems.
- Increasing individual awareness of and commitment to the common good.
- Creating informal support systems or safety nets for victims and offenders (Pranis 1997-98).

RESTORATIVE JUSTICE AND JUVENILE JUSTICE

Initially, the framework of restorative justice in the early 1990s focused primarily on juvenile justice. The balanced and restorative justice (BARJ) juvenile justice paradigm can best be described as a combined emphasis on three programming priorities:

- *Accountability*: Restitution, community service, and victim/offender mediation create an awareness in offenders of the harmful consequences of their actions for victims, require offenders to take action to make amends to victims and to the community and, whenever possible, involve victims directly in the justice process.
- *Community protection*: Intermediate, community-based surveillance and sanctioning systems channel the offender's time and energy into productive activities. A continuum of surveillance and sanctions provides a progression of consequences for noncompliance with supervision requirements and incentives that reinforce the offender's progress in meeting competency development and accountability objectives.
- *Competency development*: Work experience, active learning, and service provide opportunities for offenders to develop skills, interact positively with conventional adults, earn money, and demonstrate publicly that they are capable of productive, competent behavior (Bazemore and Umbreit 1994, 3).

New roles in the balanced approach promulgated by restorative justice are included in the following chart (Bazemore and Umbreit 1994, 4):

<p>Accountability - When a crime occurs, a debt incurs. Justice requires that every effort be made by offenders to restore losses suffered by victims.</p>		
<p>Juvenile justice system role: Direct juvenile justice resources to ensure that offenders repay victims and complete other relevant restorative requirements as a top system priority.</p> <p><i>Intended Outcome:</i> Efficient, fair, and meaningful restorative justice practices; increased responsiveness to victims' needs.</p>	<p>Offender role: Actively work to restore victims' losses and participate in activities that increase empathy with the victim and victims generally.</p> <p><i>Intended Outcome:</i> Understanding of consequences of offense behavior; increased empathy; feeling of fairness in justice process.</p>	<p>Community role: Assist in the process by providing paid work opportunities for offenders, help to develop community service work projects, and support victim awareness education.</p> <p><i>Intended Outcome:</i> More participation in and support for the juvenile justice system; message that victims receive priority.</p>
<p>Competency Development - Offenders should leave the juvenile justice system more capable of productive participation in conventional society than when they entered.</p>		
<p>Juvenile justice system role: Access youths' strengths and interests and identify community resources to build on those strengths in a way that demonstrates competency. Engage youth in these activities and provide necessary supports for successful completion. Build prevention capacity through productivity partnerships with employers, educators, and other community agencies.</p> <p><i>Intended Outcome:</i> More opportunities for youth competency development; improved image of juvenile justice; increased competency.</p>	<p>Offender role: Become actively involved in activities that make a positive contribution to the community while building life skills; make continuous progress in improving educational skills while using existing skills to help others.</p> <p><i>Intended Outcome:</i> Increased sense of competency and self-esteem; exposure to and interaction with positive adult role models; improved public image of youth.</p>	<p>Community role: Become partner with juvenile justice system in developing opportunities for youth to make productive contributions to the community while learning positive civic and other values.</p> <p><i>Intended Outcome:</i> Increased community involvement in and ownership of delinquency problem; completion of positive work in communities; improved quality of life in community.</p>
<p>Community Protection - The public has a right to a safe and secure community; juvenile justice should develop a progressive response system to ensure offender control in the community and develop new ways to ensure public safety and respond to community concerns.</p>		
<p>Juvenile justice system role: Ensure that offenders are carefully supervised by staff and a range of community guardians and that offenders' time is structured in productive activities; develop a range of supervision restrictiveness options and alternative responses to violations and incentives for progress.</p> <p><i>Intended Outcome:</i> Increased public support for community supervision.</p>	<p>Offender role: Become involved in competency building and restorative activities; avoid situations that may lead to further offenses.</p> <p><i>Intended Outcome:</i> No offenses while on supervision; reduced recidivism when the period of supervision is over.</p>	<p>Community role: Provide input to juvenile justice system regarding public safety concerns; share responsibility for offender control and reintegration.</p> <p><i>Intended Outcome:</i> Increased feelings of safety in community; increased confidence in juvenile community supervision.</p>

RESTORATIVE JUSTICE AND COMMUNITY JUSTICE

The Community Justice Committee of the American Probation and Parole Association offers the following comparison of *restorative justice* and *community justice* (1999 draft):

RESTORATIVE JUSTICE	COMMUNITY JUSTICE
A process of responding to <i>criminal acts</i> in ways that promote healing, reparation, and conciliation of all parties harmed by those acts.	A process and method of confronting <i>crime</i> through proactive, problem-solving strategies aimed at prevention and reparation, with interventions that help to create and maintain safer communities and an improved quality of life.
Considers three distinct and equal stakeholders in the justice process—victims, the community, and offenders.	Regards the <i>community</i> , which <i>includes</i> individual victims and offenders, as the ultimate customer—as well as partner—of the justice system and process.
With its goals of reparation and healing focused on its three distinct stakeholders, runs on a parallel track with traditional justice practices. Other justice components, methods, and practices that are not restorative in nature are not considered to be part of the process. Punishment “for the sake of punishment” is negatively viewed.	Seeks harmonious working relationships among all justice components, methods, and practices within a transformed justice system. In a community justice system, the arrest, prosecution, conviction/adjudication, sentencing, and supervision of offenders would <i>all</i> be considered as equally legitimate means to an end. All components and methods would be tied to clearly articulated common values and ultimate goals of community well-being. Principled and fair punishment (sanctioning <i>as</i> punishment, not <i>for</i> punishment) would be considered a valid response to criminal actions and victimization. Victims would have priority over victimizers.
The <i>ideal results of restorative justice</i> are peaceful, harmonious, and just relationships among individual victims, offenders, and their communities, as well as stakeholder satisfaction with the justice process.	The <i>ideal results of community justice</i> are safe, vital, just, and peaceful communities where crime cannot flourish as well as customer satisfaction with the justice system and process.

While these terms are often used interchangeably, it is important for victim advocates to understand the significant differences between community justice and restorative justice.

In describing the context of community justice in relationship to crime victims, Deschutes County (Oregon) Chief Community Justice Office Dennis Maloney (1998) said:

. . . the system virtually ignored the crime victims. While most people, when confronting the scene of a crime, would attend to the victim first, then try to discern what damage has been done to the surrounding community, and finally proceed to call the police so that the offender could be apprehended, our criminal justice system appears to adhere to the *reverse* protocol. We appoint government-financed legal services for the offender, provide counseling and therapeutic interventions, and even upon incarceration provide extensive educational and vocational services. All the while, crime victims languish to deal with their trauma through their own means. Many in the public even perceive us to be offender advocates at the expense of victim and community needs.

Maloney goes on to describe the transformation that occurs within a community justice framework:

. . . *the victim is regarded as the paramount customer of the justice system.* Offenders are held accountable in constructive and meaningful ways, and crime prevention is viewed as a high priority. Citizen participation in attending to victims' needs, determining priorities, mediating restitution requirements, and supervising community service projects is central in a community justice approach. Justice system officials are careful to state that this shift can occur while remaining steadfast to due process requirements.

PROMISING PRACTICES

- *Agency mission statements.* Mission statements should be reviewed and revised to reflect the balance sought by restorative justice approaches among victims, offenders, and the community. They can be concise, such as the Washington Department of Corrections' mission statement, "Working Together for Safer Communities." Or they can provide a more detailed vision, such as that offered by the Berks County (Pennsylvania) Juvenile Probation Department:

We are committed to public safety, justice for victims, the reparation of the community and accountability and personal development of offenders, with respectful treatment for all involved.

Agency mission statements should be reviewed and revised with input from leadership and line staff, as well as from key stakeholders representing victims, offenders, and the community.
- *Apology.* Many justice agencies, from courts to corrections, encourage or require offenders to apologize to their victims either in person or in writing. It is essential that *the victim agrees to accept an apology* and that the apology be heartfelt (apologies that appear to be "form letters" can be more harmful than helpful to victims). If a victim does not want an apology, but a justice agency still believes an apology could be helpful to the offender, the offender can write the letter, which can then be included in his/her case file.
- *Case planning.* Case planning should incorporate measures to reflect the needs and interests of the community, the victim, and the offender.
- *Circles.* Circles are based upon a consensus approach to justice that requires a finding of guilt and actively involves the community in the process. Circles typically involve a multistep procedure that includes a healing circle for the victim; a healing circle for the offender; a sentencing circle to develop consensus on the elements of a sentencing plan; and follow-up circles involving the community to monitor the progress of the offender.
- *Community/neighborhood impact statements.* Community or neighborhood impact statements can be utilized in areas that are affected by chronic crime, which is often considered "victimless," i.e., drug sales, prostitution, graffiti, gangs, etc. Impact statements can be solicited by the court, utilizing teams of police/probation officers who go door-to-door on their regular beats; and/or by sponsoring neighborhood meetings where people who live in a designated area are invited to express their opinions about specific crimes or crime in general that affect them. Essentially, neighborhood impact statements ask:

- Has this crime(s) had an effect on you and your family? If so, how?
- Is your quality of life affected by this crime(s)? If so, how?

Neighborhood impact statements can also invite the community to “partner” with justice professionals in developing solutions to specific and chronic crimes. They are an excellent tool to validate people in high-crime areas as “hurt by crime,” and send a message that the justice system cares about their concerns and wants to work with them on creative solutions.

- *Community justice council.* Representatives of victims, offenders, the community, and the juvenile and criminal justice system can collaborate in an ongoing manner through community justice councils (CJCs). CJCs can identify problems caused by crime and address them; develop and implement plans for restorative justice approaches; and serve as a liaison between the justice system and stakeholders in restorative justice.
- *Community reparation boards.* Consisting of community members (usually appointed by the Department of Corrections), community reparation boards provide a sentencing option for nonviolent offenders to make reparation to victims and the community. Reparative activities include restitution, community work service, mediation/dialogue, cognitive skills development sessions, victim empathy programs, and decision-making programs.
- *Crime repair crews.* Under the supervision of justice officials and/or community members, lower-level offenders participate in crews that clean up crime scenes, repair locks and windows, and provide a sense of security to people who have been victimized (primarily by property crimes, but crime repair crews have also been utilized to clean up violent crime scenes as well). Funding to support such crews can be derived from small assessments on offenders, community support, and in-kind contributions (such as windows, caulking, and locks) from business people in the community.
- *Family group conferencing.* Family group conferencing brings together the people most affected by a crime—the victim and offender, and their family and friends—with a trained facilitator to discuss how they and others have been harmed by the offense, and how that harm can be repaired. The offender must admit to the offense, and *participation by all involved is voluntary*. All participants may contribute to the problem-solving process of determining how the offender might best repair the harm. The end result is an agreement that includes a summary of all participants’ expectations and commitments, including the offender’s obligations.
- *Hotline for help for victims and the community.* Justice agencies can designate a telephone number (staffed by personnel or volunteers) that provides information, assistance, and referrals to crime victims and community members. This helps reduce victims’ frustration with getting the “perceived runaround” when they seek information or assistance.
- *Merchant Accountability Boards.* Initiated in Deschutes County (Bend) Oregon, Merchant Accountability Boards involve panels of local shop keepers and merchants who have experienced low-level offenses such as shoplifting and graffiti. Youthful offenders appear before the Board to hear how chronic offenses against merchants detrimentally affect their business and the community in the form of higher prices and increased security expenditures. Often, youthful offenders perform their community service in the stores

owned by members of the Merchant Accountability Boards, which provides both meaningful work experience and mentoring from positive adult figures.

- *Offender artwork to benefit victims of crime.* Many commemorations sponsored by crime victims and those who serve them rely on creative artwork and graphic designs to publicize crime prevention and victim assistance messages. In a number of jurisdictions, offenders under correctional supervision (in the community or incarcerated) are encouraged to submit artwork and designs that fit the commemorative theme(s), i.e., the 1998 National Crime Victims' Rights Week theme was "Victims' Rights: Right for America." The offenders are credited for their restorative contributions, which are utilized for posters, brochures, bookmarks, and even billboards.
- *Personal delivery of restitution check.* In some cases and with the victim's consent, the final restitution check can be presented in person by the offender (or by the supervising community corrections official) to the victim. This is a thoughtful, symbolic gesture that brings closure to an important obligation.
- *Restorative community service.* Community service that is *viable* and *visible* can be very restorative for victims, offenders, and the community. In addition, restorative community service can directly benefit the victim (only upon the victim's request and with his/her consent); or directly benefit victim service or community service organizations (such as constructing a domestic violence shelter, providing volunteers for victim-related fundraising events, or cutting red ribbons for the annual public awareness campaign sponsored by Mothers Against Drunk Driving).
- *Update letter to victims.* If an offender is delinquent in paying restitution, an update letter can be sent to the victim explaining the reason for the delay and committing to an equitable, revised timetable.
- *Victim Advisory Council.* Victim Advisory Councils consist of crime victims and victim advocates who meet on a regular basis (quarterly, for example) to provide guidance to justice agencies. Victim Advisory Councils can help develop victim-related policies and procedures; review all written documents pertinent to victims for sensitivity and efficacy; develop and implement strategic plans for victim services; and serve as the agency's liaison to crime victims and victim advocates.
- *Victim awareness education programs/panels.* Victim awareness classes and panels provide an educational opportunity for offenders to learn about how their delinquent and criminal activities detrimentally affect their victims, their communities, their own families, and themselves. Such programs range from two-hour panels, to twelve one-hour sessions designed for community corrections, to a structured forty-hour education program for offenders sentenced to incarceration or detention.
- *Victim impact statement.* A core tenet of victims' rights, victim impact statements can be truly restorative when they elicit the following information from victims:
 - How did the crime affect you and your family?
 - What was the emotional impact of the crime?
 - What was the financial impact of the crime?

- What do you want to happen now? (This question provides an opportunity to offer parameters for what the system can and cannot do.)
- Would you like an opportunity to participate in victim/offender programming? (This question should only be utilized if the victim has been provided with a thorough overview of victim/offender options, and what they entail.)
- Do you have a recommendation for community service if it is ordered as part of the sentence? (This question can include direct service to the victim [upon request]; service of the victim's choice; and/or having the victim select the community service from a list of options provided by the court or supervising agency.)
- Is there anything else you would like to tell the court?

The combination of “specific” and “open-ended” questions will elicit valuable insights into the victim's opinions and recommendations. In addition, the victim impact statement should include a question regarding whether or not the victim wishes to be notified of the offender's status (such as violation of probation or release from incarceration/detention), which can then be forwarded to the proper authority.

- *Victim/offender mediation.* Victim/offender mediation (also called “victim-offender dialogue” or “offender accountability meetings”) provides an opportunity for the victim and offender to meet in a structured setting with a trained facilitator. Participation is voluntary for all involved. Mediation provides the victim with an opportunity to discuss how the crime affected him/her and to define the harm. Offenders are held directly accountable and can discuss measures in which he/she can repair the harm.
- *Victim service representatives.* Many justice agencies designate one staff member at each work site to serve as its victim service representative (VSR). The VSR usually requires five-to-twenty percent of a full time employee's time. The VSR offers centralized information, assistance, and referral capabilities to victims. In addition, when the designated staff person is not available to assist the victim, the VSR can provide assistance, and/or ensure that the victim's request is responded to quickly by the proper personnel.

1. What are the seven guiding principles and values of restorative justice?
2. Identify two differences between traditional and restorative approaches to justice.
3. Select one of the five core victims' rights and describe its implementation within a restorative justice framework.
4. Identify one role of the community in a restorative justice framework.
5. Describe two "promising practices" in restorative justice.

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Civil Remedies

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SECTION 1, CIVIL REMEDIES

The area of civil litigation on behalf of victims of crime continues to evolve at a rapid rate. A recent development is the establishment of the National Crime Victim Bar Association (NCVBA) by the National Center for Victims of Crime <<http://www.victimbar.org>>. In addition to the case law database mentioned below, a publication called *Victim Advocate* is published quarterly. Recent issues have presented articles on emerging areas in civil litigation on behalf of victims, including “Workplace Violence and Employer Liability” and “Stalking and Domestic Violence in the Workplace” (Winter 2000), “Civil Remedies for Victims of Elder Abuse” (Fall 1999), and “Sexual Harassment in the Schools” and other important issues regarding child victims of crime (Summer 1999). Victim advocates and service providers may wish to use these publications to educate themselves about emerging trends in this area of potential financial assistance to victims, or may find it useful to alert the attorneys with whom they work to the existence of the NCVBA and related litigation support materials.

The online database available through the NCVBA provides access to over 11,000 case summaries. Due to the tremendous level of activity in this area, the *Civil Remedies* chapter’s strong recommendation that victims and advocates seeking civil legal assistance or information must locate competent, local counsel familiar with the courts within which any particular case is to be pursued must be reinforced. It should be reiterated that many state and local bar associations and trial lawyers associations have established committees dealing directly and indirectly with victims’ issues. These include victims committees; committees focusing on the legal needs of children, women, and other special populations; and subsections of larger divisions, such as a state bar litigation section with a subsection that focuses on crime victim litigation. These are often important sources of experienced and jurisdiction-knowledgeable practitioners.

A highly significant decision regarding civil remedies for crime victims was rendered by our nation’s highest court on May 15, 2000, in the case of *U.S. v. Morrison, et al.* (Sup. Ct., No. 99-5). The 5–4 ruling dismissed the case of Christy Brzonkala, a former Virginia Polytechnic Institute student, who was the first person to sue in federal court under the 1994 VAWA Act. Ms. Brzonkala, in alleging that she was raped by two university student-athletes, brought a civil suit against the alleged perpetrators pursuant to 42 U.S.C. Section 13981, which provides a federal civil remedy for the victims of gender-motivated violence.

The Court majority ruled that Congress, in enacting the civil remedies provision of the VAWA Act, had overstepped its authority to regulate interstate commerce and enforce the equal protection guarantee of the U.S. Constitution. The opinion of the Court held that Section 13981 cannot be sustained as a civil remedy for crime victims under either the Commerce

Clause of the U.S. Constitution (dealing with interstate commerce) or the Fourteenth Amendment to the U.S. Constitution (providing for equal protection under the law). In so doing, the justices rejected the petitioner's argument that states are not doing enough to protect rape victims and that gender-based violence restricts women's choices in jobs and travel.

In the dissenting opinion for the Court minority, Justice David Souter cited "the mountain of data assembled by Congress, here showing the effects of violence against women on interstate commerce. . . . Violence against women may be found to affect interstate commerce and to affect it substantially" (< www.findlaw.com/cascode/supreme.html > , 2000). He also cited the thirty-eight states whose attorneys general had testified in support of the VAWA legislation and who had affirmatively stated their strong belief that the problem of violence against women was a national one, requiring federal attention, federal funds, and federal leadership (Ibid.).

CHAPTER 5 FINANCIAL ASSISTANCE FOR VICTIMS OF CRIME

SECTION 1, CIVIL REMEDIES

ABSTRACT

There are two distinct jurisdictions for justice relevant to victims of crime: criminal and civil. Criminal courts deal with that aspect of the justice system that determines guilt or innocence with regard to crime and metes out criminal sanctions. The civil justice system can be utilized by victims to pursue their own private actions against perpetrators for the recovery of monetary damages as well as for justice. This section discusses the civil justice system, core elements and legal aspects of civil litigation, and how victim service providers can play a significant role in helping victims who seek justice through civil litigation.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- Distinctions between the criminal and civil justice systems.
- The basics/terminology of civil litigation.
- Types of lawsuits typically brought by victims.
- Defenses to civil litigation.
- Proving damages in civil lawsuits.
- The benefits and limitations of victim civil litigation.
- Recommendations regarding civil remedies to victim service providers and allied professions.

STATISTICAL OVERVIEW

- Personal crime is estimated to cost \$105 billion annually in medical costs, lost earnings and public program costs related to victim assistance. When pain, suffering, and reduced quality of life are assessed, the cost increases to an estimated \$450 billion annually. Violent crime results in lost wages equivalent to 1 percent of American earnings (Miller, Cohen, and Wiersema 1996).
- Female victims of intimate violence annually suffer \$61 million in medical expenses and an additional \$89 million in broken and stolen property (Ibid.).

- Crime victims in 1992 lost \$17.6 billion in direct costs, according to the National Crime Victimization Survey (NCVS). These costs included losses from property theft or damage, cash losses, medical expenses, and amount of pay lost because of injury or activities related to the crime (Klaus 1994, 1).
- Economic loss of some kind occurred in 71% of all personal crimes. For crimes of violence, economic loss occurred in 23% of victimizations. Household crimes of burglary, theft, and motor vehicle theft involved economic loss in 91% of all victimizations (Ibid., 1).
- During each fiscal year, 1996 and 1997, U.S. district courts terminated an average of 296,000 cases. Approximately 84% of these cases were civil, and 16% were criminal cases (BJS 1999).
- Of the nearly 500,000 civil cases terminated during fiscal years 1996-97, 19% (96,284) were tort claims in which plaintiffs claimed injury, loss, or damage from defendants' negligent or intentional acts (Ibid.).
- Property valued at \$15.6 billion was stolen in connection with all Crime Index offenses in 1994 (FBI 1995).
- During 1996, federal courts alone ordered more than \$1.5 billion in monetary restitution and fines (BJS 1997).

INTRODUCTION

While the physical and psychological impact of crime may be considered the most obvious and serious tolls taken by any crime, the financial impact can be devastating. The financial losses incurred as a result of crime (unforeseen medical expenses, psychological counseling costs, and the need to replace stolen property) can be as debilitating as any other type of injury suffered by crime victims.

OVERVIEW OF LOSSES SUFFERED BY VICTIMS OF CRIME

Victims of crime suffer tremendous losses as a result of criminal victimization. As noted above, annual losses of \$450 million are associated with major violent crime victimizations, and approximately \$40 billion is attributed to monetary losses from fraud and other economic crimes. Financial measures of losses attributed to crime victimization are only crude tools used to assess the true damages suffered by victims in the hope of somehow lessening the impact of the crime. The contribution of such a financial analysis aids in both impressing upon the criminal justice system the severity of the victimization and gauging what measure of financial recovery might help victims in addressing their losses resulting from crime. It must be emphasized, however, that money damages alone are never a complete measure of the harm caused by crime, but just a useful tool in addressing certain aspects of the aftermath of criminal victimization.

The losses suffered by victims range from direct out-of-pocket expenses, such as unreimbursed medical costs and lost wages, to costs incidental to the crime and the victim's participation in

the criminal justice system, such as travel and related expenses. In addition to these more immediate and short-term costs of crime, victims often incur long-term costs due to the need for ongoing mental health support and/or support as a result of permanent disabilities. In addition to these more tangible types of losses, victims' losses can also be in areas termed "intangible" such as pain and suffering or the loss of the enjoyment of life and other such losses.

Accurate and complete documentation of financial losses are required in the pursuit of financial remedies for victims to ensure valid recoveries for victim losses. This is true regardless of the form or forms of financial recovery victims will seek or be eligible to obtain (i.e., any combination of civil litigation recovery, restitution, or compensation). Service providers can provide critical assistance to victims in helping them acquire and maintain these records, or, at least, by providing victims with guidelines about the types of documentation that are needed to depict their out-of-pocket and projected expenses for the future.

CIVIL VERSUS CRIMINAL JUSTICE

Criminal and civil are the two major and distinct components of America's justice system. The criminal justice system determines guilt or innocence in regard to crimes and metes out criminal sanctions. The civil justice system, among other things, permits crime victims to seek civil remedies for the physical and psychological injuries they have suffered as a result of criminal acts, permitting vindication of their rights and recovery of financial reparations from offenders.

In some ways, the civil justice system is complementary to the criminal justice system. However, civil justice has numerous distinctions, many of which may be quite beneficial to victims of crime. The discussion below will provide an overview of the civil justice system that is basic to a victim advocate's understanding of this process.

Civil litigation has become increasingly important for victims for various reasons. First, victims can encounter great financial distress due to their victimization. Medical and therapy bills mount up. Often jobs or income, as well as property and other assets, are lost. The civil justice system provides a mechanism for victims to seek recovery for losses resulting from their victimization.

MECHANICS OF A CIVIL ACTION

Numerous activities occur prior to the commencement of a legal action, perhaps the most important of which is engaging the counsel of a competent attorney. This also illustrates the first significant distinction between the civil justice system and criminal justice system for victims—*in the civil process victims hire their own attorneys to pursue their actions.*

A second important distinction between civil and criminal procedures relates to *who the "plaintiff" is*. In criminal court, the prosecutor is a government employee who brings an action on behalf of the government entity against the alleged perpetrator. In civil matters, the

case is brought by the victim directly against the perpetrator and is typically captioned “*Victim v. Perpetrator*” as opposed to the typical criminal action caption of “*State v. Perpetrator*.” The victim is in control of the civil legal action as opposed to being a secondary party, at best, to a criminal prosecution.

KEY ASPECTS OF CIVIL REMEDIES

Standing: Who can sue? Standing is a legal concept that refers to whether an individual has a legitimate right to address his or her complaints to the court. In order to have standing, one must generally be able to demonstrate that an injury has been suffered, be able to prove a sufficient personal interest in a cause of action or controversy, or be a necessary party in that his or her involvement is necessary to a fair and just determination of the outcome of the case.

Unjust enrichment: Who can recover? One particularly important legal doctrine is called *unjust enrichment*. Unjust enrichment dictates that someone should not be allowed to benefit from their own wrongdoing. For example, someone who commits a murder should not be permitted to receive the proceeds of the insurance policy if he or she was named as the beneficiary of the decedent.

Many times unjust enrichment, which is a common law doctrine (i.e., based on established caselaw), is also provided through statutory schemes sometimes referred to as *slayers statutes*. Slayers statutes, similar to their common law counterpart *slayers rules*, would prevent individuals from profiting from their crimes by making it impossible for them to inherit the proceeds of an estate of someone they have killed.

Also, many states have rules that provide immunity, referred to as *interspousal immunity*, between married individuals that prevents them from suing each other, for example, in cases of assault. However, courts are increasingly rejecting the use of interspousal immunity as a defense for domestic violence or similar crimes.

Burden of proof. One critical aspect of litigation is the threshold one has to establish in order to prove a case, otherwise known as the *burden of proof*. There is a major distinction between criminal and civil burdens of proof. In criminal courts, the *beyond a reasonable doubt* burden of proof is a very high burden, which is often described as having to prove your case to a very high degree of moral certainty. If a member of the jury has any reasonable doubt, which essentially means doubt that is formulated well enough that it can be expressed and supported by reason, that person should vote for acquittal of the defendant.

The burden of proof is much lower in a civil trial. The civil justice system uses the *mere preponderance of the evidence* burden, which is sometimes expressed as 51 percent level of proof. Civil jury instructions, which are given to jurors by the judge prior to their deliberations on a case, often describe this as the “scales of justice tipping ever so slightly in the direction of one party versus another,” meaning that the jury must find for the party who is supported by the weight of the evidence, even if this is only slightly so. This difference in

burdens of proof can often result in a defendant being acquitted (found not guilty) of criminal charges, yet having a judgment rendered against him or her in a corresponding civil action.

CIVIL LITIGATION CAN EMPOWER VICTIMS

The recovery of financial losses, although extremely important, is not the only reason that victims look to civil litigation. Civil litigation can *empower* victims since they occupy the status of plaintiff, not merely witness. Also, going to civil court often allows victims, who so choose, to publicize the acts of the perpetrator. Further, the recovery of financial benefits reinforces the notion that the victim did suffer significant injuries and that it was the perpetrator who was responsible for injuring the victim and, therefore, made to pay for them.

CIVIL LITIGATION AS A DETERRENT TO CRIME

Civil litigation often works as a method of crime prevention. When perpetrators, or other negligent parties involved in creating the conditions of victimization, are made to pay for their violent acts or negligence, these acts are often not repeated. For example, when hotels are ordered to pay money damages for their lack of adequate security that caused rapes or assaults to occur, they often respond by improving security to avoid future lawsuits. This is true of many other institutional or third party defendants who have had to pay damages in negligence suits.

CIVIL LITIGATION BASICS

As stated above, the civil justice system is in many ways similar to the criminal justice system with which most victim advocates are more familiar. To the extent that the two systems differ, much of this is reflected in the different terminology employed by each. As most victim advocates and service providers will be more familiar with the nomenclature of the “criminal side,” a glossary of terms from the civil side is provided at the end of this section. Certain basic terms and phrases, however, will be defined here to help the reader to understand the following text.

In a civil suit, the perpetrator is still referred to as the *defendant*, but the victim is now called the *plaintiff*. Essentially, a legal *action* is commenced by the plaintiff (victim) against the defendant (perpetrator or negligent third party) by *servicing* lawsuit papers and filing them in court. Subsequently, a period of investigation called *discovery* occurs whereby the details of the matter are investigated by both sides in an effort to provide background information to bolster arguments in a way most favorable to their respective position in court.

At some point in time a trial is possible, although the vast majority of civil legal actions are settled out of court. In the event of a trial, a *verdict* is ultimately reached. The verdict is typically returned by a jury that has sat through the trial listening to the facts as presented in evidence. If the verdict results in a *judgment* for the plaintiff/victim, then he/she will attempt to collect the amount now owed to him or her. If the verdict is in favor of the defendant, the plaintiff/victim has lost the trial.

Often questions arise as to any direct relationships that exist between the civil and criminal justice systems. For the most part they are, at least theoretically, separate and distinct systems. However, it would be naïve to think that despite this structure, there are no practical effects of these systems on each other. For example, a prosecutor will often be very interested in the victim's current status or future intentions regarding filing a civil suit. This is because his or her trial strategy may need to involve countering the obvious defense claim that the criminal complaint is being pressed by the victim in the hope that a criminal conviction will forward a civil complaint. Prosecutors don't want the jury to believe the defense's predictable claim that "It's all really about money, isn't it?" Also, the victim will need to take into account the status or the outcome of the criminal proceedings and the effects of these on the approach he or she should take regarding a civil action.

Sometimes the criminal-civil connection is more direct. For example, the legal doctrine of *collateral estoppel* provides that, in some cases, the criminal conviction of perpetrators will be considered proof of some or all of that perpetrator's legal liability in civil actions brought by the perpetrator's victims and therefore does not have to be realleged and proven. Since the burden of proof is lower in civil actions than in criminal proceedings, the court can accept the criminal conviction as proof of liability in a corresponding civil action. This may accelerate litigation of the victim's claim considerably, as will be discussed below.

VICTIMIZATION AS A TORT: A PRIVATE ACTION

When a victim initiates a lawsuit, it is typically brought as a "tort" action. As Professor W. L. Prosser tells in his learned treatise *The Law of Torts*, the word tort is derived from the Latin "tortus" or "twisted." As Prosser states, the metaphor is apparent: a tort is conduct that is twisted, or crooked, not straight . . . broadly speaking, a tort is a civil wrong (Keeton et al. 1984).

Essentially, the legal definition of a tort is a private or civil wrong or injury that typically involves the violation of a duty one individual owes to another, often based on the relationship they have to each other. Torts can be divided into two distinct categories. The first is an *intentional tort* where someone intentionally injures another person. The second is a *negligent tort* in which one person fails to perform some duty to care for another person and this negligence causes or contributes to the injury of that other person. These will be discussed in greater detail below.

Proving a tort case: liability. At least two elements must be proven to support a tort claim. One is *liability*. The plaintiff/victim must first prove that the defendant is liable, that is, his or her actions harmed the victim and caused the injury in a legal sense. This is sometimes called the proximate cause of the injuries. The facts one uses to demonstrate liability differ depending upon whether the tort is intentional or negligent. The second aspect that must be proven is *damages*. Damages are a measurement of what harm has occurred, that is, the extent of the injuries suffered by the victim.

First party and third party litigation. The types of legal actions pursued by victims, and potential sources of financial recovery, also depend upon whether they are suing the perpetrator directly (first party) or are bringing their action against another party (third party) for contributing indirectly to the harm suffered by the plaintiff. A plaintiff seeks to hold a third party defendant accountable for their negligent, albeit indirect, contribution to the victimization.

In *first party* litigation, the victim is suing the defendant who is the actual perpetrator. *Third party* litigation, on the other hand, includes cases where the victim sues a landlord or hotel for failing to provide adequate security which created conditions that allowed a rape to occur. Another example is a lawsuit against a school for the negligent hiring and poor supervision of an employee who sexually abused children at the school. Other third party lawsuits are brought against government agencies, for example, corrections officials or mental health officials for the negligent release of dangerous individuals, or against other kinds of employers who negligently employ and retain persons who victimize other employees or customers.

It is important to note that there is a significant burden on the plaintiff/victim to demonstrate that the negligent third party was actually negligent. Frivolous *deep pocket* searches such as seeking out a defendant with greater financial means than the first party defendant are discouraged by the law and the courts.

Collectability: making judgments real. One significant aspect of first party versus third party litigation is the issue of collectability. Collectability is a general term that refers to the defendant's ability to pay the judgments rendered against him or her. In first party litigation, where the action is brought directly against perpetrators of the crime, victims are often limited to collecting their judgment directly from the assets of the offenders. This is because insurance policies that might be available to pay certain kinds of judgments often exclude intentionally committed wrongful acts from coverage.

Most often, the likelihood of recovering damages on behalf of a victims in first party cases is directly related, in large part, to the wealth of the perpetrator. Third party litigation, on the other hand, typically involves cases that are brought against entities or institutions that may have more than adequate resources to pay for victim damages and whose actions (or nonactions), due to the nonintentional nature of their negligence, may be covered by insurance. Thus, additional avenues for payment of judgments to victims may be available from insurance companies covering negligent actions.

CAUSES OF ACTION

A number of different types of civil lawsuits can be brought by victims against perpetrators depending on the facts of the case. Many of these lawsuits have direct linkage to criminal charges, and others are distinct from the criminal law. Although civil torts are not crimes, they often are closely related and typically involve the same event. A brief overview of major types of tort actions potentially available to victims is listed below. Note that each area, like

the other topics discussed in this overview, requires a much more detailed understanding than is available in this brief treatment. It is always important for the victim advocate to refer victims to competent legal counsel in the jurisdiction where the matter will be litigated, and not to second-guess or otherwise judge the merits of a lawsuit.

WRONGFUL DEATH

In the case of a criminal homicide, a *wrongful death* suit may potentially be brought in civil court. A wrongful death suit is a civil action that is brought when one person has killed another person and there is no excuse or other justification for this killing. For example, the law allows us to defend ourselves against the genuine threat of being killed. Therefore, the defense of self-defense is often used to term a homicide as a justifiable homicide.

ASSAULT AND BATTERY

Assault and battery are two torts which, although historically separate and distinct actions, have been merged into one civil action in many jurisdictions. Traditionally, the civil action of *assault* is when a perpetrator has intentionally put a victim in fear of being battered. It is important to note that this fear must be real, based on the apparent ability of the perpetrator to commit the battery. The companion tort, called *battery*, is an intentional, offensive, nonconsensual touching of the victim by the perpetrator. This touching is usually in the form of a severe injury.

EMOTIONAL DISTRESS

Claims for *emotional distress* are often brought by victims against their perpetrators. It is important to note that the emotional distress claim is one that is distinct from the underlying claim of, for example, assault and battery. This is important because emotional distress claims often have longer statutes of limitations during which time a lawsuit may be brought. This means that if a victim had an underlying lawsuit based upon being battered, but that time frame has passed, he or she may still be able to bring an action for the emotional distress that was the result of that underlying battery. Emotional distress may be either intentional or negligent. Intentional infliction of emotional distress occurs when the perpetrator has intentionally caused psychological harm to the victim. Often, the actions of the perpetrator must be considered extreme or outrageous and sometimes are described as “outside the bounds of common decency in normal society.” The negligent infliction of emotional distress occurs under similar facts but there was no actual intention to cause the emotional distress; rather it was caused out of the negligence of the perpetrator.

OTHER CAUSES OF ACTION

There are several other theories of personal injury that are sometimes available to victims of crime. These include theories of *parental liability* where parents may be held civilly responsible for the injuries caused by their children. *Negligent entrustment* is when one person allows another to use some dangerous instrument when he or she should have known that the other person might cause an injury, and injury does befall the victim. Finally, *civil conspiracy* (also known as *aiding and abetting*) is a tort that is recognized in some jurisdictions. This is a

situation in which persons other than the individual who actually committed the crime so substantially contributed to the perpetrator's ability to commit the crime that they should also be held somehow responsible for assisting the actual perpetrator.

CIVIL ACTIONS INVOLVING CHILDREN AND WOMEN

More recently, due to the increased attention paid to particular forms of victimization, as well as new federal and state legislation, lawsuits particularly tailored for special victim populations have emerged. It is important to note that, as Carrington and Rapp point out, "victimization" itself is not a new tort, as such (Carrington and Rapp 1989). The civil cases being brought on behalf of victims and, in particular, women victims, are typically based on a number of well recognized civil causes of action. Crimes against children and, particularly, sexual abuse, are now regularly pursued within the civil justice system. This is increasingly true because of statutory extensions in the limitations on time that are allowed in these lawsuits.

Examples of how traditional tort concepts can be applied to special victim population cases are evident with child victims. When sexual abuse has occurred, a civil complaint may allege numerous personal injuries. These may include the underlying assaults and batteries, false imprisonments, wantonness or recklessness, and other torts. Also, as emotional and psychological damages are typically evident in child abuse cases, emotional distress claims are extremely appropriate and common.

Crucial aspects of a child's emotional distress claim involve a presumption, by the court, of the severity of the event and the fact that most courts will not give much credence to typical defenses such as consent or assumption of the risk. Moreover, due to the young age of the child and the long life span anticipated for a young person, economic damages can be very high.

In addition, issues surrounding the loss of enjoyment of life (such as the lack of the ability to trust, lack of the ability to form meaningful relationships, lack of the enjoyment of childhood, and other similar claims) can be added to more easily determined claims such as the loss of employability or the results of academic failure. It is not that the underlying legal action itself is different from other civil lawsuits, but new territories now being explored by civil courts in establishing damages, judgments, and awards for child victims are stretching the traditional views of courts to new boundaries.

Crimes against women are also increasingly handled through the civil courts. As the public recognition of domestic violence, sexual assault, and sexual harassment become better understood and recognized, victims are finding greater justice in civil courts. Also, courts have become more familiar with the psychological impact of crime, and look to psychiatric diagnoses such as posttraumatic stress disorder, and other recognized syndromes such as rape trauma syndrome or battered women syndrome, to articulate the injuries suffered by victims of these crimes.

THE VIOLENCE AGAINST WOMEN ACT'S IMPACT ON CIVIL REMEDIES

The 1994 Violence Against Women Act's (VAWA) provisions authorizing federal suits for civil damages resulting from gender-based injuries have ended numerous such suits over the past two years. For example: In *Doe v. Doe* (929 F. Supp. 608 (D. Conn. 1996)) this civil remedy was upheld by a U.S. District Court in a case brought by a wife against her abusive husband. Although there are still many areas under VAWA that need to be established, many more cases and decisions favorable to victims under VAWA can be expected in the years to come. (See also Goldscheid, Coukos, and Zorza 1996.) An excellent compilation and discussion of cases, pleadings, and related information in the area of VAWA actions can be found in Frazee, Noel, and Brenneke (1997).

STATUTE OF LIMITATIONS

It is very important to keep in mind that although the victim may have a valid case to bring against a perpetrator, it must be brought within strict time limits established by law. Although each state varies as to its statutes of limitations for various legal actions, all states employ these statutes. Once a statute of limitations has run, it is virtually impossible, unless there are exceptions recognized under the law, to bring a lawsuit that otherwise might have been brought within the statutory time limit.

Most statutes of limitations are expressed in absolute years. For example, it is typical for personal injury actions to have two or three year statutes of limitations.

Statutes of limitations typically begin to run from the point in time when the act occurs, but certain events can delay or extend a statute of limitations, which is called "tolling the statute."

The underlying purpose of statutes of limitations is to prevent *stale* cases from being brought to court and thereby denying a defendant, either criminal or civil, from being able to defend himself/herself due to the lack of exculpatory evidence or the fading memory of witnesses and similar reasons.

However, defendants are not allowed to deliberately conceal their actions and thereby avoid prosecution of a case due to the running of a statute of limitations. That is why most statutes of limitations schemes allow for the tolling of the statute during periods where the defendant, for example, has perpetrated a fraud against the plaintiff or committed some other acts to conceal the crime from the plaintiff.

Extending statutes of limitations for adult survivors of childhood abuse. One particular area where there has been much recent action extending statutes of limitations is child sexual abuse. Many states now extend statutes for bringing civil actions against abusers until many years after the child has reached the age of majority. For example, Connecticut has established one of the lengthier statutes which is seventeen years past the age of majority, or age thirty-five years. These actions are allowed regardless of the victim's reason for not bringing the action earlier.

Extensions and delayed discovery approaches. There are generally two types of cases where a victim may have delayed bringing a civil action.

- The victim has lost or repressed his or her memory of the abusive events. At a later point, these memories may be recovered in therapy or spontaneously.
- The victim always had his or her memory of the events, but did not begin the action for any number of other reasons.

Reasons for not bringing an action during a period when the memory of the abuse is recalled might include: continued threats or intimidation perpetrated by the offender; or the victim may not have understood the connection between the abusive acts and the difficulties he or she is currently experiencing. Regardless of the reasons, these victims always had access to all or most of their memories of the events. Therefore, the absolute extension of time allows for a date certain within which victims may bring their cases. Victims do not need to prove any particular issue, such as a lost and recovered memory, to begin a suit that is within the prescribed statute of limitations.

A few states require victims to bring an action within a certain number of years, usually two or three, after they have recovered their memory. This action is allowed within this time period regardless of what point in life these memories are recovered. In a *delayed discovery* jurisdiction, there is typically no absolute age limitation as the tolling of the statute relates to the period of memory loss or repression. Therefore, someone who is seventy years old and recovers a memory of past abuse presumably would be allowed the two- or three-year period within which to bring a suit if all other requirements were met.

Extending “statutes of limitations” in civil suits for adult survivors of child sexual abuse has become a great aide to victims pursuing these matters. Significantly, a 1977 Connecticut case indicates that the state’s statute of limitations statute is not affected by the death of the alleged abuser. The Trial Court indicated that bringing such a civil action against the estate of the deceased does not violate Constitutional “equal protection” rights (*Moen v. Baransky*).

DEFENSES

Whenever a victim brings a legal action claiming one of the injuries described here, the defendant will be able to respond and often provides a defense or an excuse for critical actions. One defense, as discussed above, is that the *statute of limitations* has passed. This is called a “complete defense.” It is often possible to stop victims from pursuing their cases any further if the statute of limitations has run.

Another defense is that of *provocation* or the victim somehow provoked the defendant into action. Defendants may claim that they were involved in *self-defense* or the *defense of others* by saying their actions were justified in that they were only reacting to a threat against themselves or someone else. Victims may also be accused of having *consented* to the act or having enough knowledge that they *assumed the risks* that were apparent by consenting to the

act. This basically means that the victim is being accused of knowingly exposing themselves to the harm that ultimately injured them. Although one cannot consent to everything, e.g., murder, consent (if proven) can help the defendant defeat the victim's case.

Finally, victims may be accused of contributing to their own injuries. This defense in some jurisdictions is used to completely defeat the victim's case (*contributory negligence*) and in other jurisdictions it may be used to reduce the amount of money that the victim may be able to recover (*comparative negligence*).

PROVING DAMAGES

In addition to demonstrating the liability of one or more defendants, the victim must also prove his or her extent of harm or injury to support an award of damages. Damages may be sought for a variety of victim injuries. The most basic of these are physical injuries that require medical intervention. It is often easy for *medical bills* to be produced and to have these included in a judgment for damages.

In addition, when there is physical injury, often a physician can indicate a specific *permanent partial disability*, or narrow range of disability, so that a jury or court may estimate more accurately what effect this will have on the person's life, thereby allowing a particular damage award. Often issues such as the potential for future medical treatment and the costs of these treatments are figured into such damage awards.

In other victim cases, however, some less tangible damage theories may be applied. Similar to the costs of past and future medical treatment, the costs of past and future *mental health therapy* may be estimated relatively easily. However, it is often extremely difficult to state with any specificity what the percentage of partial disability for emotional or psychological damage should be. A competent and experienced expert must be engaged to testify on these matters.

CRITICAL ROLE OF VICTIM SERVICES PROVIDERS

How does one determine issues such as the loss of childhood or adolescence? How are these issues quantified in any way that will make sense in the objective view of the court? This raises the very complex issue of how one can determine whether a loss of academic, professional, or personal potential has occurred. How can one prove that there was a potential when it was never realized? These are all issues that place the victim service provider, and particularly the allied mental health professionals, in a critical role within the civil justice system. Often, courts look to mental health service providers for treatment recommendations and evaluations of disability to provide guidance in determining a value that can be placed on the victim's injuries for the purpose of awarding damages.

JUDGMENTS

At the conclusion of a civil lawsuit, a *verdict* or *decision* is reached by the jury.

If that decision is a “verdict for the defendant,” then the plaintiff/victim has lost his or her case and is not allowed to recover for injuries against the defendant.

If the result is a “verdict for the plaintiff,” then the plaintiff/victim has won the lawsuit.

Juries are then requested to move to the next decision—the awarding of a particular sum to compensate the victim for his or her injuries. This is typically referred to as a “judgment.”

COLLECTION OF DAMAGES AWARDED

It is important to note that in a typical victim case, reaching the conclusion of trial and having a judgment rendered for the victim/plaintiff is often only the beginning of the struggle in recovering damages. First, verdicts and judgments may be appealed. A defendant who has lost can seek to have a judgment overturned, lowered, or set aside because the jury or the court failed to follow some legal procedure, or the result of the lawsuit is inconsistent with the prevailing law in a particular state. Therefore, the decision of this trial-level court may be brought up before an appellate court to render a decision as to the validity of the underlying decision, and even if the verdict itself is not attacked, the amount of the judgment may be appealed. Often, defendants seek to lower the amounts of money awarded by juries who they feel were overly zealous in awarding damages to the victim.

Assuming the judgment withstands any appeals or other challenges, then a collection of that judgment must commence. Depending on the defendant, this process involves several potential options.

Searching for assets. If a defendant is sufficiently monied so as to be able to pay a judgment and chooses to do so, the collection of that judgment may be similarly swift. Typically, this does not happen in victim cases. Potential assets include the following:

- Real property (i.e., a home).
- Other property (such as jewelry, motor vehicles, artwork, or other valuable holdings).
- Other assets such as financial holdings, interests in real estate, corporations, or partnerships.
- Other income earned by or owed to the perpetrator.

Additionally, most states allow some method by which income earned or expected by the perpetrator can be garnished. Many times a victim will wait until the perpetrator has accumulated some assets to attempt to execute the judgment. Defendants may win lotteries, receive inheritances, or come into other windfalls that can open them to judgment execution. However, attorneys representing victims know that these are the exception, and *not* the rule,

and typically the collections process can be a somewhat complex endeavor. This is particularly true with defendants who may attempt to fraudulently transfer their property or other interests to individuals who help them shield their assets from collection actions brought by victims. Nevertheless, a diligent collections process often results in obtaining money to fulfill some, most, or all of the judgment rendered by the court.

Insurance issues in brief. It is very useful for attorneys to look to the possibility of insurance coverage in victims' cases. Note, however, that the likelihood of recovery in first party lawsuits is significantly tempered by underlying public policy regarding insurance. Essentially, insurance policies do *not* cover intentional wrongdoing. This is based on long-standing public policy. It is fundamental to our society's well-being that wrongdoing not be encouraged by having the judgments of intentional wrongdoers paid by insurance.

Counterbalancing these insurance policy exclusions are various exceptions to exclusion that are found in insurance contracts or are being carved out by creative attorneys. The types of exceptions to the intentional acts exclusions that are being developed by courts include those where the perpetrator was unable to or otherwise did not form the intent to commit the act.

For example, if someone of diminished mental capacity were to commit an act, and it was determined that he or she was unable to truly form the intent to commit these wrongs, then coverage might be allowed.

Negligence is insurable. Third party suits brought against negligent defendants, who are not the actual perpetrators, allow for a much greater possibility for coverage by insurance policies. In the case of negligence, no intentional acts are committed by these third party defendants. As stated above, the hotel chain did not actually commit the assault; however, its knowledge of the high potential of assaults due to past criminal activities, and its failure to increase security to prevent these acts while assuring guests that protection was available to them, results in the determination of negligence.

Three types of insurance are most commonly involved in crime victim cases:

- Automobile insurance.
- Commercial insurance.
- Homeowner's insurance policies.

Automobile insurance policies cover acts that "arise out of the use, operation, or maintenance of the motor vehicle." An obvious example would be a case where a drunk driver crashes into the victim, causing death or serious injury. These acts are considered within the scope of coverage of an automobile insurance policy.

Some difficult determinations involving automobile policies arise when the wrongful act is one that is not normally considered to arise out of a typical use, operation, or maintenance of a car. For example, if a drive-by shooting were to occur, should the automobile insurance policy be

implicated? Courts differ in their interpretation of this, most finding that the motor vehicle is not actually an instrument of the drive-by shooting, and that the automobile policy will not be implicated.

Commercial insurance policies, similar to homeowner's (or renter's) insurance policies, provide liability coverage for events that occur on particular premises. These insurance policies tend to be broad and cover a number of different types of injuries or accidents. Moreover, coverage may not be limited to events that occur only at these locations. For instance, commercial policies may provide coverage for acts that are committed by employees outside the place of business, e.g., at a conference or seminar sponsored and/or conducted by the employer. Similarly, acts that are committed by the homeowner under certain circumstances may be covered, even when the homeowner is not actually on his or her property.

RETRIBUTION AGAINST VICTIMS

A disturbing trend in victim's civil litigation cases involves legal retributions brought against the victim by the perpetrator. These may be brought in the form of separate lawsuits or counterclaims within the victim's own lawsuit.

Typical counterclaims against the victim include the following:

- Defamation, libel, and slander.
- Invasion of the defendant's privacy.
- Conspiracy or fraud against the defendant.
- Extortion claims against the defendant.
- Claim that the victim's action has caused emotional distress to the defendant.

One additional avenue always available to defendants is to claim that the lawsuit was merely brought for vexatious purposes. A *vexatious lawsuit* is one that the defendant alleges was otherwise groundless and brought only to needlessly harm the defendant in an unwarranted or improper way. This is an area that deserves considerable attention from victims and their advocates. Also, there is a growing trend toward lawsuits against mental health service providers. These lawsuits most typically involve allegations that the provider implanted false memories in the mind of a victim.

OTHER CAUTIONS FOR VICTIMS

Although victim litigation often provides excellent opportunities for victims to find remedies against perpetrators, it is not an easy road. Civil litigation is a complex and difficult process. Victims can often be victimized once again in the civil process, despite the fact that they possess more control. Victim cases can also be very expensive to pursue.

Victims must be aware of the fact that they are ultimately responsible for the costs of litigation under most legal ethics rules and, if they lose their cases, they can be held responsible for the defendant's costs as well. As noted above, the discovery period is often the most difficult for victims. Victims must, once again, reveal very personal information about themselves and allow themselves to be probed and cross-examined by the perpetrator's attorney. This can be a very disturbing experience for victims who have, in many cases, recently or simultaneously endured the indignities of the criminal justice system. Although victims should not be overly cautious of litigation, victims and advocates must have a realistic view of the civil justice system prior to commencing such actions.

RECOMMENDATIONS FOR VICTIMS AND ADVOCATES

In May 1998, the Office for Victims of Crime within the U.S. Department of Justice released a significant study, *New Directions from the Field: Victims' Rights and Services for the 21st Century*, developed by leaders in the victims' field. It contains recommendations for the improvement of crime victims' rights and services. Key recommendations regarding civil remedies from this report are as follows:

- Crime victims should be fully informed of their legal rights to pursue civil litigation.
- State and local networks of civil attorneys who have experience representing crime victims should be expanded. Education and training on civil litigation should be offered to attorneys to increase the pool of qualified lawyers in these networks and to maintain the level of expertise among member attorneys. Nonattorney experts and professionals should participate in these trainings and networks to educate attorneys so that they represent victim issues more effectively.
- Increased efforts should be made to identify consultants with the expertise to testify on issues relevant to victimization in civil and criminal cases.
- Civil attorneys should work with victim service providers, law enforcement officials, and prosecutors in their communities to develop an easy-to-understand pamphlet about civil remedies for crime victims.
- Civil attorneys should provide training to victim service providers on civil remedies for crime victims.
- Statutes of limitations for civil actions involving child abuse cases should be extended, as has been done in a number of states. States should also examine statutes of limitations for civil actions relating to other criminal acts to determine whether they should be extended to provide a meaningful opportunity for crime victims to obtain needed relief.

1. Identify and describe three major differences between civil litigation and criminal prosecution.
2. Name and define three legal causes of action used by victims.
3. What are civil statutes of limitations? Discuss statute of limitations innovations applied to adult survivors of childhood abuse cases.
4. Discuss the pros and cons of victim litigation.

Aiding and Abetting. Similar to civil conspiracy, when someone, not the actual perpetrator, so significantly contributes to the criminal operation as to be considered liable for their actions.

Abscond. To go in a secretive manner out of the jurisdiction of the courts, or to lie concealed, in order to avoid their process.

Answer. Formal written responses to the defendants/perpetrators file in response to plaintiff's complaints. These pleadings may deny some or all of the allegations; they may raise defenses such as self-defense or assumption of risk, or they may allege that even if all of the plaintiff's allegations are true, there is no liability. These pleadings are usually accompanied by legal memoranda and briefs. The names of the pleadings vary from jurisdiction. "Demurrers," "motions for summary judgment," "motions to dismiss," and "answers" are all descriptions of a responsive pleading.

Assault. A cause of action for intentionally putting the victim in fear of a battery, coupled with the apparent ability to commit the battery.

Assumption of Risk. A legal doctrine that may relieve perpetrators of liability for injuries to victims if the victim voluntarily entered into a situation knowing that there was a risk of foreseeable injury.

Automobile Insurance. Insurance policies that cover injuries "arising out of the use, operation, or maintenance" of the vehicle.

Battery. The intentional, offensive, unpermitted touching of the victim by the perpetrator.

Burden of Proof. The threshold of evidence that one party must present in order to prevail in his or her case. In criminal cases, the burden of proof is very high: "beyond a reasonable doubt," or generally 99 percent of the evidence. In civil cases, however, the burden of proof on the victim/plaintiff is "a mere preponderance," or more than 50 percent of the evidence.

Causes of Action. The legal basis for a civil lawsuit.

Civil Actions. Lawsuits filed by victims to recover from injuries sustained and damages incurred as a result of the perpetrator's crime.

Civil Conspiracy. See Aiding and Abetting.

Collateral Estoppel. A legal doctrine which provides that, in some cases, the criminal conviction of perpetrators will be considered proof of those perpetrator's legal liability in civil actions brought by the perpetrator's victims.

Collectability. A general term meaning the extent to which defendants/perpetrators have the financial means to pay judgments from assets on hand, assets reasonably to be expected in the future, or financial assistance from such sources as insurance coverage.

Comparative Negligence. The more prevalent approach to reducing amounts paid to plaintiffs/victims allowing partially negligent plaintiffs/victims to recover damages from defendants/perpetrators, however, reducing the amounts of the award by the applicable percentage of the plaintiff's/victim's own negligence (see also: Contributory Negligence).

Compensation. Monetary reparations made to crime victims by a state or a governmental entity to recover "out-of-pocket" expenses incurred as a result of a crime.

Compensatory Damages. Damages paid to compensate victims for losses caused by the torts of the perpetrator. Such losses include out-of-pocket expenses; loss of income; expenses such as medical bills, therapy, and funeral costs; loss of present and future earning capacity; conscious pain and suffering; financial support; and "consortium," the loss of the affection and society of loved ones.

Complaint. The formal written pleading filed in a civil court alleging that the defendant(s) injured the plaintiff(s), and that the defendant(s) should be liable for damages caused.

Contributory Negligence. A legal doctrine, now modified in most jurisdictions, that any negligence on the part of the plaintiff/victim will bar civil lawsuits against defendant/perpetrator.

Criminal Action. Cases in which the state prosecutes perpetrators of criminal acts, committed in violation of the state's laws.

Damages. Amounts of money awarded to winning parties in civil suits expressed in a judgment.

Defendants. Parties against whom civil actions are brought.

Defenses. Legal doctrines that relieve defendant/perpetrator of liability for having committed a tort.

Delayed Discovery Rule. A legal doctrine that suspends the running of statutes of limitations during periods of time in which the victims did not discover, or by the exercise of reasonable diligence, could not have discovered, the injuries that would lead to their causes of action against the defendant/perpetrator.

Depositions. Pretrial proceedings in which attorneys for parties in a civil case have the opportunity to examine, under oath, the opposing parties and potential witnesses in the case. Depositions are sworn and reduced to writing. The transcripts may be admissible in evidence at trials if the witnesses are no longer available, or for purposes of impeachment.

First Party Action. Lawsuits brought by victims directly against their perpetrators.

General Liability Insurance. Insurance policies covering whatever losses are enumerated in the policy.

Homeowner's Insurance. Broad-based insurance policy that contracts to protect the insured from enumerated causes of accidental injuries to others. The accidents usually are not confined to acts that happen on the insured's "home" premises but also includes accidents that happen elsewhere. Renters of premises can obtain Renter's Insurance.

Insured. The individual who has contracted to receive insurance coverage from the Insurer whose actions are otherwise covered by an insurance policy.

Insurer. The business entity which has contracted to provide insurance coverage to the insured.

Judgments. The formal recitations of the outcomes of civil cases. They are almost always reduced to writing, and recorded as a part of the file.

Negligence. A legal doctrine providing that one may be liable to another if (1) he or she owes a legal duty to the other; (2) he or she materially breaches that duty; (3) the breach is the proximate cause of the other's injury; and (4) the other person suffers damages.

Negligent Entrustment. A tort in which one or more persons give, lend, or allow someone to use, or should have anticipated that the person would use, a dangerous instrumentality to injure another.

Parental Liability. A legal doctrine that holds parents civilly liable for the torts and crimes of their children.

Perpetrators. Persons who have criminally injured victims.

Plaintiff. Party bringing civil actions. In the case of victim civil remedies, the victim is the plaintiff.

Professional Liability Insurance. Insurance coverage issued to professional persons: doctors, dentists, lawyers, architects, etc., to cover any losses caused by malpractice in the course of their professional services.

Provocation. A legal doctrine that may excuse defendant/perpetrator from the consequences of his/her crime/tort if the plaintiff/victim instigated a confrontation, or otherwise caused or provoked the defendant's actions.

Proximate Cause. The "cause in fact" of injury to victims; a "cause" without which the victim's injuries would not have occurred.

Punitive Damages. Damages awarded to victims against perpetrators, over and above compensatory damages, in order to punish or make an example of perpetrators.

Renters Insurance. See Homeowner's Insurance.

Rescue Doctrine. A legal doctrine that allows one to recover for injuries suffered in coming to the rescue or assistance of others in peril. It is used as a counter to the defense of Assumption of Risk.

Restitution. Court action that requires perpetrators to make financial payments to their victims, usually as a condition of probation or leniency in sentencing.

Self Defense. The legal doctrine which relieves defendants/perpetrators of liability for torts if they acted in the reasonable belief that they had to use force to defend themselves, or others (loved ones, etc.), from death or great bodily harm.

Settlements. Agreements among the parties to lawsuits to end the suits without trial; usually the plaintiff agrees to drop the lawsuit for a fixed sum of monetary damages paid by the defendant.

Statute of Limitations. Periods of time, set by law, after which civil actions cannot be brought.

Third Party Actions. Lawsuits brought against persons whose negligence or gross negligence has facilitated the commission of a tort by a defendant.

Tolling of Statutes of Limitations. The running of statutes of limitations is suspended.

Torts. Civil or private wrongs (as opposed to criminal offenses) committed by perpetrators against victims.

Uninsured or Underinsured Motorists. State law usually makes it compulsory that drivers have enough insurance to cover damages if they, or others defined in the policies, are injured by motorists who have no insurance, or not enough insurance, to cover injuries that they have caused.

Victims. Persons who have been injured by the criminal acts of perpetrators.

Wrongful Death. The civil action for the killing of one human by another, without justification or excuse.

Restitution

SECTION 2, RESTITUTION**STATEWIDE MULTIAGENCY COLLABORATIONS
TO IMPROVE THE RESTITUTION PROCESS**

For the ordering, management, and collection of restitution in the criminal justice system to be effective, interagency collaboration and cooperation are essential. Jurisdiction personnel in Colorado and Utah have put together multiagency task forces to review their restitution laws, policies, and procedures. Individuals from state agencies and private organizations, including the judiciary, the department of corrections, the attorney general's office, crime victim compensation boards, district attorneys, victim/witness assistance, law enforcement, victim advocacy organizations, community corrections boards and providers, and the state board of parole participated in these multiagency task force efforts to comprehensively review and revise state restitution legislation and policy.

Colorado is the first state to have completed the process from initial investigation to garnering support of the stakeholders and politicians to passage of a comprehensive restitution bill that reflects the intent of their efforts.

COLORADO RESTITUTION WORKING GROUP

In 1998, a team of criminal justice professionals and victim advocates in Colorado conducted an in-depth analysis of state restitution laws and the manner in which they operate within every agency involved in the management of restitution. Once they had a clear idea of what changes could be made to correct ambiguities in the law, and how to address the incompatibility of databases, lack of infrastructure within agencies, poor funding, insufficient staff, and monitoring difficulties, the team prepared a formal report for the Colorado legislature (Siegel 6 October 1999).

Based on the report findings, the legislature passed House Bill 99-1254 directing the Legislative Council staff to conduct an official study of the assessment, collection, and distribution of criminal restitution. Again, a restitution working group was convened and representative stakeholders were invited to participate (Ibid).

The resulting official report provided restitution advocates with the means to pass House Bill 00-1169: *A Bill for an Act Concerning Restitution in Criminal Cases, and Making an Appropriation in Connection therewith* in April, 2000. In its declaration of support for victims' rights to restitution and the moral and legal obligation of offenders to pay, Bill 1169 provides a broad reaching framework in which criminal justice professionals can effectively

manage restitution, including the following provisions relating to presentence investigation, orders of restitution from both adult and juvenile offenders, procedures for collection and for failure to pay, and restitution as a condition of parole:

Presentence or probation investigation. Following a verdict of guilty or a plea of guilty or nolo contendere, the probation officer shall make an investigation and written report to the court before the imposition of sentence. A victim impact statement shall be made in every case.

Assessment of restitution. Requires every order of conviction for a felony, misdemeanor, or petty or traffic misdemeanor offense to include an order for restitution or a specific finding that there is no victim with a pecuniary loss. The bill establishes that restitution orders are:

- Final civil judgments that remain in effect until paid in full.
- Inclusive of future interest, attorney fees, and costs.
- Operable as a lien on all real and personal property.
- Joint obligations of defendants who caused the same pecuniary loss.

Juvenile. The Bill removes the discretion of a court to not order restitution by a juvenile if to do so would cause serious hardship or injustice. The Bill also increases the amount for which a parent or legal guardian may be liable for restitution to \$25,000.

Collections investigator. The Bill appropriates funds and establishes procedures for the collections investigator—a person employed by the judicial department whose primary responsibility is to administer, enforce, and collect on court orders or judgments entered with respect to fines, fees, and restitution.

Procedures for failures to pay. Whenever a defendant is five or more days late with a payment, the Bill authorizes:

- A \$10 late payment fee.
- An additional financial investigation.
- An attachment of earnings.
- Any other civil process to collect a judgment.
- Issuance of a notice to show cause and authorized penalties for the defendant's willful failure to pay restitution.
- Referral of the matter to a private collection agency that may charge a fee of up to 25 percent of the remaining amount due.

Restitution as a condition of parole. The Bill authorizes intermediate sanctions for persons on parole who fail to pay restitution, including:

- Extension of the period of parole.
- Revocation of the parole and transport of the parolee to a place of confinement, a community corrections program, or a county jail.

DIRECT ORDER COLLECTIONS IN CORRECTIONS

The Victim Services and Restitution Branch (VSRB) of the California Department of Corrections (CDC) collects restitution from inmates to be paid *directly* to victims of *all* crimes where restitution is warranted. Victims of *property* crime apply for restitution through this program. Protocols have been established within VSRB to identify and locate inmates, to contact the institution housing the inmate, and to activate collections. Collections on direct orders are calculated at 20 percent or the balance owed, whichever is less, from all wages from prison industry and trust account deposits. An additional administrative fee of two percent is added to the withdrawal. Direct orders of restitution to victims are disbursed within sixty days of receipt. All outstanding restitution fines and direct orders are paid in full before a parolee may transfer his/or her parole term out of state.

PROMISING PRACTICES

- ***Utah Restitution Advocate.*** The Restitution Advocate is a two-year-old VOCA funded position within the Utah Attorney General's Office established to assist victims in assessing their losses, communicating with parole boards about collection, and using civil judgments to obtain restitution when the offender has reached end of sentence. *How Can We Help You—the Victims?* is a brochure that the Restitution Advocate sends to all victims to whom restitution has been ordered. When the offender is approaching the end of his or her sentence, the Restitution Advocate sends a second brochure, *How You, the Victim, Can Help Yourself Collect a Court-Ordered Restitution*, that outlines the steps victims can take to collect on a judgment or to motivate the offender to pay. The Restitution Advocate is available to consult directly with victims as they embark on the civil stage of the restitution process. The Restitution Advocate also oversees the writing of letters for victims on the stationery of the Office of the Attorney General and collects funds when victims should maintain anonymity. Victim Restitution Program, Utah Attorney General's Office, 160 East 300 South, Fifth Floor, Salt Lake City UT 84114 (801-366-0244).
- ***Acquiring Restitution Through Talent Program (ARTT)*** at the Juvenile Diversion Program in Denver County, CO. To graduate from the Denver County Juvenile Diversion Program and to clear their record, juvenile offenders must have completed the coursework, paid their restitution in full, completed the community service requirement, and be drug/alcohol free. Many young offenders owe tens of thousands of dollars in restitution. ARTT teaches youths different crafts, including woodworking, toy making, and ceramic and mosaic

design. The youths make various objects that they sell in special craft markets. From this effort, ARTT nets on the average \$10,000 a year in restitution. Older youths are placed in after-school internships and regular paying jobs where they earn money to pay restitution. In 1998, 92 percent of the restitution assessed was paid. Denver Juvenile Diversion Program, 303 West Colfax Avenue, Suite 1300, Denver, CO (303-640-2828).

SECTION 2, RESTITUTION

ABSTRACT

This section provides a historical and legislative framework for the remedy of restitution in our criminal and juvenile justice systems today. The crucial importance of restitution as a remedy for crime victims is examined as are the multiple purposes served by successful management and collection of restitution. Also discussed are the roles played by virtually all criminal justice and juvenile justice agencies in the restitution process, and how the coordination and cooperation among such agencies affects overall success in any restitution program. Specific information concerning types of victim losses covered by restitution and the kinds of documentation required from victims is provided. Additional policies and procedures integral to sound restitution management are also discussed. Finally, promising practices in restitution programs around the country are highlighted.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- Historical underpinnings of restitution within the criminal and juvenile justice systems.
- Key legislation in securing the right of restitution for victims of crime.
- The importance of restitution as a remedy for victims of crime and the multiple purposes restitution serves.
- Barriers that undermine the process of restitution.
- The importance of establishing restitution as a jurisdictional priority.
- Roles of individual criminal and juvenile justice agencies in the successful management of restitution.
- Types of losses for which restitution can be ordered and corresponding necessary documentation.
- Practical tasks for successful restitution management and collection.
- Promising practices that contribute to the success of a restitution program.

STATISTICAL OVERVIEW

- During 1997, losses estimated at nearly \$500 million were attributed to robberies. The value of property stolen averaged \$995 per robbery, up from \$921 in 1996. Average dollar losses in 1997 ranged from \$576 taken during robberies of convenience stores to \$4,802 per bank robbery (FBI 1998).
- The dollar value of property stolen in connection with property crimes in 1997 was estimated at over \$15.6 billion. The average loss per offense in 1997 was \$1,311, slightly more than the 1996 figure of \$1,266. In 1997, law enforcement agencies nationwide reported a 37% recovery rate for dollar losses in connection with stolen property (Ibid., 7, 38).
- Based on information from 11,461 law enforcement agencies, nearly 81,753 arson offenses were reported in 1997. The average dollar loss of property damaged due to reported arsons was \$11,294. The overall average loss for all types of structures was \$19,804 (Ibid., 56).
- During 1997, the estimated value of motor vehicles stolen nationwide was more than \$7 billion. The average value per vehicle at the time of theft was \$5,416. In relating the value of vehicles stolen to those recovered, the recovery rate for 1997 was 67% (Ibid., 52).
- Personal crime is estimated to cost \$105 billion annually in medical costs, lost earnings, and public program costs related to victim assistance. When pain, suffering, and the reduced quality of life are assessed, the costs increase to an estimated \$450 billion annually. Violent crime results in lost wages equivalent to 1% of American earnings (Miller, Cohen, and Wiersema 1996).
- Violent crime causes 3% of U.S. medical spending and 14% of injury-related medical spending (*U.S. News and World Report* 1996).
- Insurers pay \$45 billion annually due to crime—roughly \$265 per American adult. The U.S. government pays \$8 billion annually for restorative and emergency services to victims, plus perhaps one-fourth of the \$11 billion in health insurance payments (Ibid.).
- Direct costs of alcohol-related crashes are estimated at \$45 billion yearly. Alcohol-related crashes are estimated to cause an additional \$70.5 billion lost in quality of life (Miller and Blincoe 1994).

INTRODUCTION

Restitution is a fundamental right of crime victims. Its importance for victims with respect to financial as well as psychological recovery from the aftermath of crime cannot be overestimated. Unfortunately, in many jurisdictions, restitution can be one of the most difficult rights to enforce. Criminal and juvenile justice professionals, crime victims and victim service providers, and offenders and their advocates all share frustration about how restitution is ordered, collected, distributed, and monitored. While victims expect, very reasonably, that an order of restitution will be honored and collected upon, many justice

system officials, adhering to the old saying, “you can’t squeeze blood from a turnip,” believe their program resources are better spent on other endeavors.

No single jurisdiction in the United States can claim to have a completely successful restitution program, if rates of collection, victim satisfaction, and interagency collaboration are to be considered measures of “success.” This chapter, however, will show how many local and state agencies have developed innovative approaches to restitution that increase collections, collaboration, and victim satisfaction. Note: Portions of this chapter are excerpted from “Victim Restitution” by Anne Seymour from *Promising Practices and Strategies for Victim Services in Corrections*, published in 1997 by the National Center for Victims of Crime.

HISTORICAL OVERVIEW

Ancient civilizations sought to formalize the process of restitution as a means for compensating victims, settling disputes, and controlling escalation of retributive violence. The Code of Hammurabi (1700 B.C.), Mosaic Law (about 1688 B.C.), and Roman Law contained elaborate provisions regarding compensation for specific property and personal injury crimes. Restitution in these legal codes was designed to compensate the victim and establish a lasting settlement between the parties (Karmen 1990).

By 600 A.D., the Anglo-Saxons in England had developed an intricate code proscribing restitution for individual victims. By making restitution to the victim and paying an additional fine to the king, the offender was allowed to “buy back the peace” (Hudson and Gallaway 1981). As time went on, the state took on an increasingly greater responsibility for the prosecution of crimes that had previously been treated as private matters. By the Middle Ages, the state had assumed the role of victim in the majority of crimes, and a system of fines and forfeiture laws eventually superseded the role of victim restitution in criminal proceedings. Gradually, the practice of restitution declined.

In early America, crimes were considered acts against individuals, and citizens could “buy” the services of sheriffs, investigators, and prosecutors for the purpose of prosecuting crimes on their behalf (Karmen 1990). Eventually the clear advantages to and potential for misuse by wealthy plaintiffs contributed to the establishment of public prosecutors. A distinction was drawn between criminal and civil law: crimes were considered acts against the state; torts were civil violations against individuals and could be redressed only through the civil system. Restitution became less important as the state pursued punitive justice.

A resurgence of interest in restitution began in the U.S. in the 1930s with the establishment of penal laws permitting suspended sentences and probation. As the victims’ rights movement has gained increasing momentum over the last three decades, restitution has once again been recognized as a critical tool for victims recovering from the financial and psychological impact of crime.

In this country, however, restitution operates within a criminal justice system in which the victim has, at best, occupied a secondary role. There is no formal recognition of the fact that the crime was committed against an individual who has suffered harm as a result. The criminal

justice system is primarily designed to control crime through punishing the offender. The result for restitution is an “inherent tension that arises when efforts are made to use the criminal law, with its focus on vindication of society’s interests in punishing offenders, to reimburse victims for the harm done them by specific offenders” (Harland and Rosen 1990).

SIGNIFICANT RESTITUTION LEGISLATION

Dissatisfaction with the justice system’s management of restitution has risen dramatically over the last three decades. Alternatives to “business as usual” both within and without the criminal justice system have proliferated. Significant legislative reform efforts have contributed to a nationwide effort to strengthen victims’ rights within the existing legal system.

In 1982, the President’s Task Force on Victims of Crime recommended the routine imposition of restitution in criminal cases with a documented financial loss to victims. Passage of the 1982 Victim and Witness Protection Act, the first general federal victim restitution statute, required judges to order full restitution in a criminal case or state on the record their reasons for not doing so. The Victims’ Rights and Restitution Act of 1990 (Title V of the Crime Control Act of 1990) created, in effect, a Federal Crime Victims’ Bill of Rights which, among other things, mandates that federal officials “make their best efforts” to see that victims of crime are accorded the right of restitution.

In 1994, the Violence Against Women Act (part of the Violent Crime Control and Law Enforcement Act of 1994) identified particular crimes subject to mandatory restitution. Departing from the previous trend to permit the court to have discretion in ordering restitution, the 1994 Crime Act states very clearly that convictions for four types of crimes must include mandatory restitution as part of an offender’s punishment:

- Sex crimes.
- Sexual exploitation and other abuses of children.
- Telemarketing fraud.
- Domestic violence.

The Act also lists expenses for which victim restitution is required:

- Lost income.
- Necessary child care.
- Transportation.
- Other expenses related to participation in the investigation or prosecution of the offense.
- Attendance at proceedings related to the offense.

Most recently, the Mandatory Victims Restitution Act (Title II of the Antiterrorism and Effective Death Penalty Act of 1996) requires federal judges to order full restitution from offenders who have been convicted or pled guilty to specific charges:

- Fraud.
- Property crimes.
- Consumer product tampering.
- Drug crimes.

Crime Victims' Bills of Rights have been enacted in all states, approximately half of which provide for mandatory restitution unless compelling reasons to the contrary are stated on the record. More importantly, a total of thirty-one states have passed victims' rights constitutional amendments—at least ten of which provide for mandatory restitution. Since April 1996, the U.S. Congress has had before it several versions of a federal constitutional amendment for crime victims. The latest version, Senate Joint Resolution 3, was introduced by Senator Jon Kyl on January 19, 1999, and is currently pending before the 106th Congress. If enacted, the federal amendment would provide victims with a constitutional right to an order of full restitution from offenders.

Enforcement of restitution. To ensure enforcement of restitution orders, the Crime Act and 1995 Attorney General Guidelines specify that U.S. Attorneys must enforce the restitution order “by all available means.”

The Crime Act provided several mechanisms to enforce restitution payments including the following:

- To reinforce the payment of restitution, the Crime Act requires that all benefits provided to the defendant by a federal agency must be immediately suspended until the defendant makes a “good faith” effort to pay restitution.
- The order may also be enforced by the victim in the same manner as a civil judgment.
- Compliance with a restitution order was established as a condition of probation or supervised release. The *AG Guidelines* specify that compliance with restitution orders *shall* be followed. If an offender fails to comply, the court, upon a hearing, may revoke the probation or term of supervised release, modify the terms and conditions of probation or release, or hold the offender in contempt.

Finally, the Crime Act reinforced restitution payments by amending the federal Bankruptcy Code to prevent defendants who owe restitution from discharging their liability for payments by filing bankruptcy. The Act states that a debt for restitution included as a sentence, on the debtor's conviction of a crime, would not be discharged in a Chapter 13 bankruptcy filing. The Act also added a new provision in the Bankruptcy Code that addresses drunk driving debts, stating that such debts are not dischargeable under Chapter 7, 11, and 12 proceedings.

Again, the 1995 *AG Guidelines* underscored restitution rights by stating:

Federal prosecutors shall advocate fully the rights of victims, including child victims, on the issue of restitution.

THE IMPORTANCE OF VICTIM RESTITUTION

There is no doubt that restitution is a strongly supported remedy for victims of crime. Victims and victim advocates embrace restitution as a means for the recovery of some measure of economic and psychological wholeness, and also for the satisfaction provided when a full order of restitution reflects the extent of financial losses suffered. Corrections officials often view restitution as an alternative sanction that can alleviate prison overcrowding and as a solution to insufficient funding. Prosecutors support its use as a remedy for victims and as an effective tool in plea bargaining or pre-trial diversion programs. Judges who support the imposition of restitution may value its potential as a rehabilitative tool for offenders and an economic benefit for victims and society. Restitution can also be an effective and nonpartisan means for legislators to support victims' rights.

The importance of restitution for victims is extremely diverse and depends entirely on the individual circumstances of their victimization. So many factors are important to an in-depth understanding of why this remedy is so crucial and why justice systems around the country should take every step possible to improve their restitution programs. Consider the following:

- The lack of enforcement of restitution orders and the failure of justice agencies to enforce this basic victims' right can contribute to victims' frustration with their involvement in the justice process. Victim trauma—which can include fear, anxiety, confusion, anger, and feelings of loss of control—can be compounded when restitution is not paid and offenders are not held directly accountable for their actions.
- In many cases, items that are stolen or destroyed hold great sentimental value for victims, such as an heirloom piece of jewelry or family photos in a stolen wallet. The cost of “replacing” such items does not come close to covering the victim's emotional devastation resulting from the loss.
- Losses that seem “minor” to justice officials can have devastating effects on victims. For example, a California man whose car was stolen had to walk miles to work to maintain his job. His level of anxiety, anger, and exhaustion directly resulting from this aspect of the crime detrimentally affected his work performance and caused significant stress in his relationship with his wife.
- For vulnerable victims, such as the elderly or victims with disabilities, the loss of a television set or stereo that was stolen in a burglary can also be the loss of their only connection to the outside world.
- For some victims, the financial compensation provided by restitution is secondary to holding offenders accountable and reminding them of the damage and irreparable loss they have inflicted on innocent citizens. Many judges are beginning to consider this important

factor in their sentencing. For example, a Mississippi man convicted in 1995 of vehicular manslaughter that killed four-year-old Whitney Lee was sentenced to a twenty-year prison term. In addition, Judge John Whitfield of the Harrison County Circuit Court in Gulfport ordered the convicted offender to pay a \$520 restitution fine, in weekly installments of \$1.00, to the family of the victim. The court-ordered fine, which will take ten years to pay, requires the offender to write in the memorandum space on every check “for the death of your daughter Whitney.” While victim and activist Ann Lee has not cashed any of the checks, she expresses satisfaction that the man who killed her daughter has to be reminded of his actions once a week.

- Sometimes, the payment of restitution is the only reliable measure of victim satisfaction with the criminal or juvenile justice system, particularly in cases that are “fast tracked” by plea bargains or diversion. The *only* point of contact some victims have with the justice system is their involvement in restitution procedures; as such, victims’ entire opinions of their involvement in the justice system can hinge on whether or not restitution orders are fulfilled.

Just as restitution is many things to many different victims of crime, so too, it serves a multitude of purposes in other ways:

- Victims suffer considerable monetary losses as a result of crime, many of which are *not* recoverable through insurance, victim compensation funds, or other forms of financial recovery.
- Offender accountability must incorporate measures to directly reimburse victims for their financial losses related to the criminal or delinquent act.
- Victim compensation programs cannot begin to fulfill the demands for financial recovery from victims but can be augmented by restitution payments to their funds.
- When restitution orders are *not* enforced and collected, it is ultimately America’s victims *and* taxpayers who bear the burden of financial responsibility that *should* belong to offenders.
- The fulfillment of restitution obligations comprises a tenet of restorative justice that encompasses efforts among offenders, victims, and communities to attempt to repair the harm caused by crime.
- Restitution payments are a necessary and important reminder to offenders about the direct harm they have caused to victims and to their community.
- While restitution cannot begin to fully compensate for the harm victims endure, it is a “good faith” effort by offenders to “right their wrong.”

Furthermore, restitution is a strong measure of the effectiveness of America’s criminal and juvenile justice systems. When citizens assess whether or not the justice systems are accomplishing their mission, restitution is an important evaluation criterion. As such, not only should *offenders* be accountable for victim restitution; our *justice systems* should be held equally accountable for the enforcement of restitution orders.

OBSTACLES TO RESTITUTION

A number of barriers exist that directly influence a jurisdiction's ability to manage successful restitution programs:

- The belief among some justice professionals that restitution is simply uncollectible.
- The feeling that probation and parole officers are *not* collection agents.
- State laws that mandate restitution program requirements, but fail to provide adequate funding for agencies to fulfill such mandates.
- Restitution orders are often not *first* in the priority of court-ordered payments, and follow behind court costs, fines, costs of salaries for justice officials, costs of incarceration, and other financial obligations.
- In jurisdictions where restitution is not mandatory, it is not consistently ordered as a condition of the sentence.
- Court orders of restitution do not always carry through the continuum of the justice system, i.e., diversion, probation, incarceration, and parole, and are therefore difficult to enforce.
- There is a lack of interagency agreements that stipulate who is responsible for monitoring, enforcing, collecting, and disbursing restitution.
- There is a lack of automation that simplifies the restitution monitoring and collection processes.
- Many parole boards do not have authority to order restitution as a condition of parole.
- Some crime victims and service providers express cynicism about efforts to collect restitution; their criticism of existing efforts can contribute to lowered employee morale among those responsible for monitoring restitution programs and payments.

THE PROCESS OF RESTITUTION

In examining the obstacles or barriers that may be operating against optimal restitution management in a given jurisdiction, it is critical to understand that restitution, as a *process*, involves literally every agency within the criminal justice system and its successful collection depends upon every agency effectively doing its own job in a long line of interrelated tasks. Restitution involves the coordination of multiple tasks by numerous professionals in separate agencies and departments of the criminal justice system; it can be imposed at any stage from commission of the crime to the post-supervision period. Unless the successful management and collection of restitution is a jurisdictional priority, it is highly likely that at some point along the line, restitution will fall through the cracks.

Key parties to the process of restitution include victims, offenders, law enforcement officers, prosecutors and victim-witness personnel, defense counsel, the judiciary and other court personnel, probation officials, corrections officials, and parole boards. These parties, alone or

in combination, must coordinate and accomplish the numerous tasks of criminal restitution, which consist mainly of the following:

- Apprehension of the offender.
- Determination of eligibility for restitution.
- Consultation with the victim to determine losses.
- Consideration of restitution in plea negotiations.
- Preparation of presentence investigation report.
- Assessment of defendant's ability to pay.
- Determination of payment schedule.
- Order of restitution.
- Monitoring and enforcement of restitution orders.
- Imposition of restitution conditions following period of incarceration.
- Application of sanctions for nonpayment.
- Collection of restitution payments.
- Amendment of payment schedules.
- Distribution of funds to victims.
- Imposition of available civil remedies (i.e., automatic civil judgment).

In view of the multiple parties and tasks involved in the process of restitution, the establishment of restitution as a jurisdictional priority is absolutely critical to its successful implementation as a remedy for crime victims.

RESTITUTION AS A JURISDICTIONAL PRIORITY

While the practices and procedures of restitution management vary greatly according to jurisdiction, the tasks and participants involved are essentially universal. The overall administration and management of criminal restitution can be broken down into four general categories:

1. Screening of cases to determine eligibility for restitution.
2. Specific determination of the restitution amount and conditions of payment.
3. The restitution order, including imposition of available civil remedies.
4. Collection and disbursement of restitution and monitoring of offender.

Restitution may in fact be eliminated as a remedy for victims because of decisions reached by key individuals at any one or more of the stages described above. The fact that so many

agencies are necessarily involved in the restitution process makes the need for consistent priority-setting critical and makes the potential for failure in the event of conflicting priorities very real.

Even agencies with clearly defined objectives for restitution can be undermined at any point by a failure on the part of another agency to support the process. A prosecutor may consistently present documented evidence of substantial victim losses in eligible cases, but without adequate support from the judiciary or determined efforts on behalf of the collecting agency (typically, probation), the restitution may never reach the victim. Similarly, a probation department may develop superb procedures for effective and long-term collection of restitution, but without specific orders based on accurate information about victims' losses, their ability to assist in the collection effectively will be severely hampered. Studies show that compliance increases when restitution is brought to a significant level of priority, but that "outcome measures lag when restitution is handled as an add-on condition and is not a top agency concern. Programs that aggressively target restitution generate more successful performances and lower recidivism rates" (Doerner and Lab 1995).

THE COORDINATED INTERAGENCY APPROACH

The coordinated interagency approach developed by the Victims' Assistance Legal Organization (VALOR) is a common sense and systemic approach to solving some of the problems that have plagued restitution programs for decades. This approach addresses the multiparty, multitask elements of the restitution process by calling for the very deliberate elevation of restitution to a system-wide priority.

In the report, *Restitution Reform: The Coordinated Interagency Approach*, Burnley and Murray (1997) outline the six essential goals of the coordinated interagency approach to restitution management:

Victim involvement. The importance of the goal of victim involvement cannot be overemphasized. Simply stated, *active participation and involvement of victims is essential to effective criminal prosecution and entry of accurate orders of restitution.* Meaningful victim involvement is a cornerstone to restitution and is integral to its successful implementation.

Although the effects of criminal activity can be far-reaching, it is essential that all key players in the criminal justice system keep in mind that the most direct damages and consequences are borne by the victim of the crime. The payment of restitution is a very basic reminder of this fact. Victims occupy a crucial role at each stage of the process of restitution management and they must not only be acknowledged by the criminal justice system but kept in the center of the criminal justice process.

Effective communication and cooperation. Effective communication and coordination among criminal justice agencies and personnel are crucial to successful restitution management; lack of such communication affects every aspect of the process. It is essential that shared

information about the restitution process and decision making throughout that process be a routine component of any restitution program.

Efforts to improve restitution management will be severely hampered without the establishment of regular and effective channels of communication. The achievement of this objective lays the groundwork for the remaining goals. As noted by the Administrative Office of the U.S. Courts in its publication on improving restitution collection, “teamwork is the answer” (AOUSC 1992)

Clear delineation of restitution roles. Since restitution involves so many tasks, it is essential that agency roles be clearly defined and acknowledged. The lack of such clarity can lead to the duplication of services and/or failure to provide certain services at all. One study revealed the following:

. . . it was not unusual at all for prosecuting attorneys, victim advocates and probation officers all to prepare a Victim Impact Statement and to monitor, collect and disburse restitution payments. Not only does this result in poor coordination, but it exacerbates victims’ second class status in the criminal justice system. If no single agency has primary responsibility to seek and monitor restitution payments to victims, no one agency can be held responsible. Once again, the victim falls through the cracks (Shapiro 1990).

Obviously, such duplication of effort is not only unnecessary, but costly, cumbersome, and counterproductive. Conversely, the failure of any one agency to take responsibility for a particular task may result in it being addressed too late in the process to be effective. Neither the victim nor justice is served when the system fails to define the roles involved in restitution sufficiently and to assign them in the most efficient and effective manner.

Streamlining restitution tasks. Restitution tasks should be viewed with a keen eye towards eliminating unnecessary steps and duplication of efforts. The overlapping of restitution tasks, such as preparing the victim impact statement or notifying victims of case developments, is not only a waste of jurisdictional resources, but also harmful to the overall efficiency of the restitution process. It can undermine confidence in the fairness and effectiveness of the criminal justice system. In the same way, when a task is not done because of a lack of coordination, the greatest potential failure of restitution is realized—the failure to provide a remedy that victims have a right to expect.

Effective streamlining and coordination also require the assignment of each task to the agency capable of performing it most efficiently. At times, this may require rethinking of procedures or reallocation of resources; for example, the physical collection of restitution payments from offenders is a task that may be assigned to a number of potential agencies but is most appropriate for that agency specifically equipped to handle financial duties. In a majority of jurisdictions, this agency is the Clerk of Court; however, many jurisdictions provide for specialized collection procedures within the department of probation or within some other criminal justice agency via the establishment of a restitution clerk with the necessary technological resources to track payments and disbursements.

Routine information flow. The establishment of a routine flow of restitution information is closely related to the goal of effective communication and coordination among and between criminal justice agencies. This involves both substantive and procedural information about all restitution cases as they progress through the system as well as data generated from statistics on the status of restitution accounts. It is extremely important for each criminal justice agency to be aware of any developments, changes, problems, etc., that have occurred regarding other agency restitution responsibilities. For example, victim-witness personnel or the agency responsible for routine communication with victims need current information about defaults so that victims can be informed in a timely manner about the resulting effect on payment. Similarly, officers of the Court need to be notified of defaults so that they can respond appropriately.

In any bureaucracy, ready access to reliable information is essential. A critical component of this goal is the allocation of sufficient resources to support the routine gathering and distribution of information.

Participant involvement and accountability. To be accountable, each criminal justice agency and professional must be willing to take responsibility for their portion of the restitution process. Criminal justice practitioners must be accountable to one another, the system as a whole, the community, and the individual victim. As an agency head in Alexandria, Virginia put it, “if one agency doesn’t do its job, it just won’t work.”

The goals of participant involvement and accountability are essential to the overall goals of the coordinated interagency approach. Restitution is about taking responsibility—on every level. Key to the establishment of such responsibility is the recognition of the interdependence of all the components of the criminal justice system. The coordinated interagency approach provides a climate in which acceptance of responsibility and accountability by all participants can be realistically achieved.

COORDINATION AND COLLABORATION WITHIN THE CRIMINAL JUSTICE SYSTEM

The establishment of restitution as a jurisdictional priority necessarily includes a sound and comprehensive approach to the tasks involved in the management and collection of restitution. Victims must be notified of their right to receive restitution as early in the criminal justice process as possible and must be supported throughout the process in achieving a fair order of restitution that is closely monitored. An accurate and detailed assessment of the extent of the victim’s injuries and losses is critical to a fair order of restitution. Many victims, especially those who suffer emotional trauma or physical injuries as a result of a crime, may have difficulty providing the information and documentation necessary to develop appropriate restitution orders.

Although documentation of loss is central to the task of restitution, whether it occurs and what is done with the information provided is affected by tasks performed at all stages of the

criminal justice process. Before looking at documentation of loss in detail, the following jurisdictional approach to the assessment, ordering, collecting, disbursing, and monitoring of restitution is provided as a *framework* for consideration in adopting a comprehensive and victim-oriented approach to the management and collection of restitution.

LAW ENFORCEMENT

- When a victim reports a crime, the investigating officer provides information—verbally and in writing (in the primary language of the victim)—about the victim’s right to restitution if an arrest is made that results in a conviction.
- The responding officer also provides information about victim compensation and other financial remedies available to the victim (such as state-sponsored restitution funds), including written information about program requirements and restrictions. These resources are particularly important for victims whose cases do *not* result in an arrest. It is important to note that many victim compensation funds are partially supported by restitution payments from offenders.
- The responding officer informs the victim that *if* an arrest is made, and *if* their case is referred for prosecution, somebody from the prosecutor’s office will contact him/her regarding relevant restitution rights and related requirements. The officer also provides his/her name, badge number, and telephone number in case the victim has questions or needs further information or a referral for victim support or assistance.

PROSECUTORS

- A prosecutor, prosecution-based victim-witness professional, or other designated personnel contacts the victim if the case results in a grand jury indictment or juvenile court hearing. The victim is advised of his/her rights, including any restitution rights that may apply to the case.
- At this point, victims may be advised, verbally and/or in writing, about the information that they need to provide concerning their immediate and projected losses for restitution purposes. Standardized letters and forms should outline this information and the documentation required; immediate and long-term losses are described in the “Documenting Losses” section of this text.
- Prior to negotiating any plea agreement, the prosecutor should consult with the victim. While consultation in no way guarantees that the victim’s wishes regarding his/her case will be fully granted, it does provide an opportunity to discuss restitution as a mandatory condition of any plea bargain.
- Whether cases are adjudicated through plea bargains or trials, victims in nearly every jurisdiction in the United States have the right to submit a victim impact statement (VIS). Restitution is a key element in victim impact statements and should take into consideration the victim’s out-of-pocket and projected expenses that result from the crime. Numerous justice agencies share responsibility for processing VIS at different points throughout the justice process, including prosecutors, the judiciary, probation, parole, and corrections. Prosecutors should make victims aware of their right to submit a VIS and provide assistance

or a referral to help them complete their VIS. This often requires close collaboration with probation officials.

- Prosecutors should request victim restitution as the *first* priority in court-ordered financial obligations.
- In some jurisdictions, prosecutor's offices have or share responsibility for assessing an offender's ability to pay restitution. Due diligence must be practiced that identifies offenders' current and projected earning capabilities. A Wyoming prosecutor sets a good example by visiting offenders' homes to see if they have cable television, smoke cigarettes, and have gun racks in their pickup trucks for hunting. The premise is that if offenders can afford these luxuries, they can also afford to pay restitution to their victims.

THE JUDICIARY AND COURTS

- Judges should order restitution of *all* sentences in criminal and juvenile court, including diversion, probation, and incarceration/detention.
- An offender's inability to pay restitution at the time of sentencing should *not* be construed as reasonable cause to refuse to order restitution. Ability to pay should be considered for purposes of the payment schedule only, not amount ordered. Current and projected earnings for the future must be considered.
- If a judge fails to order restitution, he/she should state for the court record his/her reason for doing so and provide this explanation directly to the victim.
- The court should request and consider victim impact statements and presentence investigation reports that contain documentation relevant to restitution from probation officials.
- In plea bargain cases, or in other situations where the extent of loss is not known at the time of sentencing (e.g., mental health services) judges can impose "to be determined" restitution orders so that the victim's financial losses can be adequately and fully documented for the court.
- Judges should consider the full range of remedies (highlighted throughout this text) available to both the court and to victims in the event that an offender fails to comply with the restitution order. The court should provide written resources to victims that offer an overview of this vital information.
- The court (or in some jurisdictions, the prosecutor or probation office) should notify victims of the date of the sentencing hearing and encourage their attendance and participation.
- The court can order that bail money paid by the offender be directly applied to victim restitution obligations instead of being returned to the offender.
- When cases are referred back to court for an offender's failure to fulfill his/her restitution requirements, the judge should seek input from the victim and consider the full range of remedies the court can take to facilitate offenders' compliance with its order.

- In cases resulting in incarceration or detention, documentation of restitution obligations should be included in the offender's case file for review by paroling authorities.

PROBATION

- Probation officers should practice due diligence in locating victims to obtain information relevant to restitution.
- Presentence investigation reports and/or victim impact statements prepared by probation officers for court review should include documentation of the victim's out-of-pocket and projected financial losses, along with any input or recommendations the victim may have regarding restitution.
- If victims request mediation (also called "victim/offender dialogue") to help establish restitution recommendations for the court, probation agencies should work with local victim service organizations to plan and implement victim-sensitive mediation programs.
- A restitution payment schedule should be established and provided to victims along with written information on remedies victims and/or the court or probation agency can take if offenders fail to pay restitution.
- Maintenance of restitution payments to victims should be a *top priority* for offender supervision. This emphasis should be made very clear to probationers.
- Victims should be provided with contact information for their offender's probation officer (or the court) in order to keep system officials apprised of an offender's failure to pay restitution or delay in paying restitution.

CORRECTIONS

- Adult corrections and juvenile detention agencies should support the passage of state legislation and/or agency policies that allow the agency to deduct a percentage of offenders' wages and trust account funds to be applied to victim restitution or to a state restitution fund.
- Accurate records of court orders for restitution should be maintained in the offender's case file, utilized for collecting restitution, and provided to paroling authorities for consideration at any release hearings.

PAROLE BOARDS

- Court-ordered restitution should be reaffirmed by parole boards as a mandatory condition of parole release and supervision.
- Paroling authorities should also have (or seek) the authority to order restitution for parolees under their agency's supervision.
- Documentation of the victim's losses at the time of sentencing should be augmented by current information that more fully addresses victims' out-of-pocket expenses at the time of parole consideration hearings. The paroling authority should seek input from victims, either through victim impact statements or pre-parole release investigation reports,

regarding their restitution needs. Current VIS can be compared to VIS submitted by the victim at the time of sentencing to help measure the victim's life reconstruction.

- Payment of restitution must be a mandatory condition of parole. Offenders who fail to fulfill their financial obligations to victims must understand that such negligence could result in revocation or extension of parole or other remedies authorized by state law.
- Parolees should not be allowed to transfer to another state unless they have fulfilled their victim restitution obligations.

COORDINATION AND COLLABORATION IN ACTION

Changes to the management of restitution in California presents a compelling example of the impact of jurisdictional coordination and the establishment of restitution as a system-wide priority. During the last six years, fifteen statutory changes have been made to improve and/or attempt to streamline the assessment and collection of restitution. Contracts have been (continue to be) established with every county district attorney's office to fund restitution liaison positions to act closely with victims and the courts in the imposition of restitution obligations. Additionally, wage garnishment and trust account intercept programs have been established within the penal institutions. On-site visits, victim services manuals for prosecutors, restitution guidelines, victims' financial options brochures, and training programs for prosecutors and probation officers are essential components of the state's restitution program. The final and perhaps most critical component is the development of an automated restitution tracking system to ensure offenders are held accountable for victim losses and the restitution statutes are appropriately applied (Soderland 1999).

KEY COORDINATION: DOCUMENTATION OF VICTIM LOSSES

To ensure accurate and complete restitution orders, it is necessary for victims to document their losses in writing for the court or paroling authority. It is important to provide victims with guidelines about the types of documentation that are needed to depict their out-of-pocket and projected expenses for the future.

Some of the following considerations for guidelines should be provided *in writing* to victims:

- Employer statements (letters or affidavits) that document unpaid time off from work the victim took as a result of injuries from the crime or involvement in justice processes.
- Documentation of any workers' compensation claims submitted and/or claims payments received by the victim.
- Copies of bills for services directly related to victims' financial recovery from the crime.
- Any receipts for items or services.
- Documentation that estimates the value of stolen property.
- Photos of valuables that were stolen.

- Copies of any documentation often provided by local law enforcement agencies (i.e., records of serial numbers, photos, etc.) that is intended to aid victims in the recovery of stolen property.
- Any law enforcement records that indicate the status of stolen property (i.e., property recovered, recovered but damaged, etc.).
- Copies of victims' applications to and/or copies of checks received from the state victim compensation fund.
- Copies of insurance claims and related correspondence between the victim and his/her insurance company and copies of checks the victim may have received to cover losses.

IMMEDIATE LOSSES

During the presentence investigation, victims should be asked to report information about their losses by completing or updating a financial worksheet, and providing documentation as described above.

The range of these losses can include the following:

Medical care.

- Emergency transportation to the hospital.
- Rape kit examinations that are not immediately paid by a third party.
- All expenses related to the hospital stay, including the room, laboratory tests, medications, x-rays, HIV testing in cases involving the exchange of bodily fluids, and medical supplies.
- Expenses for care provided by physicians, both inpatient and outpatient, medication, and medical supplies.
- Fees for physical or occupational therapy.
- Replacement of eyeglasses, hearing aids, or other sensory aid items damaged, destroyed, or stolen from the victim.
- Rental and related costs for equipment used for victims' physical restoration (i.e., wheelchairs, wheelchair ramps, special beds, crutches, etc.).

Mental health services.

- Fees for counseling or therapy for the victim and his/her family members.
- Any costs incurred as a result of the victim's participation in support or therapy groups.
- Expenses for medications that doctors may prescribe for victims to help ease their trauma following a crime.

Funeral expenses.

- Costs associated with burials (i.e., caskets, cemetery plots, memorial services, etc.).
- Expenses for travel to plan and/or attend funerals.

Time off from work.

- Repairing damage following property crimes.
- Attending or participating in court or parole proceedings.
- Attending doctors' appointments for injuries or mental health needs directly resulting from the crime.

Other expenses.

- Crime scene cleanup.
- Costs of replacing locks, changing security devices, etc.
- Expenses related to child or elder care when victims have to testify in court.
- Relocation expenses.
- Fees incurred in changing banking or credit card accounts.

Projected expenses. Victimization often results in injuries or losses that are long term in nature. While it is not possible to accurately document such projected expenses, it is possible to obtain expert testimony regarding an estimate of future financial obligations the victim might incur as a direct result of the crime.

Victims should be advised to seek documentation (a letter or affidavit) from professionals who are providing them with medical or mental health services that offers an estimate of the victims' future treatment needs and related expenses. Such costs can include the following:

- Long-term medical treatment.
- Physical or occupational rehabilitation or therapy.
- Mental health counseling or therapy.
- Time that must be taken off from work to receive any of the above services.

The justice professional responsible for assessing victims' restitution needs should provide this documentation to the court or paroling authority.

ASSESSING THE OFFENDER'S ABILITY TO PAY

The "other side of the coin" of victim documentation of financial losses is conducting an assessment of the offender's ability to pay in order to recommend an appropriate restitution payment plan. The responsible justice agency should evaluate the offender's current and future

financial status in making recommendations about both the amount of restitution and the payment schedule.

Issues for consideration include the following:

- Current employment status, including salary, benefits, and pension plans.
- Projections on future employability that assess the type of job and remuneration offenders might secure.
- Assets not essential to the offender's quality of life, including savings accounts; investments such as stocks, bonds and mutual funds; income from investment properties, but excluding home or automobile ownership.
- Potential contingency funds, such as state and federal income tax returns, winnings from lotteries, or inheritances.

In Summit County, Colorado, the Fifth Judicial District Probation Department trains its officers to examine the entire financial situation of offenders when looking at issues concerning their ability to pay restitution. For example, if an offender owes restitution and owns expensive, nonnecessity items (i.e., television, compact disc player), then the probation officer can ask the judge to order the offender to sell the possessions to pay restitution to the victim(s).

ALTERNATIVE METHODS OF RESTITUTION COLLECTION

At times, employing innovative and more controlled methods for collecting restitution when offenders fail to pay becomes necessary. Efforts implemented by a variety of agencies and jurisdictions include the following:

- Civil remedies.
- Forfeiture of bond money for restitution obligations.
- Collection of restitution while offenders are institutionalized or placed on parole.
- Providing incentives for incarcerated offenders to pay restitution.
- Acceptance of credit card payments.
- Converting restitution orders to community service.
- Extending the term of community supervision until the offender fulfills his/her restitution obligations.
- Residential restitution centers.
- Use of private collection agencies.

CIVIL REMEDIES

According to the National Center for Victims of Crime (NCVC), forty-one states have laws that provide civil remedies for victims whose offenders' sentences include restitution orders (NCVC 1999). In most of these states, once there has been a default in payment, a civil judgment can be enforced by placing a lien on the offender's real property, garnishing his/her wages, attaching his/her assets or wages, or freezing his/her bank accounts. The attachment of deposited funds ("freezing") is usually time-limited from the initial restitution order (such as twenty-four months) unless it is extended by the court or paroling authority.

The Maricopa County Probation Department in Phoenix, Arizona, requires probationers enrolled in the intensive supervision program and the work furlough program to endorse their paychecks and sign them over to the probation department. Another check is then issued to the offender, minus the payment toward victim restitution. Probationers enrolled in the day reporting program also can be subject to this requirement.

In Summit County, Colorado, offenders who owe more than \$2,000 in restitution are required, as a condition of probation, to submit their income tax returns to their probation officers. If the offender is entitled to a tax refund, the probation officer can require the offender to pay that amount toward his/her restitution obligation.

Laws in several states provide for specific measures to enforce restitution orders as civil judgments:

- Delaware provides for the assignment of specified periodic sums to be designated for victim restitution such as up to one-third of an offender's total earnings.
- Minnesota and Washington provide for the freezing of bank accounts.
- Montana and Oklahoma courts may order the forfeiture, seizure, and/or sale of offenders' assets.

FORFEITURE OF BOND MONEY

In Westchester County, New York, when a "violation of probation" is filed as a result of failure to pay restitution, the probation officer can request bail. The officer then suggests that the court set bail in the amount of the owed restitution, if the amount is not "unreasonable." In the accompanying report to the court, the court is advised that if the violation is sustained and the probationer is willing to assign the bail money as payment of restitution, the probation department would recommend that probation be continued, or, in some cases, terminated. The report recommends alternative sentences for probationers who will not assign bail money. The available alternatives include an upward modification of the order to include a graduated sanction such as "shock time," community service, or possible electronic monitoring. In some instances, a recommendation of revocation and a sentence of incarceration are made.

RESTITUTION COLLECTION IN INSTITUTIONS

The California Department of Corrections (CDC) has implemented an Inmate Restitution Fine Collections System supported by state law that enables the department to deduct 20 percent of inmate wages and other trust account deposits to pay court-ordered restitution. This amount is forwarded to the State Board of Control Restitution Fund. This fund provides reimbursement to qualified victims for expenses incurred as a result of the crime committed against them, i.e., medical costs, burial costs, and counseling. Since its inception in November 1992, this system has resulted in the collection of over \$9 million from inmate wages and trust account deposits. CDC's Victim Services Program staff also facilitates voluntary restitution payments made by inmates and parolees, as well as monies derived from annual inmate fund-raisers.

PROVIDING INCENTIVES FOR INCARCERATED OFFENDERS

Correctional agencies can encourage inmates' participation in fulfilling their restitution obligations *and* increase collections by offering the following incentives:

- Increased privileges at the prison commissary.
- Special visitation privileges.
- Special menu privileges.
- Priority enrollment in popular education programs sponsored by the prison.

Failure or refusal to participate in the department's victim restitution program could also result in the loss of privileges.

ACCEPTANCE OF CREDIT CARDS FOR PAYMENT

The Court Administrators Office in Stearns County, Minnesota, accepts credit card payments for court-ordered fines and fees, including restitution. To begin accepting that form of payment, the Court Administrators Office obtained permission from the local judge and the county commissioners. Arrangements were made with a local bank, and the office now accepts MasterCard, Visa, and Discover Card. The Court Administrators Office absorbs the user fee charged by the bank for use of credit cards, which is generally covered by the interest earned on the account. Once an offender offers a credit card for payment of restitution, and it is authorized by the bank, it is an immediate "capture" of funds for the Court Administrators Office.

CONVERTING RESTITUTION ORDERS TO COMMUNITY SERVICE

In extreme cases where offenders are truly indigent and unable to pay restitution, another option is to have offenders perform community service hours in lieu of paying restitution. Victims can have input into the type and location of the community service performed. Offenders may perform direct services for the victim, for a favorite charity of the victim, or for one of the agency's regularly authorized public work projects that the victim selects.

EXTENDING CONDITIONS OF COMMUNITY SUPERVISION

In Washington, offenders who fail to comply with their restitution orders can have their sentence of community supervision extended for up to ten years. This “incentive” monitored by the Department of Corrections often provides impetus for offenders to fulfill their restitution requirements in a more timely manner.

RESIDENTIAL RESTITUTION CENTERS

Residential restitution centers are being used in various areas of the country to enforce the payment of restitution by offenders. Generally, offenders on probation may be assigned to a restitution center where they will live, work, and turn over the full amount of their pay to the agency managing the center. A portion of these funds is returned to the offender and the remainder is used to pay restitution to victims and, in some cases, other court-ordered payments.

USE OF PRIVATE COLLECTION AGENCIES

Some states authorize justice agencies to utilize the services of private collection agencies to secure restitution payments. It is important to note that this approach incorporates a percentage-based “fee for service” such as 10 percent of the restitution collected, which equates to a reduction in the amount of restitution a victim will receive. However, many justice agencies *and* victims feel that 90 percent of a restitution order is better than *nothing at all*.

Justice agencies must contract for the services of private collection agencies and establish clear policies that provide guidelines for acceptable collection tactics. Since private collection agencies have experience, automated systems, and employees trained to track down delinquent debtors, this approach can contribute significantly to increased collections of restitution payments.

ESTABLISHING OFFENDER SANCTIONS FOR NONPAYMENT OF RESTITUTION

Agencies responsible for enforcing restitution should also enforce established sanctions for offenders’ *willful* failure to pay and ensure that offenders under their supervision are aware of the range of possible sanctions. Such sanctions can be lifted in extreme cases where an offender can demonstrate hardships that prevent the maintenance of timely restitution payments; however, in such cases, restitution payment schedules should be adjusted and/or extended, *not* abandoned.

It is also important that victims understand their obligation to report nonpayment of court- and parole board-ordered restitution so that the appropriate justice system official(s) can assess the reasons for nonpayment and possibly consider sanctions for offenders in violation of official orders. Victims should also be provided the opportunity to have input into the type(s) of sanctions that might be imposed. In addition to the remedies noted above, such sanctions can also include the following:

- Public/community service employment (both paid and nonpaid).
- Intensive supervision.
- House arrest.
- Curfews.
- Electronic monitoring.
- Urinalysis.
- Revocation of supervision to incarceration (including minimum security institutions and work release programs).

THE ROLE OF TECHNOLOGY

The availability of resources for technological support and automation is one of the single most important components of successful restitution management. The past few years have seen significant advances in terms of computerization of probation departments and court clerk's offices in particular, but the need for allocation of such technological resources cannot be overestimated. Many restitution programs still operate with a handwritten card system for monitoring payments and disbursing checks to victims. Such a system is labor-intensive, time-consuming, and often ineffective in terms of its accuracy in tracking and monitoring restitution payments. Jurisdictions with effective restitution systems can generate accurate, regular data on restitution orders and receipts. This type of information is critical to effective monitoring and enforcement.

Automation can enhance the restitution process in the following ways:

- Reducing the amount of staff time needed to manage and collect restitution.
- Automatically generating letters of reminder or bills to offenders related to restitution and other court-ordered fees.
- Automatically generating letters to victims informing them about the restitution process, the status of the payments owed to them, and other available services.
- Maintaining accurate records of the location of victims and offenders and the status of restitution orders.
- Increasing the ability of probation and parole officers, supervisors, and department administrators to access information on the status of an individual offender or of a group of offenders (i.e., all offenders supervised by a particular agent or unit or all offenders ordered to pay restitution throughout the state).
- Enabling agencies to prepare statistical reports quickly and easily to analyze and report their progress or results (i.e., collection rates).
- Providing valuable data to evaluate the effectiveness of restitution programs.

The sufficient allocation of resources for automation is one of many individual factors, described herein, which contribute to successful restitution management and collection. One fact is clear: restitution must be identified as a clear priority across the entire spectrum of the jurisdictional justice system. A system-wide approach to restitution management, including streamlined and consistent goals, in conjunction with careful allocation and management of the restitution tasks outlined in this section, is vital to serving the needs of crime victims regarding the very fundamental and crucial right of restitution. In referring to staff training regarding restitution, Jim Sinclair, Assistant Director of the Department of Community Supervision and Corrections in Tarrant County, Texas, states:

. . . It is not so much focusing on collecting the money as your legal mandate or because it is an order of the court, but to get your staff to buy into the fact that for victims and survivors, restitution has an incredibly powerful symbolic value. Sometimes it is the only way that they have an inkling of hope that the offender is being held accountable (Sinclair 1999).

PROMISING PRACTICES

- The Florida Department of Corrections operates its Court-Ordered Payment System (COPS) to track and simplify the collection of court-ordered payments. This automated collection system is located on the DOC mainframe computer and linked to the offender's criminal history and supervision/inmate record. It provides payment information to all (155) probation offices in Florida, fifty-one major institutions, thirty-two community correctional centers, and forty-three road prisons, work camps, and forestry camps. Offenders bring in one form of guaranteed payment (i.e., money order) which is disbursed to victims and other payees according to the established payment schedules in COPS. Governmental checks are then disbursed to victims and other payees.
- In California, landmark omnibus restitution legislation, passed in 1995, established clear provisions for collecting restitution from parolees. Assembly Bill 817 (Chapter 313, Statutes of 1995):
 - Allows the California Department of Corrections (CDC) to collect restitution fines from parolees.
 - Allows CDC to collect restitution orders even if the parolee's victim received assistance from the state compensation fund.
 - Clarifies that collection of a restitution order (which is paid directly to victims) takes precedence over collection of the restitution fine (which is deposited in the state's Restitution Fund).
 - Requires that parolees satisfy their restitution fine obligations before being released to parole in another state.
 - Allows CDC and the Board of Prison Terms to require, as a condition of parole, that a prisoner make payments on the outstanding restitution orders and restitution fines.
- The Department of Community Supervision and Corrections in Tarrant County, Texas, uses a national database to search for probation offenders as well as lost victims who are owed restitution. Over the course of a year, utilizing an office helper who worked two hours a

week, they were able to locate victims who were owed an aggregate amount of approximately \$200,000 in restitution. Tarrant County currently utilizes funds from a VOCA grant to finance a full-time position involving searching for lost victims. Tarrant County also strongly encourages the involvement of volunteers and victim advocates in its victim service programs.

- In California, courts are required by law to impose “to be determined” restitution orders if victims’ losses are not fully assessed at the time of sentencing. Once victims’ losses are determined, the case is returned to court to officially record the restitution order and establish a payment schedule. This innovative approach provides an important opportunity for offender financial accountability in cases where the only alternative is no restitution order at all.
- Also in California, state law provides that parents may be held liable for the criminal acts of their children for amounts up to \$25,000. Additionally, juvenile offenders cannot be released from parole or request that their criminal record be expunged until such time as they have completed all restitution payments.
- In Minnesota, the Dakota County Community Corrections Department maintains a restitution fund that is used to pay victims of juvenile offenders. The juvenile offenders perform community service hours and receive minimum wage credit for the hours they work. The “money” youth earn is then taken from the restitution fund and paid directly to the victims.

1. Why is restitution so important as a remedy for crime victims?

2. List three obstacles to the successful collection and management of restitution.

3. In addition to serving as a critical remedy for crime victims, list four other purposes that restitution serves.

4. Why is the establishment of restitution as a jurisdictional priority so important?

5. List five ways in which victims can document financial losses for purposes of restitution.

6. List five practical tasks critical to the success of any restitution program.

Compensation

SECTION 3, COMPENSATION**SIGNIFICANT LEGISLATION**

The California State Board of Control (SBOC) has enacted legislation that expands the definitions of victims of crime who are eligible for compensation:

- Children who witness an act of domestic violence are now presumed to have sustained physical injury and are eligible for a higher level of compensation benefits (Government Code #13960 (B) (3)).
- The definition of derivative victim has been expanded to include persons who become primary caregivers of minors who were victims of child abuse or sexual abuse, and to include residents of other states (Government Code #13960 (A) (2)).
- Vehicular manslaughter (motor vehicle and water vehicle) has been added to the list of eligible crimes (Government Code #13960 (c) (5)).
- A minor under sixteen years of age who sustains emotional injury due to unlawful sexual intercourse with a person over the age of twenty-one is now presumed to have sustained physical injury if felony charges are filed (Government Code #13960 (d) (2) (I)).

The legislation expands benefits for expenses incurred by an adult victim in relocating away from the defendant:

- Adds benefits for expenses to install or increase residential security related to a crime in the victim's home.
- Adds benefits for the expense of retrofitting a residence or vehicle to make it accessible to a victim if the victim is permanently disabled as a result of a crime (Chapter 584 Statutes of 1999 (California Assembly Bill 606) 1 January 2000).

PROMISING PRACTICES

- In an effort to increase awareness and knowledge about compensation benefits for victims of crime, and to stimulate greater involvement of victim service professionals in assisting victims to apply for compensation benefits, many state compensation programs have initiated and developed trainings for this purpose. For example, Pennsylvania has developed an extensive series of trainings called "connections" trainings, bringing together victim advocates, police officers, prosecutors, and community leaders. These regional training programs emphasize the need for collaboration among criminal justice system

personnel and other allied victim service professionals in ensuring that victims' needs for information and assistance in applying for compensation benefits are comprehensively met.

Other states that have initiated such training include New Mexico, which offers both basic and advanced training on compensation on a monthly basis, and Florida, which requires all VOCA subgrantees to send personnel to a multiday basic training that includes several hours on crime victims' compensation.

SECTION 2, RESTITUTION

Siegel, S. 6 October 1999. Interview with Steve Siegel, Director of Victim Services, Denver and Denver County District Attorney's Office.

CHAPTER 5 FINANCIAL ASSISTANCE FOR VICTIMS OF CRIME

SECTION 3, COMPENSATION

ABSTRACT

Crime victim compensation provides greatly needed financial assistance for crime victims in the aftermath of victimization. All fifty states, plus the District of Columbia, Puerto Rico, and the Virgin Islands, have compensation programs that can pay for medical and counseling expenses, lost wages and support, funeral bills, and a variety of other costs. While each state operates under its own law, the basic requirements, benefits, and procedures are quite similar. Every person who works in law enforcement and victim services has a professional responsibility to tell victims about compensation opportunities so that they can gain access to this important resource in the recovery process.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The importance of financial assistance to crime victims.
- Basic eligibility requirements found in all states.
- Primary compensation costs covered by all victim compensation programs.
- Standard procedures followed by state compensation programs in evaluating applications and making decisions.
- The crucial role that every professional in victim services and law enforcement must play in assisting victims to learn about compensation opportunities as well as mandated responsibilities under the Victims of Crime Act (VOCA) to provide information and assistance in filing for compensation.
- Funding and administration of compensation programs.
- Promising practices that are improving compensation programs.

STATISTICAL OVERVIEW

- State crime victim compensation programs pay approximately \$250 million to more than 120,000 victims of violent crimes each year (OVC 1998).
- About half of the amounts paid by victim compensation programs are for medical care. Mental health counseling accounts for about a fifth of all payments. Replacing lost wages

and support for victims who are disabled or killed, and paying for funeral bills are the other major expenses (Ibid).

- About a third of all the recipients of crime victim compensation are children, most of whom are victims of sexual abuse (Ibid).
- Maximum benefits available to victims from state programs generally range between \$10,000 and \$25,000, though a number of states have higher maximums. However, since the large majority of victims applying for benefits do not have large expenses or losses, national statistics show that the average amount paid to each victim applying for compensation is about \$2,000 (NACVCB 1999).
- The median annual pay out per state is just under \$2 million. The range of total payments among states is considerable, with California paying close to \$75 million each year, and about nine of the smallest states paying less than \$500,000 annually (OVC 1998).
- While there is no federal crime victim compensation program, the Victims of Crime Act (VOCA) provides grant funds of approximately \$70 million each year to supplement state funds of more than \$165 million paid to victims (Ibid.).

INTRODUCTION

It is well known that victims of violent crime suffer physical injury and emotional trauma. What may be less recognized is that many victims also face serious financial setbacks as they struggle to pay for the costs of recovery. For some victims the most important victim assistance they can receive is help in paying for medical care, counseling, and lost income in the aftermath of crime.

The good news is that every state has a crime victim compensation program that can provide substantial financial assistance to crime victims and their families. Victim compensation programs serve as the primary means of financial aid for thousands of crime victims each year. And while no amount of money can erase the trauma and grief that victims suffer, this aid can be crucial in the recovery process. By paying for care that restores victims' physical and mental health, and by replacing lost income for victims who cannot work or for families who lose a breadwinner, compensation programs are helping victims regain their lives and their financial stability.

Compensation for victims of crime is one of the earliest types of assistance for victims. Ancient history traces the idea of victim compensation to the Babylonian civilization before 2380 B.C. In the 1950s, Margery Fry, a member of parliament in Great Britain, initiated legislation to establish the first compensation programs in modern society, which began operating in Great Britain and New Zealand in the early 1960s.

Crime victim compensation was the first type of victim service established in this country. California began operating the first program in 1965, seven years before the original two victim assistance programs opened their doors. By 1972 nine states had created compensation

programs, and the rest of the states followed suit over the next two decades. In 1998, Puerto Rico became the latest jurisdiction to implement a compensation program. There is no federal or national victim compensation program; each state operates independently under its own state law, but all states are expected to cover federal victims of crime. Programs that meet certain conditions (and all of them do) are eligible for grant funds through the Victims of Crime Act (VOCA) to supplement their state resources.

Victims of nearly every type of crime of violence or abuse, including rape, assault, child sexual abuse, domestic violence, and drunk driving, are eligible to apply for financial help. Family members of homicide victims also are eligible for benefits. About a third of all the victims currently helped by compensation programs are children, most of whom are victims of sexual abuse.

Compensation programs can pay for a wide variety of expenses and losses related to criminal injury and homicide. Beyond medical and mental health treatment, lost wages and support, and funerals, a number of programs also cover crime-scene cleanup, travel costs to receive treatment, moving expenses when victims are forced to change residences, and the cost of housekeeping and child care. Programs pay only those expenses not covered by insurance or other sources that are readily available to the victim.

Eligibility requirements are broadly similar among the states, though in individual cases, it is important to check with the specific state program involved to know exactly what those requirements are. Programs generally require victims to report the crime to law enforcement and cooperate in any subsequent investigation and prosecution, though many states can waive these requirements for good cause. Victims cannot have been committing crimes or been involved in other substantial misconduct when victimized, and family members are generally eligible only if the victim meets all requirements.

Telling victims about compensation is the professional obligation of everyone who works in victim assistance and law enforcement. Indeed, providing information to victims about compensation is a mandated responsibility of all victim service programs that receive federal funds through VOCA. And law enforcement officers increasingly are being required by state constitutional amendments to provide information about compensation and other services.

Training about compensation should be an integral part of the program plan of every victim service organization, police department, and prosecutor's office. A wealth of material is available from each state program, including applications and brochures, and compensation programs welcome the opportunity to talk with and train professionals in victim services and law enforcement.

Victim compensation is one of three primary types of financial assistance available to crime victims in addition to restitution and civil recovery. Compensation differs from restitution, in that compensation does *not* require the apprehension and conviction of an individual offender to provide financial relief to the victim. Instead, state compensation programs gather funds through relatively small assessments against all criminals, and then distribute those funds to the victims who need help. Restitution, on the other hand, requires that the criminal who injured a

specific victim be ordered to reimburse the victim for the victim's losses. In contrast to victim compensation, which simply requires an application to a state program, civil recovery occurs when the victim files a suit in civil court against the offender and is paid by the offender as a result of a verdict or settlement in favor of the victim.

COMPENSATION BENEFITS

All compensation programs cover the same major types of expenses, although their specific limits may vary. The primary compensable costs covered by all states are as follows:

- Medical expenses.
- Mental health counseling.
- Lost wages for victims unable to work because of crime-related injury.
- Lost support for dependents of homicide victims.
- Funeral expenses.

Medical care is the primary item paid for by compensation programs. This can include emergency room treatment as well as follow-up medical treatment. Mental health counseling also is an important benefit, not only for victims, but also for family members in homicides and some other crimes. Victims who cannot work because of their crime-related injuries may qualify for lost wages, and dependents of victims who are killed are eligible for lost support. Programs also pay a substantial percentage of their total awards to cover funeral costs.

In addition, the following are a number of other expenses that are paid for by some programs:

- Moving or relocation expenses, often limited only to instances where the victim is in imminent physical danger, or if medically necessary (such as severe emotional trauma from sexual assault).
- Transportation to medical providers, usually limited to occasions where the provider is located at some distance from the victim's residence, or when other special circumstances exist.
- Replacement services for work such as child care and housekeeping that the victim is unable to perform because of crime-related injury. Some states limit payment for replacement services to nonfamily members.
- Crime-scene cleanup, or the cost of securing a home or restoring it to its precrime condition.
- Rehabilitation, which may include physical therapy and occupational therapy.
- Modifications to homes or vehicles for victims who are paralyzed or severely disabled.

Florida, New Jersey, and New York also cover very limited amounts of personal property lost or damaged during the crime. (Florida and New York have \$500 limits on this expense and New Jersey has a \$200 limit. Florida and New Jersey also limit payment for personal property to elderly victims and disabled victims.) All states will cover medically necessary equipment, such as eyeglasses or hearing aids, that are damaged during the crime, or that become necessary as a result of it.

MAXIMUMS AND LIMITS

Maximum benefits available to victims from the state programs generally range between \$10,000 and \$25,000, though a few states have higher maximums. In addition, many states have lower limits on specific compensable expenses, like funerals and mental health counseling. A few states also can provide extra benefits in homicides or catastrophic-injury cases. When helping specific victims, it is important to check with individual states to learn exactly what these limits are.

EMERGENCY AWARDS

Some, but not all, compensation programs have established procedures allowing the program to make an emergency award to a victim within a few days or weeks. Many programs, however, have found that the difficulty of verifying the claims under such expedited situations has a significant impact on their ability to process other claims; so they limit emergency awards to cases of extreme hardship and pay only limited amounts, such as up to \$500 or \$1,000.

ELIGIBILITY REQUIREMENTS

All of the state crime victim compensation programs share the same basic eligibility requirements, though individual differences exist. Again, it is important for anyone helping victims to check with the individual state where the crime occurred to determine the specific requirements of that state.

The threshold requirement is that the victim be a victim of a violent or personal crime. Nearly every type of violent or personal crime is compensable, including assault, domestic violence, rape, sexual assault, child sexual abuse, homicide, and drunk driving. Property crimes are not compensable, except in a few states in very limited amounts.

While specific eligibility requirements vary slightly from state to state, all programs have the same basic criteria. Generally, the victim must do the following:

- Report the crime promptly to law enforcement. Many states have a seventy-two-hour reporting requirement, but nearly all states have “good-cause” exceptions applied liberally to children, incapacitated victims, and other special circumstances.
- Cooperate with police and prosecutors in the investigation and prosecution of the case. The apprehension and/or conviction of a perpetrator is not a prerequisite to receiving

compensation. A number of states are flexible with regard to this rule when looking at cases involving domestic violence, sexual assault, or child abuse.

- Submit a timely application to the compensation program. Many states require that the application be submitted within one year from the date of the crime, though a number of states have longer time frames, and most can waive these requirements for good cause. In addition, nearly every state makes exceptions for child victims, who often are given up to one year from the time of turning eighteen to file claims for crimes occurring during their childhoods.
- Be innocent of criminal activity or significant misconduct that caused or contributed to the victim's injury or death. States vary on how this requirement is interpreted, but it generally means that eligibility is denied to anyone injured while committing a crime, such as dealing drugs, or by engaging willingly in a mutual fight not necessitated by self-defense. Many programs can reduce payments rather than deny them entirely when a victim's conduct has contributed to the crime.
- Have an expense or loss not covered or reimbursed by some other "collateral resource," such as medical or automobile insurance, or disability pay. Some, but not all, states also count sick leave, vacation leave, and life insurance as collateral resources. Also in some states, while restitution from the offender can count as a collateral resource, it must actually be paid to the victim before a program will reduce its award to the victim as a result. If a compensation program makes an award and the victim is later reimbursed by a collateral resource for the same expense or loss, the victim is expected to repay the program.

The eligibility of a victim's dependents or other "secondary victims" generally hinges on the eligibility of the "direct" victim (the one who actually suffered the injury or death). For example, if a homicide victim was engaged in criminal activity, the family generally would be ineligible for any benefits.

Since each state operates under its own law and rules, it is important for those accessing any program to check with that program to learn exactly what the requirements are.

APPLICATION PROCEDURES

Where to apply. Victims must apply for compensation in the state where the crime occurs, regardless of the state of residency of the victim. In other words, if someone from Florida becomes a victim of a crime in Minnesota, the victim or the victim's family must apply for compensation in Minnesota.

Until recently, Nevada was an exception to this rule, since it did not cover nonresidents for crimes occurring within its borders. However, in 1999 Nevada changed its law to allow coverage of nonresidents.

Most states do not cover crimes occurring outside their own state borders, but there are a few that do. California and Ohio, for example, will accept applications from their residents who

are victimized in other states, but require that the victim first file an application in the state where the crime occurred before accessing the home state's program.

While most states do not cover crimes occurring to their residents who are victimized in foreign countries, there is one major exception: all states will cover crimes of terrorism occurring to their residents outside the United States. For example, this means that a resident of Vermont who is victimized in a terrorist incident in Turkey could apply in Vermont for victim compensation. In recent years, state programs have received applications from victims of the 1998 embassy bombings in Africa, as well as several other incidents. (The federal government has established coverage of terrorism in foreign countries as a condition for state compensation program to receive VOCA grant funds, and all of the states have accepted the condition.)

The application process.

- The victim is responsible for completing the application form and filing it with the compensation program. Generally, victims obtain applications from victim-witness programs, other victim assistance programs, and law enforcement officials. Applications are also available from the compensation program directly. Some victims may need the help of victim assistants in completing the claim form.
- Claim processing begins when the application is received by the program. The program must first verify that a crime took place and determine whether the victim was engaged in criminal activity at the time of the crime. Typically, the initial step by the compensation program is to make a request for the police investigative report from the police jurisdiction where the crime took place.
- Depending on the expenses or losses claimed by the victim, the program also will request verification from medical providers and mental health counselors of the treatment the victim received and the cost of the treatment. If the victim claims a wage loss because of injury, employers will be contacted to verify the lost time and the rate of pay. Similarly, funeral homes will be contacted if a homicide has taken place.
- Most programs process claims through a staff centralized in one office in the state capital, but a few states have branch or regional offices, and a few make use of locally-based individuals in other entities or agencies to perform preliminary work on applications. In Louisiana, for example, staff in local sheriffs' offices help victims complete the application and gather documents necessary to evaluate eligibility and expenses.
- Once the required documentation is in place, programs analyze the information and make decisions on whether the victim is eligible and what expenses are compensable. Authority to make these decisions varies from state to state. In most of the states, program managers and administrative staff are authorized to make decisions on applications. In about a quarter of the states, a part-time board or commission determines eligibility and awards on all claims. About a fourth of the states use these boards only in making decisions on appeals. There are three court-based programs (Illinois, Ohio, and West Virginia) in which court officials make decisions on applications.

- Usually a notice of the program's decision is sent to the victim, but in some states, a hearing is held before the decision is made. If the victim does not agree with the program's decision, he/she may appeal it. In some instances, the program staff or board itself will reconsider the application at the first stage of appeal. In nearly every state, the victim may make a further appeal to another authority, typically an administrative law judge or a court, before the decision becomes final.

The process, from start to finish, usually averages between four to six months. Compensation programs are dependent on many individuals to provide them with information before decisions can be made: the victim, police, medical providers and counselors, insurance companies, employers, and others, depending on the expenses claimed. Some programs will try to contact providers of services who are awaiting payment to assure them that the process is ongoing and will likely result in payment. Victim assistants may be able to help in this regard as well by advocating for the victim with other service providers.

THE ROLE OF POLICE AND VICTIM SERVICES

Professionals who work with victims have a crucial role to play in the process of seeking compensation. Compensation programs depend almost entirely on people working in law enforcement and victim services to let victims know that the programs exist. Compensation programs themselves, with limited staffs devoted mainly to claims processing, simply are not designed to handle initial contacts with individual victims. Compensation programs focus their efforts on providing training and information to victim assistants and police who are in the best position to tell victims about compensation opportunities. While programs also distribute brochures, posters, and public service announcements, the best way for a victim to hear about compensation is when she or he is actually facing issues relating to the costs of crime.

For many crime victims, missing the compensation application filing deadline is one of the most painful "second injuries" in the aftermath of victimization. Unfortunately, when this happens, it is almost always due to a failure on the part of a police officer or victim assistant to tell the victim about compensation opportunities. Every person who works in law enforcement and victim services has a professional responsibility to ensure that victims do not miss out on their opportunity to apply. To ensure that this responsibility is met, training about compensation should be an integral part of the program plan of every victim service organization, police department, and prosecutor's office. A wealth of material is available from each state program, including brochures, applications, and information cards, that can help in this effort. Compensation programs welcome the opportunity to meet with individuals and groups, and usually will make staff members available to speak at conferences and meetings.

What specifically can the victim service professional do to make sure that victims get every chance they can to access financial help? Here are some ideas:

- *Ask the victim about financial losses.* Does the victim have medical bills not covered by insurance? Does the victim need help in paying for counseling? Did the victim miss time at work? Remember that financial injury can be just as important to address as the victim's emotional needs.
- *Tell the victim about compensation.* Let him know that there is help. Provide a phone number. Don't assume that someone else has provided this information. Even if the victim has been told before, she may not have retained the information in the initial crisis stage after the victimization. Repeat the information and emphasize the filing deadline to be sure the victim understands.
- *Help the victim apply for benefits.* Give the victim an application and help with its completion. Assist the victim in gathering necessary documentation, such as bills and insurance records. Make sure it is filed in a timely manner.
- *Follow up with the program.* If a question arises in completing the application, call the compensation program to get advice. Once the application is submitted, follow up as necessary to see if you can provide any further help. Sometimes a victim's application is delayed because the program needs more information and can't get the victim to respond. Volunteer to be a go-between.
- *Follow up with the victim.* Are there additional expenses that have come up since the application was submitted? Would it help to call a creditor to let them know that a compensation application is in process? Does the victim need help in responding to a request for more information? Keep in touch with the victim throughout the process to see how you can help.
- *Be patient.* Understand that the compensation program is processing hundreds or thousands of applications and may not be able to concentrate fully and immediately on each individual claim it receives. While many important expenses can be covered, the program may not be able to cover all financial needs. Your assistance can go a long way toward shortening the process, and it can also help the victim with the difficult task of waiting for help as the application is reviewed.

FUNDING OF COMPENSATION PROGRAMS

State compensation programs receive funding from a variety of sources. However, the large majority of programs get their funds either entirely or primarily from the offenders themselves. Typically, a state will require that any individual convicted of a misdemeanor or felony pay a relatively small fee (usually between \$10 and \$50) into the crime victim compensation fund. These small assessments build a substantial fund that is then used to make awards to individual victims. Less than a dozen states depend on legislative appropriations to make awards to victims.

Some programs are gaining substantial amounts of additional revenue by recovering money owed to victims through restitution and civil suit judgments. Programs require that when a victim is paid by the program, amounts recovered from the offender through court-ordered

criminal restitution or amounts awarded in civil suits be returned to the program if those amounts cover expenses already paid for by the program. Some state compensation programs are making special efforts to work with prosecutors, judges, corrections, and probation officials to ensure that restitution is ordered and collected. However, recovery of this nature is a minor source of total program income.

VICTIMS OF CRIME ACT

With the enactment of the Victims of Crime Act of 1984 (VOCA), state compensation programs became eligible for federal funds to supplement state funding for awards to victims. Through annual VOCA grants, federal funds provide 20 to 25 percent of each state's annual budget.

VOCA stipulates that a state may receive an annual federal grant totaling 40% of the amount the state awards to victims. In other words, if a state spends \$1 million of its own money in awards to victims in a particular year, the federal government will give it an additional \$400,000 to spend. This results in a 72% to 28% split in state-federal dollars spent each year (i.e., of every \$1.4 million awarded to victims by a state, \$1 million will be from state funds, and \$400,000 will be from federal funds). States bear nearly all of the administrative costs of operating the program, since at least 95% of the federal money must be awarded to victims, and only the remaining 5% can be used by the state for administrative purposes.

To qualify for federal funding, each state must meet the following VOCA requirements (every state currently meets them):

- Cover medical expenses, mental health counseling, and lost wages, as well as funeral expenses and lost support for families of homicide victims.
- Consider drunk driving and domestic violence as compensable crimes.
- Not categorically exclude domestic violence victims on the basis of their being related to or living with the offender. (Programs may deny claims when an award to the victim would "unjustly enrich" the offender.)
- Cover all U.S. citizens victimized within its borders, regardless of the victim's state of residency.
- Cover its state residents who are victimized in terrorist crimes outside state borders.
- Cover victims of crimes within the state that fall under federal jurisdiction. This would include victims of crimes on Indian reservations, military installations, national parks, or other federal lands. (There is no federal or national compensation program that would otherwise cover victims of federal crimes; therefore victims are dependent on the states for this coverage.)

COMPENSATION PROGRAM LOCATION AND SIZE

Compensation programs are administered by state governments under state law. About a third of the programs are located in departments of public safety or criminal justice planning agencies, and a fifth are in offices of attorneys general. Arizona and Colorado are unique in operating compensation programs through local prosecutors' offices, under state law and coordination.

Staff sizes tend to be quite small, with thirty-six states operating with fewer than ten people. Only a few states operate with more than twenty employees, California being the largest with over 400 workers.

Annual payouts also vary, mostly according to the size of the state. California leads the nation with about \$75 million awarded to victims each year, and Texas is next with about \$30 million in annual payouts. Nine of the smallest states pay out less than one-half million dollars each year.

The state compensation programs are represented by the National Association of Crime Victim Compensation Boards (NACVCB), which promotes an exchange of information and ideas through a network of compensation programs around the country and by various training and technical assistance activities. The NACVCB, which was founded in 1977, provides a strong national voice on all matters affecting state compensation programs before Congress and the Office for Victims of Crime.

PROMISING PRACTICES

COVERAGE OF DOMESTIC VIOLENCE AND SEXUAL ASSAULT VICTIMS

A number of compensation programs are striving to provide benefits to more victims of domestic violence and sexual assault by liberalizing rules, being more flexible in interpreting requirements, and adding benefits to meet these victims' specific needs.

Requirements that victims report to police and cooperate in investigation and prosecution of crimes can be problematic for many victims of domestic violence and sexual assault. While nearly all programs still require some to report to law enforcement, a few programs, such as New York and Idaho, may accept the victim's seeking of a temporary restraining order as sufficient to meet the reporting requirement. A number of programs also have become more flexible in waiving cooperation requirements if the victim's health or safety may be jeopardized.

Programs also are searching for ways to meet more of the needs that victims of domestic violence and sexual assault may have. Some can pay for moving expenses if the victim needs to relocate. Some states now can cover child witnesses to domestic violence, even when the child was not directly under any threat of violence. A few, like New Jersey, Texas, Vermont, and Wyoming, can even replace income the victim received from the offender if that economic

support is no longer forthcoming. Alabama has instituted a special process, independent of its regular application procedures, to pay for a number of miscellaneous expenses that domestic violence victims may incur.

FUND RECOVERY

Some compensation programs are working closely with prosecutors, judges, corrections departments, and probation and parole officials to hold offenders accountable for repaying to the program the amounts it awards to the victims of those offenders. These programs make sure that prosecutors are informed about awards to victims, so that restitution can be sought and ordered in those cases, and if possible, paid directly back to the compensation program itself. Some programs follow up with various officials responsible for enforcing restitution orders to monitor compliance and urge continuing enforcement. Some compensation programs also monitor civil suits filed by victims against offenders, and communicate with attorneys representing the victims to ensure that any amounts recovered for expenses paid by the compensation program are returned to the program. Alabama, California, and Iowa are examples of programs that are particularly aggressive in recovering funds from offenders.

ADVISORY COMMITTEES

Recognizing the importance of working closely with victims and their representatives to define and resolve issues, a number of compensation programs have established advisory committees composed of various “constituent groups” to help in formulating policies and improving procedures. Pennsylvania, for example, has representatives of domestic violence and sexual assault victims as well as police and prosecutors on its broad-based committee, which has examined the program’s statute, rules, and procedures to help make the program more responsive to victims. Advisory groups in Washington state and the District of Columbia are other good examples. An advisory group in Ohio recently helped the program revise its application to make it more user-friendly.

CRISIS RESPONSE

A number of compensation programs are working closely with disaster-preparedness officials and victim service programs to ensure that they can be part of a coordinated response to mass victimizations. School shootings in Arkansas and Oregon found compensation programs directly involved in ensuring that victims and their families had quick access to financial assistance. The Oklahoma compensation program has helped numerous victims and families who have suffered financial losses resulting from the bombing of the Murrah federal building in Oklahoma City.

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Trauma Assessment and Intervention

SECTION 1, TRAUMA ASSESSMENT AND INTERVENTION**RESILIENCE**

Resilience has been defined as “the capacity to bounce back: to withstand hardship and repair oneself.” The Wolins’ Challenge Model of Resilience was conceptualized by examining a series of retrospective case studies about adult children of alcoholics but did not become addicted to chemicals. After careful examination and analysis of these studies, the Wolins identified a constellation of six resiliencies in individuals who rebound from troubled circumstances or events and resume usual activities with success. The constellation of strengths identified among individuals in their study included the following:

1. *Insight*. The mental habit of asking tough questions and giving honest answers, including reading signals from other people, identifying the source of the problem, and trying to figure out how things work for self and others.
2. *Independence*. The right to safe boundaries between yourself and significant others, including emotional distancing, and knowing when to separate from bad relationships.
3. *Relationships*. Developing and maintaining intimate and fulfilling ties to other people, including perceived ability to select healthy partners, to start new relationships, and to maintain healthy relationships.
4. *Initiative*. Determination to master one’s self and one’s environment, including creative problem solving, figuring out how things work, and generating constructive activities.
5. *Creativity and humor*. Safe harbors of the imagination where you can take refuge and rearrange the details of your life to your own pleasing, including creativity and divergent thinking; using creativity to forget pain and express emotions; and using humor to reduce tension or make a bad situation better.
6. *Morality*. Knowing what is right and wrong and standing up for those beliefs, including being willing to take risks for those beliefs, and finding joy in helping other people (Wolin and Wolin 1993).

Usually, resilient individuals know when trouble arises and they need help. They are motivated to make things better. They search for solutions, and they form trusting collaborative relationships. To gradually regain confidence, a resilient person can identify specific jobs that they are successfully able to carry out within the limits of their disabilities (Biscoe 2000).

SECTION 1, TRAUMA ASSESSMENT AND INTERVENTION**ABSTRACT**

Victims of crime are at increased risk of suffering from physical and mental health problems in the days, months, and years following their trauma. In order to minimize these negative effects of crime, service providers should follow several basic steps. First, a core needs assessment must be conducted. Second, care must be taken not to retraumatize the victim by the criminal or juvenile justice system process. Third, the psychological, social, and health effects of trauma identified in the needs assessment must be addressed. Fourth, for those in need, scientifically-supported multisession interventions should be implemented.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The importance of victim assistance professionals conducting an assessment of victims' basic needs.
- The psychological and social outcomes of trauma.
- The medical and health outcomes of trauma.
- Interventions for traumatized victims.
- Characteristics of victims most likely to require mental health counseling.

INTRODUCTION

Victimization can obliterate the most fundamental assumptions that people rely upon in order to function each day of their lives—that they are immune from harm; that events in this world are predictable and just; and that they are worthwhile, decent individuals. Failure to intervene with crime victims rapidly and appropriately can compound emotional and physical distress resulting from assaultive violence.

In 1982, the President's Task Force on Victims of Crime (President's Task Force, 1982) concluded that the criminal justice system's treatment of crime victims was a national disgrace and specifically noted that violent crime produces psychological and physical injuries. The President's Task Force also called on the mental health community to—

- Develop immediate- and long-term psychological treatment programs for crime victims and their families.
- Work with victim services to ensure that crime victims have access to competent psychological treatment.
- Study crime-related psychological trauma.
- Establish training programs for practitioners who work with crime victims.

WHY SHOULD THE CRIMINAL JUSTICE SYSTEM CONCERN ITSELF WITH CRIME VICTIMS' CRIME-RELATED PSYCHOLOGICAL TRAUMA?

Crime-related psychological trauma impairs the ability and/or willingness of many crime victims to cooperate with the criminal justice system.

The President's Task Force argued that victims must be treated better by the criminal justice system because it cannot accomplish its mission without the cooperation of victims. At every key stage of the criminal or juvenile justice system process—from contemplating making a report to police, to attending a parole hearing—interactions can be stressful for victims and often exacerbate crime-related psychological trauma.

Victims whose crime-related fear makes them reluctant to report crimes to police or who are too terrified to testify effectively make it impossible for the criminal justice system to accomplish its mission. Thus, it is important to understand the following dynamics that may hamper the criminal justice process:

- Victims' crime-related mental health problems.
- Which aspects of the criminal justice system process are stressful to victims.
- What can be done to help victims with their crime-related mental health problems.
- What can be done to help victims cope with justice system-related stress.

Effective partnerships among the criminal and juvenile justice systems, victim assistance personnel, and trained mental health professionals can help victims with crime-related psychological trauma and with justice system-related stress. By helping victims through such partnerships, the criminal and juvenile justice systems also help themselves become more effective in curbing and reducing crime.

WHY IS THE CRIMINAL JUSTICE SYSTEM STRESSFUL FOR VICTIMS?

As Kilpatrick and Otto (1987) noted, several psychological theories are useful in understanding why victims might develop psychological trauma and why interactions with the criminal justice

system are usually stressful for victim. This section describes one theory that has particular relevance for understanding why the criminal justice system is so stressful for many victims.

CLASSICAL CONDITIONING THEORY

The Russian physiologist, Ivan Pavlov, first described a basic type of learning called classical conditioning (Pavlov 1906). Briefly described, classical conditioning occurs when a neutral stimulus is paired with a stimulus that produces a particular response. For example, if food is placed in a dog's mouth, a salivation response naturally occurs. If the neutral stimulus of a bell ringing is presented to the dog at approximately the same time that the food stimulus is presented, the bell stimulus (conditioned stimulus) will acquire the capacity to produce a conditioned response of salivation similar to the unconditioned response of salivation produced by the unconditioned stimulus of food. What does this have to do with crime-related mental health problems or the criminal justice system?

- Kilpatrick, Veronen, and Resick (1982) noted that a violent criminal victimization is a real life classical conditioning experience in which being attacked is an unconditioned stimulus that produces unconditioned responses of fear, anxiety, terror, helplessness, pain, and other negative emotions.
- Any stimuli that are present during the attack are paired with the attack and become conditioned stimuli capable of producing conditioned responses of fear, anxiety, terror, helplessness, and other negative emotions.

Classical conditioning theory predicts that any stimuli present at the time of a violent crime are potential conditioned stimuli that will produce conditioned fear, anxiety, and other negative emotions when the victim encounters them. Thus, *characteristics of the assailant* (i.e., age, race, attire, distinctive features), or *characteristics of the setting* (i.e., time of day, where the attack occurred, features of the setting) might become conditioned stimuli.

Classical conditioning theory also suggests that negative emotional responses conditioned to a particular stimulus can generalize to similar stimuli. Thus, a woman who exhibits a conditioned fear response to the sight of her rapist might also experience fear to the stimulus of men who resemble the rapist through the process of *stimulus generalization*. Eventually, this stimulus generalization process may result in the rape victim showing conditioned fear to all men.

AVOIDANCE BEHAVIOR

The most common response to crime-related conditioned stimuli is *avoidance behavior*. Thus, there is a natural tendency for crime victims to avoid contact with crime-related conditioned stimuli and to escape from situations that bring them in contact with such stimuli.

SECOND-ORDER CONDITIONING

A final classical conditioning mechanism with important implications for understanding the behavior of crime victims is *second-order conditioning*. If a neutral stimulus is paired with a

conditioned stimulus (without presenting the unconditioned stimulus), this neutral stimulus becomes a *second order conditioned stimulus* that can also produce a conditioned response. Thus, any stimuli present at the same time a crime-related conditioned stimulus is present can become a second-order conditioned stimulus that also evokes fear, other negative emotions, and a strong tendency to engage in avoidance behavior. This is important for practitioners because police, prosecutors, and victim service providers may become associated as a second-order conditioned stimulus.

CLASSICAL CONDITIONING AND VICTIMS' REACTIONS TO THE CRIMINAL JUSTICE SYSTEM

Application of these classical conditioning principles to victims' interactions with the criminal or juvenile justice system helps victim service professionals understand why the criminal justice system is so stressful for many victims.

First, involvement with the criminal justice system requires crime victims to encounter many cognitive and environmental stimuli that remind them of the crime such as the following:

- Having to look at the defendant in the courtroom.
- Having to think about details of the crime when preparing to testify.
- Confronting a member of "second-order conditioned stimuli" in the form of police, victim/witness advocates, and prosecutors.

Second, encountering all these crime-related conditioned stimuli often results in avoidance behavior on the part of the victims. Such avoidance behavior is generated by conditioned fear and anxiety, not by apathy. Avoidance can lead victims to cancel or not show up for appointments with criminal or juvenile justice system officials or victim advocates.

OTHER SOURCES OF STRESS

Aside from conditioning, other reasons that interacting with the criminal justice system can be stressful for victims include:

- Victims lack information about that system and its procedures, and they fear the unknown.
- Victims are concerned about whether they will be believed and taken seriously by the criminal justice system.

Most victims view the criminal justice system as representative of society as a whole, and whether they are believed and taken seriously by the *system* indicates to them whether they are believed and taken seriously by *society*.

CONDUCTING A CORE NEEDS ASSESSMENT

A victim service provider's first priority is to assure a crime victim's current safety. That is, safety is the victim's most basic need. While apparently obvious, victim service providers sometimes neglect to assess for this. For example, very little immediate danger may exist for an elderly individual who returns home after a week's vacation to find her house broken into and the thieves long gone. However, a female victim of domestic violence may well be in continuous danger, even if she has left her partner or home. Once safety has been verified and/or obtained, other basic needs must be assessed. These include food, shelter, and minimal resources such as clothing and personal hygiene products. Additional areas worthy of consideration include transportation, social support, and future income. If basic needs are not met, the victim service provider will have very little success in addressing the psychological and health effects of violence. Indeed, when safety, shelter, and food are unavailable, counseling or preventive health care are not terribly relevant.

After a basic needs assessment has been conducted and basic needs addressed, service providers must ensure that victims are not revictimized by the criminal or juvenile justice system. That is, the justice system and its representatives should do their best to address the needs of crime victims. Anything less is tantamount to revictimization. The "Types of Crime Victim Most Likely to Need Mental Health Counseling" section of this chapter will address how victim assistance practitioners can determine which crime victims are most likely to need and benefit from referral to a mental health counselor.

HOW CAN THE JUSTICE SYSTEM ADDRESS THE NEEDS OF TRAUMATIZED CRIME VICTIMS?

Kilpatrick (1986) provided the following list of suggestions about how justice system personnel can avoid producing additional trauma to crime victims:

- Treat victims as human beings, not as evidence.
- Always provide victims with information about case status and prepare them for what will happen at trial.
- Pay close attention to any psychological trauma the victim may be experiencing.
- Arrange for someone to be present at the trial on whom the victim can count for emotional support.
- Inquire about any specific fears or concerns the victims may have about the trial and testimony.
- Inform and consult with victims about potential plea-bargain or diversion procedures.
- Give victims opportunity for input into proceedings when possible, including the opportunity to make a victim impact statement.
- Refer victims who need help with stress management to mental health professionals specifically trained to provide it.

- Receive training for the detection of possible warning signs of substance abuse and, when indicated, make appropriate referrals to mental health professionals who specialize in the assessment and treatment of substance abuse problems.
- Tell victims you are sorry that the crime happened and ask how you can help.

After conducting a basic needs assessment and ensuring that the justice system is not revictimizing the crime victim, attention can be directed to measuring the mental and medical health outcomes of crime.

SHORT-TERM CRIME-RELATED PSYCHOLOGICAL TRAUMA

Short-term trauma is defined as that which occurs during or immediately after the crime until about three months post-crime. This time frame for short- versus long-term trauma is based on several studies showing that most crime victims achieve significant recovery sometime between one and three months after the crime (Kilpatrick, Veronen, and Resick 1979; Norris and Kaniasty 1994; Rothbaum et al. 1992).

- Few crime victims are anticipating a violent assault at the time it occurs; so most are shocked, surprised, and terrified when it happens.
- Crime victims often have feelings of unreality when an assault occurs and think, “This can’t be happening to me.”
- People who have been victimized in the past are at greater risk of developing emotional problems than newly victimized individuals. Victims do not “get used to it.”
- Many violent crime victims describe experiencing extremely high levels of physiological anxiety, including rapid heart rate, hyperventilation, stomach distress.
- Crime victims often experience cognitive symptoms of anxiety including feeling terrified or helpless, guilty, out of control (Veronen, Kilpatrick, and Resick 1979; Kilpatrick, Resnick, Freedy et al. 1994).

Such physiological and emotional reactions are normal “flight or fight” responses that occur in dangerous situations. In the days, weeks, and first two or three months after the crime, most violent crime victims continue to have high levels of fear, anxiety, and generalized distress (Kilpatrick, Veronen, and Resick 1979; Kilpatrick, Resick, and Veronen 1981; Norris and Kaniasty 1994). The following are examples of distress that may disrupt violent crime victims’ ability to concentrate and to perform simple mental activities requiring concentration:

- They are preoccupied with the crime (i.e., they think about it a great deal of the time; they talk about it; they have flashbacks and bad dreams about it).
- They are often concerned about their safety from attack and about the safety of their family members.

- They are concerned that other people will not believe them or will think that they were to blame for what happened.
- Many victims also experience negative changes in their belief systems and no longer think that the world is a safe place where they can trust other people and where people get the things they deserve out of life (Janoff-Bulman and Frieze 1983; McCann and Pearlman 1990).
- For victims of some crimes, like child abuse or domestic violence, the trauma occurs many times over a period of weeks, months, or even years. Victims in such cases often experience the compounded traumatic effects of having to always worry about when the next attack will occur.

LONG-TERM CRIME-RELATED PSYCHOLOGICAL TRAUMA

Crime-related psychological trauma is not limited to a few days, weeks, or months after a violent crime. Nor is the psychological trauma experienced only by the crime victim. The scientific literature concerning long-term psychological trauma has grown enormously since the publication of the President's Task Force on Victims of Crime Report in 1982. What follows is a brief review of the major types of long-term crime-related psychological trauma.

POSTTRAUMATIC STRESS DISORDER (PTSD)

The Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-IV, APA 1994) contains a symptom-based definition of all psychological disorders, along with specific criteria required to make diagnoses. A DSM-IV diagnosis of PTSD refers to a characteristic set of symptoms that develop after exposure to an extreme stressor. Sexual assault, physical attack, robbery, mugging, kidnapping, child sexual assault, observing the serious injury or death of another person due to violent assault, and learning about the violent personal assault or death of a family member or close friend are specifically mentioned in the DSM-IV as types of stressors that are capable of producing PTSD. If when exposed to these stressor events, a person responds with intense fear, helplessness, or horror, a PTSD diagnosis may be in order. The following are characteristic symptoms after the traumatic event:

- Persistent re-experiencing of the event (i.e., distressing dreams, distressing recollections, flashbacks, or emotional and/or physiological reactions when exposed to something that resembles the traumatic event).
- Persistent avoidance of things associated with the traumatic event or reduced ability to be close to other people and have loving feelings.
- Persistent symptoms of increased arousal (i.e., sleep difficulties, outbursts of anger, difficulty concentrating, constantly being on guard, extreme startle response).
- Duration of at least one month of symptoms.
- Disturbance produces clinically significant distress or impairment in social, occupational or other important areas of functioning.

There are substantial research data from adults indicating that crime-related PTSD is a frequent reaction to violent crime (Kilpatrick, Saunders, Veronen, Best, and Von 1987; Kilpatrick and Resnick 1993; Kendall-Tackett, Williams, and Finkelhor 1993; Breslau et al. 1991; Resnick and Kilpatrick 1994; Freedy et al. 1994). This research found—

- Rates of PTSD are much higher among those who have been victims of violent crime than among those who have been victims of other types of traumatic events. For example, Resnick et al. (1993) found that the lifetime prevalence of PTSD was significantly higher among crime victims than victims of other traumatic events (25.8% vs 9.4%).
- Resnick et al. (1993) also found that victims whose crimes resulted in physical injuries and who thought they might have been killed or seriously injured during the crime were much more likely to suffer from PTSD than victims whose crimes did not involve life threat or physical injury (45.2% vs 19%).
- Rates of PTSD appear to be higher among victims who report crimes to the justice system than among nonreporting victims, probably because these crimes are more serious or more likely to result in injury (Kilpatrick and Resnick, 1991; Freedy et al., 1994).

Importantly, evidence shows that many crime victims with PTSD do not spontaneously recover without treatment and that some crime victims have PTSD years after they were victimized (Kilpatrick et al., 1987; Resnick et al., 1993; Hanson et al., 1995).

DEPRESSION AND OTHER PROBLEMS

Long-term, crime-related psychological trauma is not limited to PTSD. Compared to people without a history of criminal victimization, those who have been victimized have significantly higher rates of major depression, panic symptoms, and substance use. For example, using National Women's Study data from sexual and/or physical assault victims, Kilpatrick, Edmunds, and Seymour (1992) and Acierno, Byrne, Resnick, and Kilpatrick (1998) found the following:

- One-third to one-half of assault victims develop *depression*.
- Risk of *alcohol abuse* is increased by a factor of 4.
- Risk of *drug use* is increased by a factor of 3.5.
- Ninety-five percent of a clinic sample with *panic disorder* had a victimization history. Seventy percent of treatment-seeking trauma victims reported four or more panic symptoms.

These findings have been identified in a number of studies including (Sorenson et al. 1987; Atkeson et al. 1982; Ellis, Calhoun, and Atkeson, 1980; Kilpatrick, Edmunds, and Seymour, 1992; Frank and Stewart 1984; Saunders et al. 1992). The following studies have found these mental health problems as a result of criminal victimization:

- Thoughts of suicide (Kilpatrick et al. 1992; Saunders et al. 1992; Kilpatrick et al. 1985).

- Attempting suicide (Kilpatrick et al. 1985; Kilpatrick et al. 1992; Saunders et al. 1992).
- Developing alcohol or other drug abuse problems (Burnam et al. 1988; Cottler et al. 1992; George and Winfield-Laird 1986; Kilpatrick et al. 1994; Sorenson et al. 1987).
- Anxiety disorders such as panic disorder (Burnam et al. 1988; Saunders et al. 1992), agoraphobia (Burnam et al. 1988; Saunders et al. 1992), and obsessive compulsive disorder (Burnam et al. 1988; Saunders et al. 1992).

In addition to these mental disorders and mental health problems, violent crime often results in profound changes in other aspects of the victim's life. Many victims experience problems in their relationships with family and friends. Among the relationship problems they can experience is difficulty in sexual relations with their partner (Becker et al. 1982; Becker et al. 1986; Resick 1986; Saunders et al. 1992). Often because of their high levels of crime-related fear, many victims change their lifestyles substantially and restrict their usual activities. Moreover, negative belief systems and attributions present shortly after the crime endure and become problematic over time (i.e., Kilpatrick and Otto 1987; Resick 1993; Resick and Schnicke 1993). Compared to nonvictims, crime victims also experience increased risk of future victimization (Kilpatrick, Resnick, Saunders, and Best 1998).

THE HEALTH EFFECTS OF TRAUMA

Violent assault has the potential to produce acute physical injury and/or health problems related to increased stress. In addition to rapid or acute effects, assaultive violence may also have long-term negative health effects. Several mechanisms/mediating factors that potentially increase risk of a victim's assault-related health problems have been outlined by Resnick, Acierno, and Kilpatrick (1997).

- Physical injuries may lead to other health conditions such as heart attack, stroke, fractures from falling, dislocated joints, torn muscle tissue, or loss of dexterity resulting in job loss.
- Acute health problems such as sexually transmitted diseases (STDs) might develop into chronic infection, dysfunction, or systemic spread.
- Assault-related generalized stress might impair functioning of the immune, endocrine, or autonomic systems, which could increase the likelihood that a victim will contract a variety of infectious diseases, etc.
- Either assault-related stress or assault-related emotional problems could increase risk that the victim might engage in unhealthy behaviors such as smoking, excessive alcohol or other drug use, poor diet, lack of sleep, insufficient physical exercise, etc. These behaviors might contribute to future health problems, immune system problems, and might lead to chronic mental health problems.
- Victims who receive inappropriate health care services due to either underutilization by the victim or inadequate treatment by the health care provider, are at higher risk of needing additional restorative health care.

Following criminal victimization, the victim is at increased risk of the following physical illnesses:

- Cardiac distress.
- Irritable bowel syndrome.
- Chronic pain.
- Sexual dysfunction.

Health care use increases in years following victimization. For example, Koss et al. (1991) found the following increases in health care utilization in rape victims:

- First year postrape: 18% increase in health care utilization.
- Second year postrape: 56% increase in health care utilization.
- Third year postrape: 31% increase in health care utilization.

Clearly, both the mental and medical health outcomes of violent crime are devastating to a significant number of victims. However, some of these negative outcomes might be preventable to some degree. As such, early intervention to prevent suffering is justified.

WHAT CRIMINAL JUSTICE AND VICTIM ASSISTANCE PROFESSIONALS SHOULD KNOW ABOUT THE MENTAL HEALTH TREATMENT OF CRIME VICTIMS

Dean Kilpatrick, Director of the National Crime Victims' Research and Treatment Center at the Medical University of South Carolina, offers ten guidelines for criminal justice and victim service professionals that can increase their understanding of, and development of policies related to, the mental health treatment of crime victims:

1. Crime victims and their family members can experience immediate, short-term, and long-term crime-related mental health problems. Victims may require treatment for immediate, short-term and long-term psychological injuries.
2. Neither all crimes nor all victims are alike. Considerable individual variation exists among crime victims in the types of psychological injuries they are likely to sustain, and how long it will take them to reconstruct their lives, with or without treatment.
3. Child victims often require special consideration because their crime-related psychological injuries may not show up for years after the crime incident. Provision of treatment to currently symptom-free children is often done to prevent development of future mental health problems.
4. For many crime victims, elimination of crime-related psychological injuries is *not* a realistic treatment goal. Rather, helping victims to learn to cope is the main objective.

5. At times of stress (including criminal justice system-induced stress), victims are likely to have exacerbations of psychological injuries. They can benefit from “booster treatment” at such times.
6. Most mental health professionals have limited training and/or expertise in the assessment and treatment of crime victims’ mental health problems.
7. It is reasonable to require mental health treatment providers to document why they think a mental health problem is crime-related, and to describe problem areas that they are attempting to address with treatment. Prevention of future problems is an acceptable goal for treatment.
8. Crime-related posttraumatic stress disorder is clearly an important goal for treatment. So are other mental health disorders that were either not present before the crime, or that were exacerbated after the crime, as well as other areas of functioning that deteriorated after the crime.
9. Don’t spend a lot of time and/or resources attempting to determine whether short-term and/or “cheap” treatment is reasonable. Focus efforts on long-term treatment or inpatient treatment. Peer review is your friend for these costly types of treatment.
10. Getting consumer feedback from crime victims about their satisfaction with their mental health treatment is a great idea.

INTERVENTIONS

GENERAL ISSUES ABOUT EFFECTIVENESS AND SAFETY

Victim advocates who encounter individual victims of crime or groups of victims who are victims of mass casualty incidents (i.e., bombings or school shootings) have an understandable desire to do something to immediately help these victims. Likewise, mental health professionals often feel compelled to do something to help even if it is unclear exactly what is the most effective thing to do. The notion that all victims and interviewers should be offered some type of early intervention, particularly in mass casualty incidents, has become accepted practice untested by critical research.

Kilpatrick (1999) recently observed that it is difficult to conduct good research evaluating the effectiveness of psychological interventions designed for use in the immediate or short term aftermath of violent crimes such as crisis intervention psychological debriefing, or critical incident stress debriefing. Kilpatrick argued, however, that it is critically important to conduct this type of research in order to determine what works, what doesn’t work, and whether some types of interventions work better for some victims than for others.

This is not to say that victim assistance professionals or mental health professionals should do nothing to help victims unless a research study has shown a particular intervention to be effective. However, it is important to recognize “sacred cows,” to distinguish between

interventions that are popular and those that have been rigorously tested, and to ask proponents of *any* new interventions to demonstrate the effectiveness and safety of the treatment they advocate.

PSYCHOLOGICAL DEBRIEFING

Psychological debriefing (PD) interventions, including critical incident stress debriefing (Dyregrov 1989; Mitchell 1983) are widely marketed and used in this and other countries. In PD, participants are encouraged to describe the traumatic event including specifics of what occurred, their thoughts, and their feelings. Emotional responses are considered in detail. Participants are then reassured that their responses are normal, prepared for future emotional reactions, and advised as to how to deal with them.

Unfortunately, PD has not been fully studied using rigorous experimental methodology, and initial claims of efficacy appear to have been overstated. In a review of controlled studies, Rose and Bisson (1998) found that none used random assignment to treatment groups. Of the six studies reviewed, PD resulted in significant improvement in two studies, worsened symptoms in two studies, and produced results no different than a comparison condition in two studies. They concluded that “early optimism for . . . debriefing was misplaced and that there is an urgent need for randomized controlled trials of group debriefing and other early interventions.”

On a more optimistic note, a review by Sherman (1998) demonstrated that multisession cognitive and behaviorally-based psychological interventions are effective in reducing the symptoms that follow traumatic stressors. Note, however, that these treatments were not “crisis” interventions. Rather, these treatments generally required multiple sessions occurring over weeks or months. Given the lack of empirical support for the critical incident stress debriefing model of crisis intervention, therefore, adoption of more general crisis intervention strategies is probably preferable.

CRIME VICTIMS’ EXPECTATIONS REGARDING MENTAL HEALTH COUNSELING FOR CRIME-RELATED PSYCHOLOGICAL TRAUMA

Most crime victims think that the criminal justice system should be responsible for providing them with counseling for crime-related psychological trauma (Freedy et al. 1994; Amick-McMullan, Kilpatrick, and Resnick 1991; Kilpatrick, Amick, and Resnick 1990).

A national probability household sample of surviving family members of homicide victims (Kilpatrick et al. 1990) and a sample of South Carolina crime victims whose cases were recently adjudicated by the criminal justice system (Freedy et al. 1994) were asked if they thought the criminal justice system should be responsible for seeing that crime victims and their families receive access to psychological counseling and several other services.

- Almost three out of four surviving family members of homicide victims (74%) and more than four out of five crime victims (83%) said the criminal justice system *should* provide access to counseling.
- A majority of surviving family members of homicide victims (50%) and crime victims (63%) said that they and their families *did not have* adequate access to psychological counseling.
- In the South Carolina crime victim study, only 27% of crime victims received psychological counseling.
- Even among those crime victims who developed crime-related PTSD, only slightly more than a third (36.7%) ever received any counseling.

This is particularly noteworthy because virtually *all of these crime victims would have been eligible for crime victim compensation coverage for their mental health counseling*. Clearly, a problem exists because most crime victims expect the justice system to provide them with access to counseling, but most victims—including those with crime-related PTSD—say they do not get the counseling they need.

HELPING VICTIMS WHO MAY NEED MENTAL HEALTH COUNSELING

Criminal and juvenile justice system professionals and victim advocates encounter crime victims with crime-related psychological trauma every day. Few justice system professionals and victim advocates are trained mental health professionals, so they often have questions about how they can best deal with victims to reduce psychological trauma. Because they are not mental health professionals, victim advocates are not expected to provide specialized mental health treatment to victims with crime-related psychological trauma.

However, criminal and juvenile justice system professionals and victim advocates do need to know about state-of-the-art specialized counseling procedures for crime-related psychological trauma. They also need to know how to help victims obtain access to adequate counseling. In order to appropriately refer crime victims to mental health counselors, justice professionals must be familiar with the training and credentials of the various professionals who may be available.

MAJOR TYPES OF MENTAL HEALTH PROFESSIONALS AND THEIR TRAINING

Mental health professionals differ with respect to the amount and type of training they received prior to getting their professional degree:

- *Psychiatrists* are medical doctors who receive an M.D. degree after completing four years of medical school. They also complete a one year internship and at least two additional years of specialized psychiatric residency training. In addition to providing psychotherapy, psychiatrists can prescribe medications.

- *Clinical psychologists* receive at least four years of graduate training that includes supervised experience in the assessment and treatment of clients. They also complete a one year internship prior to receiving a Ph.D. or Psy.D. degree. In most states, clinical psychologists must also complete at least one year's additional supervised experience after they receive their doctoral degree.
- *Clinical social workers* receive an M.S.W. degree after two years of graduate training including classes and field work. Some of this training involves supervised assessment and treatment of clients. Additional years of postgraduate training are often required to become a licensed clinical social worker, L.C.S.W.
- *Marriage and family therapists* must have at least a masters degree in some behavioral science field and two years of additional supervised clinical practice with couples and families.
- *Masters degree clinical mental health counselors* usually have two years of training that includes some type of supervised internship. These mental health counselors can be certified by the National Academy of Certified Clinical Mental Health Counselors. Additionally, many states provide an L.P.C. license, Licensed Professional Counselor.

In addition to these “mainstream” mental health providers, certain other groups also provide counseling services to victims. These include pastoral counselors from the clergy and some nurses with special mental health training. Traditional healers from Native American cultures may not fit into these traditional mental health professional categories, but have specific expertise and training based on the expertise and mores of their culture.

Another important issue in evaluating the credentials of mental health professionals is whether they are licensed, certified, or registered in the state where services are being provided. These usually require passing an oral and written exam.

A final consideration in evaluating the credentials of mental health professionals is the extent of their specific knowledge and experience in working with crime victims. Unfortunately, there is no requirement that graduate training for any type of mental health professional include information about assessment and treatment of crime-related psychological trauma. Nor does the licensure process require possession of this knowledge and expertise. Thus, there is no guarantee that any given mental health professional will be knowledgeable about assessment and treatment of crime-related psychological trauma. Therefore, it is necessary to inquire about the extent of a mental health professional's expertise in this area.

ASSESSING MENTAL HEALTH PROFESSIONALS

Victim service providers should carefully assess mental health professionals prior to making referrals to victims whom they serve. The following ten questions provide a basis for determining the appropriateness of referrals, and also serve to ensure that victimized staff receive competent, appropriate care:

1. What are the provider's professional credentials?

2. Does the professional have any direct experience in assisting victims of violent crime, such as rape survivors, battered women, assault victims, and/or victims or surviving family members of DUI crashes and homicides?
3. Is the professional trained in disorders common to many survivors of crime and critical incidents, such as posttraumatic stress disorder (PTSD), rape trauma syndrome, or battered women's syndrome?
4. What are the professional's credentials relevant to continuing education training on victim-related issues (a vitae can provide this information)?
5. Has the state Crime Victim Compensation Program reimbursed the services of this professional in the past?
6. Does the professional actively participate in any local, state or national victim assistance or victim service coalitions?
7. Does the professional belong to or have any affiliation with organizations that specialize in mental health, trauma response or victimization?
8. What has been the experience of crime victims who have received mental health services from this professional in the past? Is there any official mechanism to obtain this type of personal evaluation feedback?
9. Does the professional accept payment from workers' compensation and/or victim compensation, and are services rendered on a sliding fee scale?
10. Does the professional have a standardized process for getting feedback from victim clients regarding their satisfaction with treatment?

THERAPY FOR CRIME-RELATED PSYCHOLOGICAL TRAUMA

There are literally hundreds of different psychotherapies, but relatively few are designed specifically for use with crime victims and have had their efficacy evaluated. Most of the research on efficacy of treatment for crime-related psychological trauma has been conducted with adult victims of rape rather than with child victims or with adult victims of other types of crimes. However, much of what has been learned from research on the treatment of rape victims is probably applicable to the treatment of other crime victims.

As was previously noted, many mental health professionals who treat crime victims have no specific training or expertise in crime-related psychological trauma. Therefore, they tend to use generic treatment procedures rather than treatment specifically targeted to crime-related trauma. Some specialized treatments, however, have received some type of evaluation as to their effectiveness. Most work has been done developing and evaluating treatments for rape-related psychological trauma and/or for victims of various types of traumatic events who developed PTSD. The following references provide more information about specialized treatment procedures: Briere 1992; Calhoun and Atkeson 1991; Falsetti and Resnick, in press;

Foa, Rothbaum, Riggs, and Murdock 1991; Foa, Rothbaum, and Steketee 1993; Kilpatrick, Veronen, and Resick 1982; McCann and Pearlman 1990; Resick and Schnicke 1993.

LENGTH AND TIMING OF TREATMENT

The length of treatment depends on a number of factors including the extent of the victim's crime-related psychological trauma and the amount of external social support the victim has. Most treatment should be relatively short term in nature, however. Crime-related psychological trauma does not end with the trial, so victims may need brief booster sessions at other stressful times in their lives, including during parole hearings or upon the release of offenders.

TYPES OF CRIME VICTIMS MOST LIKELY TO NEED MENTAL HEALTH COUNSELING

Not all crime victims need or can benefit from mental health counseling. Research has contributed to an understanding of which victims are most likely to develop crime-related psychological trauma and which are most likely to require consultation with trained mental health professionals, including counselors, clergy, healers, etc.

Of course, research only provides general guidelines. Not all victims with these characteristics need mental health counseling, and some victims without these characteristics do need counseling. More detailed treatments of this topic are contained in the following references: Hanson et al. 1995; Resnick and Kilpatrick 1994; Weaver and Clum 1995.

PREVICTIMIZATION CHARACTERISTICS OF VICTIMS

Before a crime occurs, victims differ in respect to their demographic characteristics, whether they have ever been a crime victim before, and how well adjusted they were before the crime. Some of these previctimization characteristics might influence the traumatic impact of a new violent crime experience.

- Although there are some exceptions, most studies show that victims' demographic characteristics such as gender, race, and age have little (if any) impact on crime-related psychological trauma (Kilpatrick and Resnick 1993).
- Prior victimization has consistently been found to increase the likelihood of psychological trauma following a new crime (Burnam et al. 1988; Kilpatrick, Resnick, Saunders and Best 1998). Specifically, victims with a prior victimization history, including victims of chronic victimization, suffer more crime-related psychological trauma after experiencing a new crime than victims without prior victimization. This highlights the importance of inquiring about prior victimizations.
- The prior mental health history of the victim appears to be related to the extent of crime-related psychological trauma a victim experiences (Resnick and Kilpatrick 1990). Kilpatrick et al. (in press) found that women who had PTSD in the past were substantially more likely

to get PTSD after experiencing a new crime than women who had *not* had PTSD previously.

- Resnick, Kilpatrick, Best, and Kramer (1992) found that prior history of most mental disorders did not increase the risk of developing PTSD after experiencing a stressful, violent crime. A history of major depression, however, did increase the risk that PTSD would develop, but only if the crime was highly stressful. This suggests that not only victims with PTSD or depression may be particularly vulnerable to crime-related psychological trauma, but also confirms the important role played by the stressful nature of the crime itself.
- Seriousness of the crimes has consistently been found to be related to the degree of crime-related psychological trauma (Kilpatrick et al, in press; Kilpatrick and Resnick 1993; Weaver and Clum 1995; Resnick et al. 1993).

In general, violent crimes such as rape, aggravated assault, homicide and alcohol-related vehicular homicide produce more crime-related psychological distress than property crimes such as burglary. Also, victims' appraisals of how dangerous the crime was are related to crime-related psychological trauma (Weaver and Crum 1995). In particular, a belief that one might have been seriously injured or killed in a crime is a more powerful predictor of distress than objective factors such as physical injury, force, and use of a weapon. Research evidence is clear that the most important factor in determining crime-related psychological trauma is the level of severity of the crime.

POSTVICTIMIZATION FACTORS

Two major postvictimization factors are thought to play an important role in victim recovery from crime-related psychological trauma. The first is *social support*. In general, most studies find that good relationships and support from family members and friends assist victims' recovery (Hanson et al. 1995). Consequently, determining the extent and supportiveness of a crime victim's potential social support network is important. Victims with little social support are probably more likely to need professional counseling.

The second major post-victimization factor is the *degree and nature of exposure to the criminal justice system*. Although participation in the criminal justice system is generally regarded as a negative factor in victims' recovery (Kelly 1990; President's Task Force on Victims' of Crime 1982; Symonds 1980), there are some data suggesting that involvement with the criminal justice system need not always have a negative effect (Kilpatrick and Otto 1987). A positive experience, however, is largely dependent upon comprehensive, sensitive and inclusive treatment of victims by criminal justice personnel. Indeed, criminal justice personnel must recognize that, by virtue of their association with the trauma and the perpetrator, they will often become "triggers" for negative emotions and distress in crime victims. As such, steps must be taken to counter the effects of these associations so that victims might view criminal justice system proceedings and staff as supportive and worthwhile, as opposed to purely aversive stimuli.

There is no question that the criminal justice system is stressful for victims. The whole point of making the criminal justice system more “victim friendly” is the assumption that doing so may actually reduce the trauma to the victims, thereby increasing their willingness to participate as effective witnesses for the prosecution. It is also reasonable to assume that being believed and treated well by the criminal justice system could improve the process for victims, notwithstanding the inherently stressful nature of the criminal justice system.

PROMISING PRACTICES

- The National Crime Victims Research and Treatment Center (NCVC) at the Medical University of South Carolina in Charleston, South Carolina, provides specialized mental health services for crime victims of all ages and their families and conducts research on the scope and mental health impact of violent crime. The NCVC trains mental health professionals on effective mental health treatment for crime victims and works closely with local police agencies, prosecutor’s offices, rape crisis centers, battered women’s shelters, state crime victim’s assistance network, and the state crime victim compensation agency. NCVC staff also identify physically injured crime victims hospitalized in the medical center and provide them with information about the criminal justice system, the psychological impact of trauma, crisis counseling, and treatment referrals.
- Among the comprehensive array of programs developed by Victim Services, Inc. in New York City are several mental health services. Its licensed mental health center provides goal-focused individual counseling and trauma reduction and supportive group services for victims of violent crime, including domestic violence, sexual assault, incest, robbery, and homicide. At precincts and in courts and community offices, the agency offers crisis intervention and stress education and management services to victims shortly after the crime is committed. Counseling is also available in schools and shelters for children who witness crimes, including domestic violence, and a crisis response team has been established to respond to victims of natural and community disasters. At all sites, and in every setting where mental health services are offered, staff are available to address the practical needs of victims by, for example, helping them navigate the court system, obtain crime victim compensation, arrange for child care, or repair or replace locks.
- The Harborview Sexual Assault Center in Seattle, Washington, one of the oldest treatment and research programs in the nation, has been a national leader in developing comprehensive mental health services for sexually abused children and adults. The program has improved quality of mental health services for victims of sexual assault through training to physicians and mental health professionals.
- The Rape Treatment Center (RTC) at Santa Monica-UCLA Medical Center, California, provides comprehensive services for sexual assault victims twenty-four hours a day, seven days a week. In the 1970s, RTC pioneered a model for victim care that integrated psychological interventions into the emergency medical care process and disseminated this model throughout the United States via a training film produced by the National Institute of Mental Health. RTC also offers long-term counseling for victims and their significant others, as well as advocacy, accompaniment, information and referrals, and other support

services. To enhance the treatment of victims wherever they turn for help, RTC provides professional training for medical, mental health, law enforcement, criminal justice, judiciary, and school personnel, including a course on victims' issues for every new recruit at the Los Angeles Police Department Training Academy. Stuart House, RTC's facility for child victims, provides comprehensive treatment services and expert pediatric forensic examinations and enhances collaboration with other victim service providers via an onsite multidisciplinary team.

- The Crime Victim Recovery Project at the University of Missouri at St. Louis works closely with police and victim assistance agencies to address crime-related psychological trauma. Through the program, crime victims are provided with state-of-the-art cognitive-behavioral treatment. Similar to the NCVC and the Harborview Center, the program operates specialized training programs for mental health professionals.
- In New Haven, Connecticut, the Child Study Center at the Yale University School of Medicine and the New Haven Department of Police Services have developed a program to address the psychological impact on children and families of chronic exposure to community violence. The Child Development Community Policing program brings together teams of mental health professionals and police officers to intervene with children who are victims, witnesses, or perpetrators of violence and to provide follow-up clinic and community-based services. The program also emphasizes cross-training by police and mental health professionals and twenty-four-hour crisis response capacity.
- The National Organization for Victim Assistance (NOVA) in Washington, DC, has trained mental health providers all over the country as part of their crisis response training. NOVA's crisis response teams include trained mental health providers who work together with law enforcement, medical professionals, victim advocates, religious leaders, and others to provide assistance to communities in the aftermath of major crimes and acts of terrorism.

1. Identify three of the mental health problems victims of crime typically experience.

2. Identify three of the physical health problems victims of crime often experience.

3. Name two things the criminal or juvenile justice system should do to help victims of crime.

4. Why are psychotherapeutic debriefing interventions such as critical incident stress debriefing not recommended at this time?

5. What are the two postvictimization factors that are likely to affect a victim's recovery?

Stress Management

SECTION 2, STRESS MANAGEMENT**STATISTICAL OVERVIEW**

In an April 2000 national opinion poll survey of a randomly selected national sample of 1,205 adult women, The Gallup Organization found that women have a wide variety of issues that challenge them as they go about their daily lives. The top seven categories of most concern to women are:

- Economic situation – 26%.
- Family – 22%.
- Health – 15%.
- Stress, managing their time, getting things done, and balancing their lives – 14%.
- Jobs and career – 8%.
- Education and schooling (for both themselves and their children) – 7%.
- Equality, equal opportunity, and discrimination – 4%.

BURNOUT

Stress can be defined as an overload/demand state, where individuals are being presented with more information, stimuli, intensity, and immediacy than they can take in or process. Burnout is the end result of chronic stress where, on some level, people start to shut down under the demands being placed on them from the outside world.

Burnout takes place in an environment of competing demands, decreased ability to set personal and work limits, and the sometimes vague sense of not caring so much about the work (or sometimes, anything) anymore. It may start as fatigue stretching out into weeks, which the weekends, holidays, or even vacations do not alleviate. The signs may become more blatant, with increased alcohol or drug use, changes in appetite or food intake, sleep disruptions, or the onset of health problems. In addition, burnout tends to be an isolating experience. An individual is often unaware of the effects of burnout and can only be made aware by the observations of others: co-workers commenting on a change in work habits, family members noting problems occurring in primary relationships, or friends complaining of the individual's unavailability.

Burnout can take any number of forms: behavioral, relational, physical, or affective (feeling-related). Symptoms presenting may include:

- Disillusionment with and a lack of caring for work and, at the same time, an inability to find the means to decrease assigned workloads.
- Feeling numb; few “ups or downs”; an inability to feel anything.
- Decreased desire to socialize or to pursue usual activities outside of work.
- Breakdown in personal relationships; feedback from others that one is not as present or available for others as in times past—minimizing one’s contact with the outside world.
- Difficulty modulating affect—finding oneself prone to emotional outbursts that are out of proportion to the given situation.
- Chronic sleep disruptions, ranging from restless, fitful sleep, to nightmares, to early awakenings with one’s first thoughts being of the upcoming day’s work demands.
- Physical complaints or symptomatology that suggest chronic stress on the various body systems: gastrointestinal upsets, chronic headaches, cardiac problems, breathing difficulties, fatigue, and nonspecific aches and pains.
- Decrease in the meaning or sustaining power of one’s usual spiritual, religious, or recreational involvements or practices, in the face of daily problems, and a decreased ability to place work and life problems in a larger, more meaningful context.
- Continually thinking about work (perhaps obsessively) during nonworking hours, even when physically involved with other pursuits—thoughts that involve a continuing round of problems rather than solutions or resolutions.
- Severe mood problems, such as fluctuations or suicidal thinking, may become evident in more serious instances—where maintaining oneself throughout the day is more of a tiring difficulty than a challenge or satisfaction (Goetz, P. 1995).

CHRONIC RESPONSIBILITY SYNDROME

The term “chronic responsibility syndrome” (CRS) describes people who “believe they’re responsible for everything because they alone are the only ones who can do it” (White and Menendez 1998).

People who get caught up in CRS are exhausted from their workload. Every time a new project comes along, they are assigned to it because they are dependable, reliable, and responsible. They are the problem-solvers—always coming in to save the day because they know how to get the job done right.

The positive side to CRS is that such individuals are capable of handling the responsibilities and rising to the occasion. The downside is that co-workers and others may see them as the only ones who can do the job and never ask anyone else to do the work. Often, individuals who identify with CRS are afraid to say no to the workload because they are sure they will disappoint someone.

Breaking CRS means getting one's priorities straight. It means learning that being responsible means ensuring that something will get done, but not necessarily personally doing the work. To break CRS, one must let go of the ego of believing he or she is the only one who can get the job done.

According to White and Menendez (1998), there are three things individuals must do to break away from CRS:

1. *Say no.* One of the biggest blocks is wanting to please other people before pleasing oneself. The reason many individuals say yes is often because they don't want someone else to think badly of them.
2. *Delegate and train.* One of the reasons people often believe they're the only ones who can do the job is that they've never taken the time to teach anyone else how to do it. They're caught up in the erroneous belief that it will take more time to teach someone else than to do it themselves.
3. *Take a sabbatical.* People are resourceful; they will find a way to get the job done. The absence of the individual who identifies with CRS can often be exactly what co-workers need to spur them on to greater initiative and a more even and appropriate distribution of workload and tasks.

RECOVERY FROM BURNOUT

The American Psychological Association (1997) describes the process of recovering from burnout as "the Phoenix Phenomenon:"

You can arise Phoenix-like from the ashes of burnout, but it takes time. First of all, you need to rest and relax. Don't take work home. If you're like most, the work won't get done and you'll only feel guilty for being "lazy."

In coming back from burnout, be realistic in your job expectations, aspirations and goals. Whomever you're talking to about your feelings can help you, but be careful. Your readjusted aspirations and goals must be yours, and not somebody else's. Trying to be and do what someone else wants you to be or do is a surefire recipe for continued frustration and burnout.

A final tip—create balance in your life. Invest more of yourself in family and other personal relationships, social activities and hobbies. Spread yourself out so that your job doesn't have such an overpowering influence on your self-esteem and self-confidence.

PROMISING PRACTICES

- An interesting "burnout inventory" specifically for professionals who work in human services can be accessed via the Internet. Practitioners can answer a series of questions related primarily to work-related stress. An overall "burnout score" is provided upon completion of the survey, with four sub-scores provided specific to: emotional exhaustion; detachment/dehumanization of clients; overwhelmed feeling and loss of interest; and general exhaustion. The burnout inventory can be accessed at <<http://www.queendom.com/cgi-bin/tests/burnout1.cgi>>.

SECTION 1, TRAUMA ASSESSMENT AND INTERVENTION

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SECTION 2, STRESS MANAGEMENT

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SECTION 2, STRESS MANAGEMENT**ABSTRACT**

In the field of victim advocacy, conflicts can arise from the structure of organizations; the adversarial nature inherent in the justice systems; communication distortions and barriers; interpersonal or behavioral factors among individuals; and social conditions, such as conflicts of interest, dependency upon others for performance of one's job, and degree of participation in decision making within an organization or collaborative structure. This section discusses the unique stressors experienced by victim service providers, including those related to working with and providing advocacy for victims and dealing with the limitations, as well as adversarial nature, of the justice system. Techniques for recognizing and managing stress, preventing burnout, and conflict management are also presented.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- Unique sources of stress in working with crime victims.
- How to recognize signs of stress.
- How to recognize unhealthy coping skills.
- Techniques to relieve stress and to help prevent stress from becoming burnout.
- How to take charge of stress.
- Guidelines for managing conflict.

INTRODUCTION

The cost of occupational stress to business and industry in monetary terms has become increasingly well documented. Annually, U.S. industry loses approximately 550 million working days due to absenteeism. It is estimated that 54% of these absences are in some way stress-related (Elkin and Rosch 1990). Moreover, researchers at the American Institute for Stress, a nonprofit organization based in New York, suggest that 75% to 90% of patients' visits to physicians are for ailments that have some kind of link with stress and that controlling stress could be instrumental in controlling rising health care costs (Nowroozi 1994, 82). Stress can influence the immune system, weakening the body's defenses against many viral disorders. Preliminary research conducted by Carnegie Mellon University in Pittsburgh, Pennsylvania,

found that of 400 people intentionally exposed to common-cold viruses, those who scored highest on a test of stressful life events were more than twice as likely to develop colds after this exposure than people who scored the lowest (Ibid.). Clearly, occupational trauma and stress are critical problems faced by many professionals. Victim service providers, due to the inherently stressful and traumatizing nature of their work, are particularly vulnerable.

UNIQUE SOURCES OF STRESS IN WORKING WITH CRIME VICTIMS

Professionals who serve crime victims face many unique sources of stress that go beyond the typical stressors experienced by professionals and volunteers in other work environments. Victim service providers are expected to provide comforting and compassionate support for crime victims while, at the same time, be outspoken advocates to ensure that victims are extended their rights within the justice system and receive necessary services. In addition, many crime victim assistance professionals work within the very system they are trying to change and improve; they know all too well its limitations. The responsibility of serving in roles that sometimes conflict can be a major source of stress.

Another source of stress that often affects those in helping professions relates to the desire to assist those in need. How do you know when “enough is really enough?” This question plagues the victim service profession and often arises in training sessions conducted on stress and burnout for victim service providers. With no clear standards for the field (varying organizational policies on how far the role of the victim service provider extends) and no “manual” on what it takes to provide reasonable and appropriate victim assistance, most victim service providers find they must set their own limits. This, too, can cause stress.

Finally, the nature of the work causes many crime victim advocates to be in regular contact with people who have suffered severe trauma and loss. The provision of effective victim assistance requires tremendous emotional energy and resilience, which can be a near-constant source of stress. The following are stressful situations that the victim-serving community may encounter:

- Working with victims and witnesses who have experienced or witnessed acts of indescribable human cruelty.
- Working with children who have suffered repeated inhumane acts of sexual, physical, or other abuse.
- Dealing with grieving family members of deceased victims, immediately after a homicide when providing death notification or in the weeks or months that follow.
- Assisting scores of victims and survivors in the aftermath of mass murder or terrorism.
- Working with victims who, for a variety of reasons, continue to be at risk for further abuse.

These represent work-related stressors that are quite different from most job settings and may affect an individual victim advocate in profound ways.

VICARIOUS TRAUMA: OVERVIEW OF RESEARCH AND TERMINOLOGY

The field of victim services is paying increasing attention to the issue of vicarious trauma, which is defined as “a stress reaction experienced by therapists and researchers who are exposed to disclosures of traumatic images and materials by clients and research participants, in which the therapists or researchers experience enduring changes in the manner in which they view self, others, and the world” (McCann and Pearlman 1990).

Victim service providers become, in the line of duty, prime candidates for vicarious trauma. Their acute and chronic exposure to the trauma, grief, and other reactions that are common to many crime victims can have a cumulative, and often devastating, effect on their view of the world and, sometimes, on their choice of careers.

Dr. Charles Figley, Professor and Director of the Florida State University Traumatology Institute, developed a brief overview of the history of vicarious trauma, which is summarized as follows:

There are four “conceptual building blocks” that may occur prior to the emergence of vicarious trauma:

1. Countertransference.
2. Burnout.
3. Posttraumatic stress disorder (PTSD).
4. Secondary victimization.

COUNTERTRANSFERENCE

Countertransference can be used in several ways: as a reference to all the feelings a therapist has toward a client, as the therapist’s reactions to a client’s transference, or as the therapist’s own transference toward a client. When the client’s behavior evokes in the counselor (provider) conflicts relating to unresolved situations in the counselor’s life, causing the counselor to respond to the client in nonobjective way, the counselor is experiencing a form of countertransference.

BURNOUT

The term “burnout” emerged from studying worker discontent, and is defined most recently as “a state of physical, emotional, and mental exhaustion caused by a long-term involvement in emotionally demanding situations” (Pines and Aronson 1988, 9).

POSTTRAUMATIC STRESS DISORDER

The term “posttraumatic stress disorder” emerged from the study of Vietnam veterans. PTSD is an anxiety disorder caused by a traumatic event or series of events and is characterized by symptoms of withdrawal to avoid the troubling memories that often intrude the lives of victims and cause distress. (See Section 1 of this chapter for further information on PTSD.)

SECONDARY VICTIMIZATION

Secondary victimization and secondary trauma occur when family members are traumatized by the symptoms of PTSD of a family member.

Secondary trauma stress. The concept of secondary trauma stress emerged from the study of trauma therapists, child protection workers, pediatric critical care nurses, law enforcement officers, fire fighters, emergency workers, and *victim service providers*. Secondary trauma stress is the natural consequent behaviors and emotions resulting from knowing about a traumatizing event experienced by a significant other, and the stress resulting from helping or wanting to help a traumatized or suffering person. Figley has also coined the term “compassion fatigue,” which derives from secondary traumatic stress disorder (Figley 1999).

UNDERSTANDING ONE’S ABILITY TO TOLERATE STRESS

An individual’s ability to tolerate stress often depends on the frequency, severity, and types of stressors confronted. It also depends on many intrinsic or personal characteristics:

- **Past victimization.** For many victim service providers, their past life experiences also involve personal victimization. The concept of “victims helping victims” is an inherent strength of America’s victims’ rights discipline. Many service providers have transformed tragic events into heroic and life-giving achievements. Sometimes termed “wounded healers,” such individuals can possess a degree of fortitude, courage, and insight unattainable by other means, and yet, the very source of this transformed strength can be their deepest area of vulnerability to stress and secondary traumatization.
- **Personal values and attitudes.** All professionals and volunteers in the field of victim advocacy have a core foundation of values and attitudes that affects their perception of others, of their work environment, and of life in general. One’s personal beliefs may conflict with the expectations of the job and affect, in particular, a person’s individual interactions with others.
- **Sense of control.** While providing victims with resources to return control to their lives is a core tenet of victim services, it is also necessary for advocates to feel in control of their professional actions and decision making. With so many unknown and unpredictable factors in cases of crime and victimization, a sense of true “control” can be difficult to achieve.
- **Personality.** The job description for a victim advocate requests the strength of an ox, the patience of Job, and the resiliency of teflon. When one is expected to be a “pillar of strength” for countless people in need of support, the challenges of victim services can become overwhelming.
- **Residual stress level.** Unless victim advocates possess strong stress management skills, they are likely to develop cumulative “layers” of stress that eventually lead to burnout.
- **General state of health.** Both physical and mental health play a significant role in a victim advocate’s ability to fulfill his or her job duties. Chronic illness or an acute ailment can

weaken a person's ability to cope with job responsibilities. In addition, harmful coping skills such as smoking or substance abuse can affect one's overall health.

In addition, several external or organizational factors can contribute to stress:

- *Work overload.* There are few victim advocates whose jobs are limited to a forty-hour work week. An inability to say "no" to tasks that are not essential or to establish work priorities are common sources of both acute and chronic stress.
- *Family conflicts.* The difficulty of balancing the rigors of the job with a healthy family life at home is a common challenge to many professionals. For victim service providers, this problem is magnified because of the trauma and evils they can encounter on literally a daily basis. The burden of keeping this kind of daily exposure from negatively affecting victim service providers' relationships with family members can be tremendous.
- *Threat of job loss.* For victim service providers who work "grant-to-grant" or whose positions are reliant on external (and often unstable) sources of funding, the issue of job security is a major concern.
- *Job conflict or job ambiguity.* Without clearly defined boundaries and job descriptions that guide the duties of a victim advocate, conflicts are likely to occur. When system-based victim service providers find themselves advocating for victims whose cases have limited legal rights under state or federal law, anger and frustration can ensue.
- *Interpersonal conflicts.* Ongoing disputes can easily arise between people who have different personalities and outlooks. In addition, victim services is a field that requires a tremendous amount of collaboration which, when not approached with openness and honesty, can rapidly erode into competition. Indira Gandhi once described two kinds of people: "those who do the work, and those who take the credit." She suggested it was better to be in the first group, because there was much less competition!
- *External agency conflicts.* There are multiple sources of stress over which victim advocates have little control: lack of victims' rights laws; lack of continuous funding; a media barrage around a high-profile case; and the reliance on other individuals and agencies to complete part of a larger task in order for the advocate to be able to do his or her job, to cite a few. If victim service providers cannot control these, and similar, external forces, they must learn to be able to at least know about them and accommodate the possible influence of such forces on their work.
- *Organizational culture.* The atmosphere of one's work environment can either reduce or add to personal stress. If superiors are supportive and colleagues are understanding, the organization's culture can be a source of strength. On the other hand, many victim service providers work in environments that are frenetic, disorganized, and lack respect for individuals' needs and achievements. Moreover, victim advocates may work in organizational cultures that simply do not (traditionally) understand or support victim advocacy.
- *Insufficient resources.* There are few (if any) victim service agencies that have the financial, human, and community support resources needed to accomplish their mission and

goals. While insufficient resources are often viewed as a significant barrier to success, they can also force victim assistance organizations to prioritize, set realistic goals, and learn to live within the limits of available resources. When this does not occur, organizational burnout (and even demise) are possible outcomes.

- *Inadequate job training.* There are few institutions of higher education that adequately prepare students for a career in victim advocacy. Furthermore, on-the-job training opportunities are often limited because there is not enough time to “do the work, and do the training.” The professionalism of the victims’ rights discipline and, indeed, the sanity of professionals and volunteers within the field, require systematic attention to orientation and continuing education. The National Victim Assistance Academy text is designed to provide exactly this type of basic training for professionals in this field.
- *Supervisor’s attitudes.* An understanding and supportive supervisor can be one of the greatest stress reduction assets to a victim advocate. However, when a supervisor fails to show respect and appreciation for and understanding of the work of a subordinate, the end result is chronic work-related stress.
- *Changes in organizational structure or vision.* As the victims’ rights discipline has grown and matured, it has witnessed significant changes in the thousands of organizations that comprise it. Broadened funding bases, passage of new laws that increase victims’ rights, the hiring of additional staff, and stronger links to the community are all positive outcomes of this growth and maturity. Yet it can be difficult to adapt to such changes, particularly if a victim advocate has become accustomed to “the old way” of doing business. Change can (and should be viewed as) positive. As Pauline Kezer noted, “Continuity gives us roots. Change gives us branches, letting us stretch and grow and reach new heights” (1992, 48).

MANIFESTATIONS OF STRESS: RECOGNIZING THE SIGNS

Stress has an effect on all aspects of an individual’s emotions, behavior, and physical health. Researchers generally divide the manifestations of stress into three general categories: psychological, cognitive, and physical.

The symptoms of *psychological stress* can include the following:

- Anxiety.
- Irritability.
- Mood swings.
- Sadness and depression.
- Low self-esteem.
- Emotional withdrawal.
- Hypersensitivity.

There are also *cognitive* symptoms associated with stress. These symptoms can affect an individual's work performance, such as follows:

- Inability to make decisions.
- Blocked creativity or judgment.
- Poor memory.
- Difficulty concentrating.

Finally, the *physical* manifestations of stress are often ignored by the individual experiencing long periods of stress until they reach the point of critical consequences. The following are common signs of the physical impact of stress:

- Changes in sleeping patterns, such as insomnia.
- Headaches.
- Backaches.
- Gastrointestinal disturbances.
- Fatigue.
- High blood pressure.
- Changes in eating patterns.
- Shortness of breath.
- Susceptibility to illness.

ADDITIONAL SIGNS OF STRESS

Other signs of being highly stressed include the following observations expressed by victim service providers who have attended stress workshops held at victims' rights conferences:

- Lowered productivity.
- Inability to feel empathy with all or some crime victims.
- Inability to meet deadlines.
- A constant frustration with the lack of adequate monetary compensation.
- Uncharacteristic forgetfulness, such as leaving a wallet or purse behind, or failing to keep a scheduled appointment with a victim or colleague.
- Fighting with friends and family over insignificant events; increased interpersonal conflicts.
- Feeling overwhelmed with the demands of the job and a sense that it is consuming one's life.
- A lack of being able to put current stressors into perspective.

- A feeling of inadequate reward, respect, and recognition for constant sacrifices from the agency.
- Being overwhelmed with the desire to seek other employment but feeling there are few options to do so.

HARMFUL COPING MECHANISMS

There are many good ways to cope with and manage stress that are addressed later in this chapter. Too often, however, victim service providers choose to use (and in some cases, abuse) harmful coping mechanisms to reduce their stress when, in reality, they are more likely reducing the length and quality of their lives:

- Smoking cigarettes equates to ingesting poisons—tar and nicotine—which stimulate one’s body to produce hormones (such as adrenaline) that increase one’s energy and alertness. Cigarette addiction requires greater amounts of nicotine to produce the desired feeling. Instead of responding to stressful situations by seeking calm and respite, some victim service providers smoke cigarettes that, in essence, keeps their level of anxiety higher.
- Alcohol is the most widely used—and abused—drug in the United States today. While some victim service providers occasionally have a drink or two to unwind and relax, some use/abuse alcohol as a daily or regular stress-coping technique instead of utilizing other positive coping strategies:

When alcohol is abused, health problems, such as heart disease, raised blood pressure, brain dysfunction, cancer and sleep problems may arise. Many problem drinkers become alcoholics, which in turn can lead to malnutrition, blackouts, disrupted home life and job inefficiency. Alcohol is also high in calories, but low in nutrition (Cornelius 1994).

- Like alcohol, prescription drugs can be abused and used as a negative coping mechanism. Many Americans use tranquilizers to relax, calm down, and relieve the pressure and stress of every day living. Valium and similar drugs designed to reduce stress can effectively reduce anxiety and stress in the short term. If used chronically for long periods of time, however, addiction may develop. When a “hooked” worker tries to stop, he/she may experience anxiety, nervousness, taste and smell distortions, and difficulty sleeping (Cornelius 1994).

There are several approaches that victim service providers can take to address substance abuse within the profession:

- Be proactive in discussing substance use/abuse as a harmful way to cope with the stress of victim advocacy. By bringing the topic up on a regular basis, professionals and volunteers are constantly reminded to “self-check” for their own personal health.
- Establish clear agency policies and procedures that discourage substance use/abuse as a means of coping with stress.

- Avoid group situations that include overuse or abuse of alcohol or other drugs. Instead of meeting after work for drinks, start a walking group to get exercise and discuss the events of the day or week.
- Have a list of referrals available through employee assistance for staff or volunteers who may be experiencing difficulties with substance abuse.

HARMFUL COPING MECHANISMS: CORE ISSUES

Regardless of the coping mechanism that victim service providers may use, the goal is probably the same: reduction of stress and, in some cases, a distancing of the providers' own sense of self from the traumas afflicting their clients. This can lead to more subtle versions of harmful coping mechanisms that represent an emotional shutting down. As described by Dr. Henry Tobey, Director of the Colorado-based Healthbridge Alliance, a trauma support and psychotherapy center, victim service providers (or other caregivers) can, as a consequence of long-term stressful service, “armor their hearts, to use Ram Dass' evocative phrase, and shift to a stance of what could be called 'professional warmth' in which they appear to be emotionally present with their client, but actually are not” (Tobey 1999). Although such behavior may be completely unintentional, the result can be that providers “in very insidious, hard-to-see, but ultimately injurious ways act to keep their clients from disclosing the real depth of their trauma because the provider cannot handle it anymore, or cannot tolerate that particular variety of it” (Ibid.). This is doubly tragic in that it prevents service providers from establishing a genuine healing connection with victims, while at the same time, they personally will lose the enriching aspect of that connection, which for many providers was a fundamental motivation for entering the field of victim services.

RECOGNIZING STRESS IN ONE'S WORKING ENVIRONMENT

In addition to the inherent stress involved in responding to crime victims, victim service providers also face many other circumstances that add to stress in their working environments. While criminal- and juvenile justice-based victim service professionals may face different stressors than professionals in community-based agencies, common stressors are experienced by most victim service providers.

In March 1997, the National Institute of Justice (NIJ) released a comprehensive report entitled *Developing a Law Enforcement Stress Program for Officers and Their Families*. NIJ's *Report* provides a list of psychological stressors facing law enforcement officers. Developed by Dr. Terry Eisenberg, the report has been used by the International Association of Chiefs of Police in their law enforcement training programs. The following overview of stressors facing victim services professionals has been adapted from Dr. Eisenberg's work as reported in the *NIJ Report*.

- *Isolation*. Victim service providers often experience a sense of isolation if they feel they work for the only victim-serving agency in the community, or if there is not an ongoing network of support among victim assistance professionals to help them cope with chronic

stress. In addition, if victim advocates are working on an initiative that lacks support from allied professionals in justice and public safety, feelings of isolation are likely to be exacerbated.

- *Funding pressures.* Most (if not all) victim service agencies face funding pressures and must seek financial support for their agency from a variety of local, state, and federal sources. This can give staff a sense of insecurity in not always knowing if their positions will be funded for the following year, or if the provision of comprehensive, quality victim services will continue.
- *Irregular work schedules.* Many victim services agencies offer twenty-four-hour, seven-days-a-week assistance to victims of crime; thus staff must rotate their schedules to provide adequate coverage. Even in agencies that have “regular” business hours, staff often have to work overtime to meet the needs of crime victims, for example helping to make funeral arrangements, preparing victims for trials, providing crisis intervention and counseling, and responding to unexpected high-profile crimes.
- *Sense of helplessness or hopelessness.* The inability to completely resolve victims’ problems and help them cope with the trauma of victimization confronts victim service providers on a daily basis.
- *Absence of “closure.”* Much of the work of victim service providers is fragmented: making a referral, helping a victim complete a compensation claim, or providing short-term crisis intervention. Very few victim service providers help and guide the victim through the entire criminal or juvenile justice process. The crisis counselor on call when the victim first contacts the agency may not be the same advocate as the one who provides court support. Thus, advocates must rely on allied professionals to provide a continuum of quality support and services. Consequently, opportunities for feedback on the ultimate outcome of a case are minimal.
- *Role conflict.* It has long been said that an effective victim service provider must be able to wear many hats: one moment being a kind, sensitive, supportive counselor, and the next moment, being a strong, outspoken advocate on behalf of victims to ensure that their rights are accorded. When advocates work in a justice system that cannot always meet the expectations and needs of the victims they serve, it can be very frustrating.
- *On-going human suffering and cruelty.* On a daily basis, victim service providers are exposed to the inequalities and brutalities of life. Over time, the exposure to human suffering, and the daily outpouring of empathy by victim service providers to each victim they serve, may take its toll.
- *Lack of referral agencies.* Often, the lack of other agencies to help victims, whether they are other criminal or juvenile justice system-based or community-based agencies, can frustrate victim services providers and may add to their already overburdened workload.
- *Frustration with the criminal or juvenile justice system.* Victim service providers, both within and external to the criminal and juvenile justice systems, are often frustrated with many aspects of justice processes, finding out the hard way that many victims’ rights are simply *not* implemented due to a lack of education and knowledge of justice professionals about victims’ rights, a lack of funding for victim assistance programs across the justice

continuum, and often, because basic victims' rights are not legislated in their states or jurisdictions.

- *Poor equipment.* The lack of access to current technology that makes the demands of the workplace easier (computers and software programs for entering client reports and reporting data to funding agencies, Internet access for research and communications, or automated victim notification systems) adds to the workload and frustration of victim service providers.
- *Lack of career opportunities.* Opportunities for promotion are viewed by some victim assistance professionals as being limited or unfair. This is a particular problem in victim service agencies that have a limited number of staff and few opportunities for advancement within the agency.
- *Inadequate rewards.* Recognition for a job well done is rare; however criticism for mistakes seems to occur on a regular basis. Unless one examines, and is cognizant of, the significant impact victim service providers have on the people they help, inadequate recognition of small successes and significant accomplishments can be very frustrating.
- *Extensive paperwork.* The need for extensive or duplicate reporting on client case leads to meet the reporting requirements of different federal and state grants that support agency activities is viewed as burdensome.

TECHNIQUES TO HELP PREVENT STRESS FROM BECOMING BURNOUT

Burnout is a severe reaction to stress that results in a state of physical and emotional depletion caused by the conditions of one's occupation (Canadian Public Service Commission 1992).⁵ Because of the intense nature of the work required in the field of victim assistance (dealing on a daily basis with issues involving injury and violent death; frustrations faced with each new case requiring renewed advocacy, compassion, and vigor; and often low pay and a lack of job security), burnout can occur. In addition to reducing the number of stressors, the following techniques are suggested for program directors to help prevent staff burnout; they also can serve a useful purpose for program staff to assess whether their agency is taking necessary steps to prevent staff burnout.

(The following information has been adapted from *Developing a Law Enforcement Stress Program for Officers and Their Families*, National Institute of Justice, March 1997.)

To prevent burnout of victim services staff, program directors should:

- Warn new victim assistance staff about not over-identifying with the job. Let them know about the possibility, nature, and symptoms of burnout, and encourage them to monitor their own vulnerability. Keep a close eye on professionals and volunteers who appear to be overwhelmed with their job responsibilities.

- Meet regularly with staff to discuss and resolve problems of work overload. Many staff have difficulty saying “no” to added responsibilities. It is helpful to conduct reality checks on a regular basis to assure that no one individual is overburdened with job duties.
- Arrange for scheduled staff meetings at which experienced and inexperienced victim service providers discuss the impact of their work on their own emotions and lives.
- Help victim service providers set limits on how much time they will spend on the job and give them an opportunity (without guilt) to refuse on occasion to accept certain assignments, especially if the individual is responding too often to emergencies.
- Help victim service providers understand the limits of what they can expect to accomplish in their work in terms of helping victims as well as in achieving organizational or system-wide change. Provide opportunities for group brainstorming and working toward collaborative solutions, when possible.
- Help victim service providers to tolerate common stressors by providing opportunities for them to develop an awareness that they are doing important work that affects people’s lives in positive (and often monumental) ways. This obvious, but critical information, is often forgotten or minimized by overworked staff.
- Encourage victim service providers to take vacation time, without their work files, laptop computer, and pagers!
- Promote a work environment that encourages victim service providers to get regular exercise before, during, and after work. Explore agency discounts for group health club memberships. Organize a walking group at lunch. Coordinate a fifteen-minute stretching or yoga session for staff a few times a week.
- Encourage your agency to provide training opportunities for staff to increase their knowledge, skills, and confidence level in their daily work, and to foster opportunities to promote career advancement and build networks with allied professionals.

TIPS FOR HELPING TO RELIEVE STRESS

Time management. It is important to have balance in your life: balance between work and play; between adult social time and alone time; between family time, physical activity time and spiritual expression. Assess your priorities; make time for each category. Look at how you establish your priorities. Do you only do things you “have to” or do you include things you “want to” do? Try to turn the “have-to’s” into “want-to’s.”

Attitude. How you think can have a profound affect on your emotional and physical well-being. Each time you think a negative thought about yourself, your body reacts as if it were in the throes of a tension-filled situation. If you see good things about yourself, you are more likely to feel good; the reverse is also true. Eliminate words such as “always,” “never,” “should,” and “must.” These are telltale marks of self-defeating thoughts. Talk to yourself, switch negative self statements to positive statements. For example, “I can do . . . (whatever it is you are setting out to do)” or, “I made a mistake, but I can do . . . (whatever it is you are setting out to do),” or “I made a mistake, but I do a lot of things right.”

Relaxation, meditation, guided imagery. Physiologically relaxing your body brings down heart rate and blood pressure and slows breathing. These are all manifestations of stress release in your body. At least once per day (twenty to thirty minutes) center yourself with meditation, relaxation exercises, or guided imagery tapes.

Exercise. Our bodies were designed to move. Built-up stress can often be relieved by physical activity. Walk if you cannot do anything else. Aerobic activity, on a regular basis, plays a significant role in boosting the immune system. Work up to incorporating some form of physical exercise three times per week.

Fun and laughter. There is a measured effect of the relaxation response after a good laugh. Laughing reduces stress! Do something playful at least once per week, if not once per day. Have fun in your life!

RELAXATION EXERCISES FOR RELIEVING STRESS

Stress can be relieved in a number of ways. The same method may not work each time an individual attempts to relieve stress; so try different things. One way to reduce stress is to employ relaxation techniques. The following overview provides some exercises that victim service providers can use to relax. Each exercise usually takes fifteen to twenty minutes, but “mini” sessions can always be tried in situations where one is pressed for time and in desperate need of some stress relief (Sharp 1996).

- **Deep breathing.** Take a deep, slow breath. Let the air come in through your nose and move deep into your lower stomach. Then breathe out through your mouth. Repeat this for several minutes. Imagine that the air coming in carries peace and calm, and the air you exhale contains your tension.
- **Body scan.** Close your eyes and do some deep breathing exercises. Then, in your mind, do a scan of your entire body, beginning with the top of your head and moving down to your feet. With each breath, focus on a different part of your body. As you breathe in, notice any muscle tension in the various parts of your body. As you breathe out, let go of that tension.
- **Progressive muscle relaxation (PMR).** As you perform a body scan, tighten the muscles in each area to increase the tension. Then slowly release the tension. Do this for each part of your body, from head to toe. You will find that you feel much more relaxed after letting go of the tension.
- **Meditation.** Find a comfortable place to sit or lie down and close your eyes. As you breathe deeply, repeat a word or sound over and over again either to yourself or softly aloud. Concentrating on your breathing or on the repeated word helps you to focus your attention. Meditation can help you to slow down your breathing and heart rate, ease muscular tension, and respond calmly to stressful situations. Once you are used to meditating, you can use it to relieve stress while you stand, walk, or jog. Some people even meditate while doing everyday things such as waiting for the bus, doing the dishes, etc.

- *Guided imagery.* Find a quiet, comfortable place to sit. Then close your eyes and take a few slow, deep breaths. Now imagine you are in a place where you know you can relax, such as on the beach or in your bed. Now visualize yourself at this one spot. Take in the sounds, smells, and scenery around you. Savor them one by one. As you become more experienced with imagery, you can use it anywhere. For example, if stress takes over your mind while you are waiting for someone to show up for an appointment, take a couple of minutes to use imagery to relax so you can focus.
- *Yoga.* This is one of the oldest relaxation techniques. There are many different kinds of yoga, but all involve physical poses, meditation, and deep breathing. Everything you do as you practice yoga helps to strengthen, stretch, and relax both your mind and body. There are many classes, books, and videos available to help teach you how to practice this ancient relaxation technique.
- *Aerobic exercise.* Finally, any kind of physical exercise, whether it is a team sport or a simple walk at lunch time, can help reduce stress. Remember, if you can release pent-up energy, your body will benefit in the long run.

ADDRESSING STRESS THROUGH MUTUAL SUPPORT

Many victim advocates find that the greatest tool for stress maintenance and reduction is *mutual support*. Just as many victims find comfort and solace in speaking with others who have endured similar experiences, so can victim service providers. The fortunate aspect of this technique is that victim advocates possess many relevant skills: empathy, understanding, listening, validation, brainstorming, and a strong dose of humor!

The “sixth sense” that many victim advocates have that helps them assess when a victim needs immediate help or crisis support can be utilized for their peers as well. By keeping a vigilant watch on colleagues who appear to be under a great amount of stress, service providers can and should intervene, as appropriate, when support is needed.

Mutual support can be achieved through a variety of venues. Victim service providers can do any of the following:

- Schedule and participate in informal meetings to share ideas, discuss current cases with a focus on problem solving, and talk about mutual concerns. In some communities, victim service providers meet for regularly scheduled brown-bag lunches, coffee, or potluck dinners that provide great forums for support.
- Consider initiating or joining a discussion group or chat room on the Internet. This approach crosses boundaries of geography and time, and “widens the net” of advocates who need, or are eager to provide, mutual support. The Internet also provides excellent, cost-effective opportunities for rapid communications through e-mail, listservs, and user groups.
- Make exercise a scheduled *group activity*. At many training forums (including the National Victim Assistance Academy), regular morning or evening walks give victim service providers an opportunity to get fresh air and exercise and discuss current events and issues. One victim service organization has a volunteer who is a masseuse and yoga instructor;

these skills, when applied to weary victim advocates, combine to make her “volunteer of the year”!

- Schedule retreats for staff and volunteer rejuvenation, seeking low-cost or donated sites and resources to provide an atmosphere of relaxation, mutual support, and planning for the future. For example, long-time victim advocates try to meet at least annually for their national “Old Buffalo” reunion, whose major agenda items are mutual support and laughter, as well as examining important trends and topics that contribute to the future of victims’ rights and services in the nation.

TAKING CHARGE OF STRESS

(The outline for this section is derived from *Stress Management: How to Handle Life’s Challenges*, published by Great Performance in 1995. It has been adapted to specifically address stress and the victim advocate.)

In any stressful situation, one has four choices: accept, avoid, alter, or adapt.

ACCEPT

Sometimes all one can do is learn to accept things as they are. Victim advocates should consider:

- *Learning from past experiences.* Too often, victim advocates “fight the same fights” over and over again, which leads to both cumulative stress and tremendous frustration. It is helpful to consider similar situations from one’s past: Did the actions taken resolve the situation or stressor? Was there one approach that worked better to reduce stress? Was there one significant barrier (human, monetary, or otherwise) that was insurmountable, and required adaptation to cope?
- *Talking with someone about the situation.* The concept of “mutual support” that is critical to victim assistance is also helpful for service providers. Sometimes, options and solutions become more clear when they are discussed with somebody who has shared similar experiences. For example, the National Center for Victims of Crime has established a network of “mentors” and “proteges” for adult corrections-based victim advocates. If an advocate has a problem or issue that is causing frustration or stress, he or she is a telephone call or e-mail away from support and/or technical assistance. Many problems are solved with the guidance of “someone who has been there.”
- *Using positive self-talk.* When overwhelmed by stress, it can be difficult to remember there is the “light at the end of the tunnel.” It is helpful when work and home life are relatively calm, to make a mental or written list of one’s strengths, such as “I have good people skills,” “I am patient,” “I can make people laugh,” “I know how to stretch a tiny little paycheck,” etc. During times of stress, reliance on one’s inveterate strengths and abilities can contribute to a sense of control.

- *Keeping a smile, even in difficult times.* The power of a simple smile can be remarkable. One victim advocate tells how she copes with her monotonous subway commute: She smiles at everybody in the station and on the train and finds great delight in the fact that many (not all . . .) smile back.

AVOID

To avoid needless stress, victim advocates can try to plan ahead and rearrange their surroundings, to the degree possible, by doing the following:

- *Avoiding someone who constantly bothers you.* When conflict management techniques are unable to adequately address a personal conflict, it is a good idea to control the amount of time one must spend with the person who is causing friction or stress. One victim advocate speaks of physically removing herself from a room in which a person with whom she cannot get along is, or physically distancing herself by moving to the other end of a room. While attempts at total avoidance do not *resolve* a stressful situation, they can give a degree of control to the situation.
- *Leaving for work or home earlier to avoid traffic, maintaining a flexible lunch schedule, etc.* If flexibility is at all possible in a victim advocate's work schedule, it can also offer a degree of control in avoiding minor stressors that contribute to cumulative, chronic stress and eventual burnout. One group of victim service providers maintains a flexible lunch schedule in order to take group walks when the weather permits.
- *Avoiding taking on more work than one can handle.* The capacity to say "no" to increasing workloads is a crucial skill that many victim service providers lack. It is important to remember that one's capabilities to provide quality assistance to victims and support to allied justice professionals are seriously eroded by chronic work overloads.
- *Avoiding discussion of a specific topic or subject.* If there are certain topics that create friction among co-workers or professional colleagues, there can be a general agreement to "not go there." Avoiding controversial topics can help victim service providers avert what is guaranteed to be a stressful situation.

It is always important to consider options that help elude stress. It is impossible, however, to avoid *all* stressors in life.

ALTER

Altering a stressful situation in some ways might be the best response. In the field of victim advocacy, *control* is a major tenet of helping victims reconstruct their lives in the aftermath of a crime. Similarly, seeking control over untenable situations can help victim service providers avoid the cumulative effects of stress. Options include the following:

- *Asking someone to change their behaviors and being willing to also change.* When stress is interpersonal, it is a good idea to identify specific behaviors that are irritating or contribute to chronic friction. Often, it is fairly simple to pinpoint recurring behaviors that can be easily remedied such as "When you always turn in your time sheet late, I can't complete my

monthly reports” or “Every time you make an inappropriate victim referral to my agency, it can be traumatic for the victim, and a poor use of time for both you and me.” Such discussions can result in a “give-and-take” of new information that contributes to problem solving; avoiding such discussions can contribute to chronic stress.

- *Communicating feelings in an open way.* Open communications require both bravery and honesty on the part of all parties involved in a stressful situation. It helps to “compartmentalize” stressors into manageable issues that can be addressed one at a time. It is also a good idea to avoid discussions among colleagues in an attempt to shore up support for “one’s side.” The concept of “staff infection” in dealing with conflict results in a “no-win” situation for all involved.
- *Taking risks.* “. . . if you don’t risk anything, you risk even more.” This observation by Erica Jong contains valuable advice for victim service providers. When one avoids taking chances, the end result is stagnation. When victim advocates are willing to take risks to confront their sources of stress, the results can be positive and empowering.
- *Managing time better.* The longstanding technique of developing a “time-task” assessment is helpful to determine how time can be better spent serving victims. Is time wasted responding to nonemergency calls? Would it help to consolidate monthly report writing into a standardized time frame every week? Can the agency develop information packages for “the most frequently asked questions” that are easily replicated and disseminated by a volunteer? While the process of “time-tasking” is time-consuming in itself, it is guaranteed to save time and reduce stress in the long run.
- *Collaborating on problem solving.* One agency of victim advocates created a “problem-solving bulletin board” where staff can post specific information about cases (without, in any way, identifying the victims involved), or barriers to successfully completing their work assignments. Often, a colleague may have dealt with a similar situation that was resolved with a certain strategy. This information should be shared!
- *Being more assertive.* Susan B. Anthony said: “Cautious, careful people, always casting about to preserve their reputations, can never effect a reform.” Victim advocates can gain considerable control over stressful situations by clearly defining problems, offering options for solutions, speaking out, and working hard (often collaboratively) to achieve success.

In seeking to alter a stressful situation, it is helpful to rehearse before it occurs and anticipate what might happen. Usually, it is fairly simple to anticipate possible responses related to people or situations that cause stress, which lead to options for positive responses that offer control.

ADAPT

Adapting to stressful situations and learning to cope with them can be a better response than accepting, avoiding, or altering. By anticipating stressors and making plans to adapt, victim advocates can go a long way toward stress reduction. Options include the following:

- *Changing one's thinking.* Seek as much information as possible that contributes to positive decision making and, ultimately, stress reduction. Accumulating facts and other relevant background information may contribute to a change in one's perception of a situation, and/or provide information that can help change others' thinking as well.
- *Looking at stress as an opportunity.* Some individuals appear to thrive in stressful situations. They view the act of overcoming stress as a source of strength. However, it is important to avoid adopting a "martyr" complex when it comes to handling multiple stressors at the same time.
- *Thinking of the positive things in life.* The comparison of *assets* to *deficits* in certain situations can be a useful stress reduction technique. In many (if not most) situations, building upon assets instead of mulling over deficits can have a positive influence on one's life and ability to manage stress. Visualization of positive (and often simple) things that bring joy to life, from a beautiful sunrise to a favorite vacation spot, can alleviate the effects of acute stress.
- *Considering how much this will matter in a year.* Sometimes, a "global" perspective of a bigger picture can make a stressful situation seem minor. By simply asking, "Will this matter in the long run?" victim advocates can put a stressful situation in perspective.
- *Considering whether it is worth getting upset over.* If it is not ultimately worth the time and energy to focus one's limited resources on a stressful situation, it is time to move on.
- *Changing one's actions.* By slowing down, talking to someone about feelings and concerns, and seeking information and advice, victim advocates have the power to change stressful situations by changing their own actions in positive ways. Many victim advocates find it helpful to discover a new hobby: one victim service provider took up boxing, another discovered a talent for painting, and yet another discovered a "green thumb" for gardening. It is imperative to avoid making matters worse by using destructive coping techniques, such as caffeine, smoking, alcohol and other drugs, and eating disorders (overeating or bulimia or anorexia), as they may temporarily reduce stress, but cause long-range and potentially severe physical and mental health problems.

CONFLICT MANAGEMENT

"Conflict" describes a situation in which the concerns or interests of two or more parties appear to be incompatible. This simple definition clearly characterizes a number of situations that are common to victim advocacy. Conflicts can occur within individuals in an organization, between two different agencies, and/or among the many entities that seek to promote public safety and victim assistance.

Traditionally, "conflict resolution" has been a goal of individuals and entities that need to work together in order to resolve the situation and achieve mutual success. There is a new trend, however, toward "conflict management" and learning to work *within* conflict (which recognizes that while *not all* conflicts can be resolved, *most* can be managed with positive results and success for all involved parties).

The American Association of University Women (AAUW) identifies five ways that people deal with conflict (1977):

1. *Compromise*. Each party gives a little and gets a little in seeking resolution.
2. *Competition*. One party gets all his or her needs met, while the other gets nothing.
3. *Accommodation*. One party gives in, and another gets everything.
4. *Avoidance*. Neither party confronts the conflict, and neither gets their needs met.
5. *Collaboration*. A problem-solving process where the problem/issue is redefined to find a “win-win” situation where all parties involved get what they need.

MANAGING CONFLICT

The AAUW (1977) recommends a conflict management process that incorporates problem clarification and problem solving into six steps:

Step 1: Define the problem in terms of needs (not competing solutions). This is a critical step. The problem should be stated in a way that does not suggest blame or judgment, then verbalized from the other person’s point of view. This takes time and may require that the problem be redefined as it is discussed. Mutual understanding and acceptance of the (possibly new) problem definition, as well as a willingness for involved parties to work together to find a solution that is acceptable to all, should be tested.

Step 2: Generate possible solutions. Creativity and exploration of alternatives are critical. Parties should avoid being evaluative and critical of new suggestions and treat all ideas with respect.

Step 3: Evaluate and test various solutions. There should be tremendous honesty at this stage. Are there weaknesses in any of the solutions proposed? Will it be too difficult to implement? Is it fair to both/all parties involved? In the process of evaluation, a new and even better solution may be discovered and tested.

Step 4: Decide on a mutually acceptable solution. A mutual commitment to one solution should be agreed upon. It is recommended that the solution be written down so that misunderstandings do not develop later.

Step 5: Implement the solution. When arriving at a creative solution, it is important to determine “who does what by when.” It is crucial to trust that the other person will carry out his/her part of the decision, and to offer suggestions to help him/her remember to do what is expected, and what was agreed to.

Step 6: Evaluate the solution. If the solution does not work out, the original problem should be re-examined, with other possible solutions generated. Solutions are always open for revision, but neither party should unilaterally modify a decision.

Some of the best tools for effective problem-solving and conflict management include:

- Active listening.
- Clear, honest communication.
- Respect for the needs of others.
- Trust.
- Being open to new data and information.
- Firmness in one's willingness to have the solution "fail."
- Persistence.

PROMISING PRACTICES

- In 1998, The Office for Victims of Crime awarded a grant to the Healthbridge Alliance, a Colorado-based trauma and psychotherapy center, to develop a model training program to serve victim care providers experiencing secondary traumatic stress. This project will address the impact of the huge emotional demands that can be experienced by victim service providers who assist victims of crime. In addition to developing a training program for the purpose of assisting individual victim service providers, the project will also identify organizational practices that appear effective at supporting the well being of care providers. Grant products will include a curriculum development manual and a trainer's manual.

1. Describe one intrinsic or personal characteristic that may contribute to stress among victim advocates.

2. Describe one external or organizational factor that may contribute to stress among victim advocates.

3. Describe one harmful mechanism that is used to cope with stress.

4. Describe three ways to reduce stress (either as described in this section or from personal experience).

5. Name the six ways that people generally manage conflict.

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ABSTRACT

The use and/or abuse of alcohol and other drugs are correlating factors in the commission of some crimes. In addition, some victims use substances as a negative coping mechanism to deal with the short- and long-term trauma of victimization. Collaborative efforts among professionals who serve victims—including victim service providers, criminal and juvenile justice professionals, child protection agencies, mental health professionals, and substance abuse treatment providers—are necessary to promote early identification, prevention, and intervention efforts relevant to victimization and substance abuse.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- Clinical definitions of substance-related disorders, including use, abuse, and dependence.
- Current research findings relevant to the abuse of alcohol and other drugs and victimization as applied to specific victim populations, including victims of domestic violence and sexual assault, and child and adolescent victims.
- The correlation between victimization, posttraumatic stress disorder, and substance abuse.
- Responses for victim interventions and assistance.
- Promising practices in preventing and responding to substance abuse among victims of crime.

INTRODUCTION

Traditionally, the topic of substance abuse within the context of criminal justice has focused primarily on offenders, and the correlation between substance use/abuse and the commission of crimes. In the 1990s, a different and critical emphasis focused on substance abuse among victims, primarily those who are victims of or witnesses to domestic violence and child abuse.

Current research suggests the need for greater attention to the issues of substance abuse among crime victims and those who serve them. The use, abuse, or dependency of victims on legal (alcohol and prescription drugs) or illegal (illicit drugs) substances may precede the criminal activity, occur during the commission of a crime, or develop after the crime has occurred, most often as a delayed reaction associated with trauma. Increased understanding of the linkages between substance abuse and victimization can lead to more effective prevention efforts and improved responses by victim assistance and justice professionals, mental health

providers, and substance abuse treatment professionals to help individuals cope with the trauma of victimization.

These are sensitive concerns that people are aware exist but are hesitant to discuss or address in a meaningful way. Both victimization and substance abuse carry weighty societal stigmas, and when the stigma of victimization is combined with the stigma of substance abuse, victims can fall prey to a “double-edged sword.” Moreover, substance use or abuse by victims may be viewed as a “reason” for their victimization, which is an erroneous and potentially harmful assessment within the contexts of both criminal/juvenile justice and mental health services.

While victim service providers should not be expected to be experts in substance abuse assessment and treatment, they should be familiar with professionals and agencies that possess such knowledge and skills. Collaboration is key to preventing and responding to victims who develop dependencies or abuse alcohol and other drugs as a means of coping with the trauma of victimization.

Research that specifically addresses substance abuse and victimization is limited at the present time. This chapter raises issues relevant to substance abuse and victimization in a predominantly exploratory fashion, with emphasis upon collaborative strategies for victim service providers in conjunction with allied victim-serving professionals.

THE NEED FOR RESEARCH AND SERVICES EVALUATION

The interface between substance abuse, mental health, and victimization was first addressed in 1985 by a colloquium convened by the National Institute of Mental Health (NIMH) and the National Organization for Victim Assistance (NOVA). The *Final Statement of the Assessment Panel from a Services Research and Evaluation Colloquium* specifically addressed substance abuse as “an area in victim services in need of further research and services evaluation.”

Research is needed that can assist in the development of more effective means of treating substance abuse by crime victims. Such research may show that treatment strategies need to differ according to whether victim involvement in substance abuse preceded the crime event, developed soon after the crime event, or emerged as a delayed reaction to stresses induced by the crime event. On the question of the role of substance abuse in the development of posttraumatic stress disorder, there appears to be little research on the relationship between substance abuse and the development or treatment of PTSD prior to the decision to seek treatment.

There are a number of research implications which require investigation. The major issues include, but are not limited to, the role of substance abuse in both the victim, as well as the victimizer. National data indicate that a large percentage of persons who commit crimes have drug or alcohol problems.

Another issue is the use, either appropriate or inappropriate, of drugs or alcohol in self-medication to reduce stress and anxiety. Additionally, for those individuals who do develop PTSD, a careful review of the past and current substance use/abuse patterns needs to be undertaken. . . .

. . . With regard to children, racial groups, ethnic groups and other minority groups, specific research is required which examines the role of substance use/abuse with victims in general and PTSD specifically.

The NIMH/NOVA recommendation has been addressed, particularly in the past decade, with research, model policies, and training programs that address substance abuse and victimization. Some are highlighted in this chapter.

SERVING VICTIMS WITH DRUG AND ALCOHOL ABUSE

Crime victims should not be “labeled” with mental disorders by victim service professionals and allied professionals. Victims and their advocates will not accept a psychiatric diagnosis as a substitute for their private struggle against a crime that brought horror and helplessness to their lives. Crime victims may be neglected by our culture—and stigmatized by those who are insensitive to or unaware of their vulnerability to be “retraumatized.” Their responses need to be respected as adaptive and protective—not as pathologic.

There are, however, psychiatric disorders that are clearly reactive to the trauma of the crime to which anyone would be vulnerable. These are not primarily genetic or neurochemical “disorders” as is the case with some major psychiatric disorders. Instead, the horror and helplessness of being victimized have somehow “triggered” a persistent pattern of distress which may be viewed as an *exaggerated* adaptive and protective response. It is important to recognize that these reactive disorders to the trauma of being victimized would occur in many people if they were not able to release themselves from the chaos, trauma, and potential vicious cycle of maladaptive responses caused by the victimization. People can become “disordered” if forced to live in chaos. That is the experience of some crime victims—their minds cannot rest from the chaos created by the crime.

There are several psychiatric disorders (major depression, anxiety, posttraumatic stress disorder [PTSD], and substance abuse) that commonly occur in combination after a severe stress, including the stress of a crime. PTSD refers to a characteristic set of symptoms that develop after exposure to a traumatic event or an extreme stressor, including: persistent re-experiencing of the events; persistent avoidance of things associated with the traumatic event or reduced ability to be close to other people and have loving feelings; and persistent symptoms of increased arousal such as sleep difficulties, outbursts of anger, difficulty concentrating, constantly being on guard, and extreme startle response. (For a more complete discussion of mental health issues and crime victims, see Chapter 6.1, *Trauma Assessment and Intervention*.)

Recent studies have shown a particularly potent and maladaptive *combination of PTSD and substance abuse* in some crime victims. To understand the problem of substance abuse in crime victims, one must begin by understanding how it is related to trauma and PTSD. To lay the groundwork for understanding this relationship, a brief overview of (1) clinical definitions pertaining to substance abuse, and (2) research relevant to substance abuse and victimization, is in order.

CLINICAL DEFINITIONS

There are important and significant differences between substance “abuse,” “dependence,” and “use” that should be understood in the context of both research and practical applications in victim assistance:

DEFINITIONS FOR SUBSTANCE-RELATED DISORDERS

In the Diagnostic and Statistical Manual-IV (DSM-IV) published by the American Psychological Association (1994), “substance-related disorders” include disorders related to the taking of a drug of abuse (including alcohol), as well as disorders related to the side effects of a medication and to toxin exposure. The substances discussed in this section are grouped into eleven classes: alcohol; amphetamine or similarly acting sympathomimetics; caffeine; cannabis; cocaine; hallucinogens; inhalants; nicotine; opioids; phencyclidine (PCP) or similarly acting arylcyclohexylamines; and sedatives, hypnotics, or anxiolytics.

DSM-IV CRITERIA FOR SUBSTANCE DEPENDENCE

A maladaptive pattern of substance use, leading to clinically significant impairment or distress, as manifested by *three (or more)* of the following, occurring at any time in the same twelve-month period:

- Tolerance, as defined by either of the following:
 - A need for markedly increased amounts of the substance to achieve intoxication or desired effect.
 - Markedly diminished effect with continued use of the same amount of the substance.
- Withdrawal, as manifested by either of the following:
 - The characteristic withdrawal syndrome for the substance.
 - The same (or a closely related) substance is taken to relieve or avoid withdrawal symptoms.
- The substance is often taken in larger amounts or over a longer period than was intended.
- There is a persistent desire or unsuccessful efforts to cut down or control substance use.
- A great deal of time is spent in activities necessary to obtain the substance (e.g., visiting multiple doctors or driving long distances), to use the substance (e.g., chain smoking), or to recover from the effects of the substance.
- Important social, occupational, or recreational activities are reduced or given up because of substance use.
- The substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance (e.g., current cocaine use despite recognition of cocaine-induced depression, or continued drinking despite recognition that an ulcer was made worse by alcohol consumption).

DSM-IV CRITERIA FOR SUBSTANCE ABUSE

A maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by *one (or more)* of the following occurring within a twelve-month period:

- Recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home (e.g., repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; neglect of children or household).
- Recurrent substance use in situations in which it is physically hazardous (e.g., driving an automobile or operating a machine when impaired by substance use).
- Recurrent substance-related legal problems (e.g., arrests for substance-related disorderly conduct).
- Continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance (e.g., arguments with spouse about consequences of intoxication, physical fights).

DEFINITIONS FOR ALCOHOL USE

- *Current use.* At least one drink in the past month (includes binge and heavy use).
- *Binge use.* Five or more drinks on the same occasion at least once in the past month (includes heavy use).
- *Heavy use.* Five or more drinks on the same occasion on at least five different days in the past month (SAMHSA 1998)
- *Moderate Drinking.* Two drinks a day for men, and only one drink a day for women and anyone age 65 and over (NIAAA 1992).

**RESEARCH FINDINGS RELEVANT TO THE ABUSE OF ALCOHOL
AND OTHER DRUGS AND VICTIMIZATION**

GENERAL SUBSTANCE ABUSE

A substantial number of adults and youth in America are dependent upon or abuse alcohol and other drugs. The cost of alcohol and drug abuse to society in terms of public and mental health, as well as economic costs, is staggering:

- At least 4.5 million women are alcohol abusers or alcoholics; 3.1 million regularly use illicit drugs; 3.5 million misuse prescription drugs; and 21.5 million smoke cigarettes (Reid 1996).
- Of the 23.1 million persons who used an illicit drug in the past year, 1.9 million reported some health problem due to their illicit drug use; 3.5 million reported an emotional or psychological problem due to their drug use; and 4.1 million were dependent on an illicit

drug. An estimated 963,000 had received treatment or counseling for their drug use (SAMHSA 1998).

- 9.7 million people were estimated to be dependent on alcohol, including 915,000 youths ages twelve to seventeen. An estimated 1.7 million people (including 148,000 youths) reported receiving treatment or counseling (Ibid.).
- In 1995, the estimated annual cost of alcohol abuse in the U.S. was \$166.5 billion, and drug abuse is estimated to have cost \$109.8 billion. Alcohol use disorders cost \$56.7 billion more than the estimated annual economic cost of illegal drug use (Harwood et al. 1998).
- Alcohol abuse was involved in over 70 percent of substance abuse treatment admissions in 1997, and about half of people entering treatment reported alcohol as their primary drug of abuse (SAMHSA 1999b).
- The 1997 National Treatment Improvement Evaluation Study of addiction treatment effectiveness found a 70 percent reduction in the number of clients reporting problems with alcohol in the year following treatment (SAMHSA 1997a).

DOMESTIC VIOLENCE AND SUBSTANCE ABUSE

Research indicates a significant correlation between substance abuse and domestic violence victims. The presence of alcohol or other drugs in domestic violence incidents raises important concerns about victims' safety and their capacity to respond to threats or acts of violence. It does *not* mean, however, that the presence of such substances *caused* the abuse to occur. Moreover, substance abuse is sometimes wrongly considered by law enforcement, justice professionals, substance abuse treatment professionals, and batterers intervention professionals to be a *causal*, as opposed to *correlating*, factor in domestic violence within the framework of both the abuser and the victim.

The following facts represent several findings about the correlation between substance abuse and domestic violence:

- Being a victim of domestic violence is associated with an increased incidence of substance abuse (Miller, Downs, Testa, and Panek 1990, as cited by Goldberg 1995).
- Approximately 50 percent of all female alcoholics have been victims of domestic violence (Miller and Downs 1993).
- In a research study conducted by medical personnel and researchers who accompanied police in Memphis as they responded to nighttime calls for assistance, 42 percent of victims of domestic violence used alcohol or drugs on the day of the assault according to their own reports or reports of family members. Fifteen percent had used cocaine, and about half of those using cocaine said their batterers had forced them to use it (Brookhoff 1997).
- In a study of murder in families, half of the victims in spouse murders had consumed alcohol before the crime (Dawson and Langan 1994).
- Having a partner who abuses chemicals is more likely to generate substance abuse in women (Wilsnack and Wilsnack 1991, as cited by Goldberg 1995).

- A batterer may also be the victim's drug supplier, which complicates the situation (SAMHSA 1997b).
- Drug- or alcohol-involved victims of partner abuse may not be taken as seriously by professionals (Stark and Flitcraft 1991). Substance abuse may be viewed as a reason for the abuse, and this is often an inaccurate assessment (Kurz and Stark 1988).
- Victims of domestic violence are more likely to receive prescriptions for and become dependent on tranquilizers, sedatives, stimulants, and painkillers and are more likely to abuse alcohol (SAMHSA 1997b).

SEXUAL ASSAULT AND SUBSTANCE ABUSE

Alcohol and other drugs are often present in both victims and offenders of sexual assault. Similar to crimes of domestic violence, this can wrongly be construed as a *causal* rather than a *correlating* factor to the offense. There is overwhelming evidence that victims of sexual assault and rape are much more likely to use alcohol and other drugs to cope with the trauma of victimization than nonvictims:

- Rape victims were 5.3 times more likely than nonvictims to have used prescription drugs nonmedically (Kilpatrick, Edmunds, and Seymour 1992).
- Rape victims were 3.4 times more likely to have used marijuana than nonvictims (Ibid.).
- Victims of rape were six times more likely to have used cocaine than their counterparts who were not raped (Ibid.).
- Compared to women who had not been raped, rape victims were 10.1 times more likely to have used "hard drugs" other than cocaine (Ibid.).
- Drinking by the victim, the assailant, or both is involved in over half of sexual assaults (BJS 1998).

SUBSTANCE ABUSE, ADOLESCENTS, AND ADOLESCENT VICTIMS

Research reveals that adolescents who use and abuse substances are more prone to serious psychological and behavioral problems. Youth who are victimized by physical or sexual abuse are much more likely to develop chemical dependencies:

- In a nationally representative sample, youth who experienced either physical or sexual abuse or assault were twice as likely as their nonvictimized peers to report past-year alcohol or other drug abuse or dependence (Kilpatrick et al. 2000).
- This same national study found that youth who witnessed violence (including domestic violence and violence among their peers) were three times as likely to experience substance use disorders (Ibid.).
- Among 12-to-17-year-old current drinkers, 31 percent had extreme levels of psychological distress, and 39 percent exhibited serious behavioral problems (SAMHSA 1999a).

In 1995, the National Crime Victims Research and Treatment Center at the Medical University of South Carolina conducted the first-ever National Study of Adolescents (NSA) that examined victimization, mental health, and substance abuse issues among teenagers. A telephonic survey of 4,023 adolescents ages twelve to seventeen determined that, based on U.S. Census 1995 estimates of the U.S. population of adolescents of 22.3 million: 1.8 million adolescents have been sexually assaulted; 3.9 million have been physically assaulted; 2.1 million have been subjected to physically abusive punishment; and 8.8 million have witnessed violence. Significantly, over one half of adolescent victims said that their first use of substances occurred *after* the year they were first assaulted (53.8% for alcohol, 47.8% for marijuana, and 63.5% for hard drugs).

Much of the knowledge gained from the NSA raises crucial issues that cross over lines of research, policy, and practice. As such, collaborative efforts to address these concerns should be encouraged among professionals in the fields of victim assistance, criminal and juvenile justice, mental health, and substance abuse. Among the many NSA recommendations for public policymakers are three that are specific to youth victimization and substance abuse:

1. The NSA found that many violence victims had comorbid PTSD and substance use/abuse/dependence problems, and that victimization is an important pathway to substance abuse and delinquency. These findings imply that effective mental health treatment for adolescent victims is important not only to relieve post-victimization mental health problems, but also to prevent future substance use and delinquent or criminal behavior. Therefore, mechanisms should be developed to ensure that funding is available to provide mental health counseling to adolescent victims who need it, irrespective of their ability to pay or whether they qualify for crime victim compensation.
2. Policies should promote the primary and secondary prevention of child victimization as part of a comprehensive plan for preventing youth substance use and delinquency. Effective and efficient prevention begins as early as possible in the risk factor chain. Results of this study suggest that victimization and its effects are strong and primary correlates with youth substance abuse and delinquency, even when controlling for other risk factors. Therefore, prevention of these early primary experiences will contribute to preventing these secondary problems.
3. Policies should encourage early identification of and intervention with victimized children (secondary and tertiary prevention). All child victimizations cannot be prevented. However, if more can be recognized and effective interventions provided to child victims, it is likely that at least some of the long-term negative effects leading to substance use and delinquency can be mitigated. Therefore, policies should encourage proactive—rather than reactive—approaches to identifying victimized youth, and should promote effective and rapid intervention for victimization-related problems that are related to the development of substance use and delinquency.

The NSA's emphasis on collaborative initiatives to respond to substance use and abuse among adolescent victims extended to practitioners as well, with three important recommendations:

1. Mental health professionals who work with children and adolescents should be informed about the high rates of victimization that occur among children and adolescents, and about the extent to which victimization serves as a risk factor for PTSD, substance use/abuse/dependence, and delinquency. In addition, they should be encouraged to screen for victimization experiences among child and adolescent clients. Substance abuse treatment programs for adolescents should do likewise.
2. Victim assistance professionals in the criminal and juvenile justice systems should establish relationships with mental health professionals who are knowledgeable about crime victims' mental health issues. Criminal and juvenile justice practitioners and victim service providers should establish or enhance professional relationships with substance abuse professionals in order to effectively address issues of substance use, abuse, and dependency among adolescents and children who have been victimized.
3. Mental health programs dealing with child victims should incorporate substance abuse and delinquency prevention components into their protocols. While mental health programs designed to reduce common psychological problems associated with child victimization are common, few include specific interventions for reducing substance use onset, substance abuse, or conduct and delinquency problems. Given the findings of the NSA, mental health programs should incorporate these prevention components as a regular part of their victimization treatment protocols (Kilpatrick et al. 1998).

SUBSTANCE ABUSE AND CHILD VICTIMS

Research reveals that when alcohol and other drugs are present in family environments, the likelihood of child victimization increases. A significant proportion of substance abusing mothers who are involved in child abuse and neglect cases reports childhood victimization:

- According to the National Committee to Prevent Child Abuse (NCPCA), 81 percent of all states in 1995 listed substance abuse as one of the primary problems characterizing child protective service cases (NCPCA 1996).
- In a recent study of substance-abusing women who were admitted for services sponsored by the New York City Administration for Child Services—the public agency responsible for responding to reports of child abuse or neglect—24 percent of the women reported having been sexually abused and 45 percent reported having been physically abused in their childhoods. Of those who reported experiencing childhood sexual or physical abuse, 82 percent were victimized by relatives; 16 percent were victimized by someone they knew; and 2 percent were victimized by strangers (Kang et al. 1999).
- Risk factors associated with substance abuse disorders include histories of childhood abuse and neglect (Carlson 1997). In fact, a recent study found that adults with histories of child abuse have an increased likelihood of heart disease, cancer, and chronic lung disease and greater risk for alcoholism, drug abuse, depression, and attempted suicide (Felitti et al. 1998). These findings emphasize the importance of comprehensive screening and assessment for individuals with substance abuse disorders and client access to adequate health care (CSAT and SAMHSA 2000).

SUBSTANCE ABUSE AND HOMICIDE

Research reveals that the sudden and violent loss of a loved one can increase one's propensity to use or abuse substances in order to cope with the trauma resulting from an unexpected and emotionally devastating victimization.

In "Bereavement After Homicide: A Comparison of Treatment Seekers and Refusers" (1995), Dr. E. K. (Ted) Rynearson, Director of Separation and Loss Services of the Virginia Mason Medical Center in Seattle, cites several recent well-controlled studies that have demonstrated the co-occurrence of trauma and bereavement responses with substance abuse (15–20%). The explanation for this co-occurrence is presumably due to multiple factors, including: (1) a number of symptom criteria overlap and (2) an increased risk of the development of psychiatric disorders pursuant to the occurrence of a traumatic event, such as homicide. It is critical for victim advocates and allied professionals to be aware of the high incidence of coexistent psychiatric disorders following trauma or loss. It is particularly important for advocates to be aware of symptoms that indicate the need for appropriate mental health, substance abuse, or other treatment referral.

VICTIMIZATION, PTSD, AND SUBSTANCE ABUSE: A STRONG CORRELATION

SUBSTANCE ABUSE AS A PRE-VICTIMIZATION FACTOR

There is considerable empirical evidence that use of alcohol and other illicit drugs increases one's likelihood of being victimized:

- Women's use of drugs nearly doubled the likelihood they would experience an assault when compared with those who did not use drugs. The greatest risk was to women who used drugs and had experienced an assault previously (Kilpatrick et al. 1997).
- The odds of being assaulted for hard drug users and marijuana users were 5.06 and 1.46 times those of nonusers, respectively (Cottler et al. 1992).
- In a study of an urban population of young adults, the odds of experiencing traumatic events in individuals with alcohol or drug use problems were 1.47 and 1.79 times those of individuals without such substance use problems, respectively (Breslau et al. 1991).
- Alcohol and drug abusers are about 1.5 times as likely to experience traumatic events as nonusers (Kessler et al. 1995).
- A 1993 study of emergency room trauma found that patients with violence-related injuries were at least twice as likely to have been drinking than patients with injuries from other causes (Ibid.).

There is clearly a significant body of research that shows alcohol and other drugs present in the systems of perpetrators and some victims during the commission of many crimes. As noted earlier, for victims of crime, this creates a "double-edged sword" in which the stigma of victimization is exacerbated by the stigma of being under the influence of some type of chemical.

This double stigma can often affect the provision of treatment and the response of the criminal justice system.

It is critical to note that the research cited above supports substance abuse among some victims at the time of the crime as a *correlating*, and not a *causal*, factor. (This distinction is discussed in detail from a research standpoint in Chapter 17, *Research and Evaluation*.) In environments where alcohol or other substance abuse is occurring, the likelihood of criminal activity may be greater. However, a person's use or abuse of substances *in no way* equates to a basis for blaming that person for his or her victimization by another. Rather, substance use or abuse impairs an individual's perception, judgment, and mental faculties, and often may then have a detrimental effect on his or her ability to maintain personal safety. Because of the devastating effects of societal blaming of victims and substance abusers, this problem needs to be acknowledged and thoroughly addressed by victim advocates.

Stigma against chemically-dependent women. Societal and individual attitudes about and stigma against women who are chemically dependent detrimentally affect the access to and provision of all types of supportive services. Furthermore, most treatment modalities have been based on the needs of male substance abusers whose histories and recovery-related issues are likely to be significantly different from women. The stigma against chemically dependent women can be seen in the following issues (Goldberg 1995):

- Cultural stereotypes of women perpetuate the idea that it is worse for a woman to get drunk (or use drugs) than for a man, with the implication that she may be less deserving of help.
- Most substance abuse treatment approaches are based on models developed for men. Women needing treatment often also have the responsibility of caring for children, making participation in treatment programs (especially residential programs) more difficult.
- Substance abusing women tend to have fewer economic resources for obtaining treatment. Also, they are more likely to have complicating health needs, including pregnancy.
- Generally, women take a shorter period of time than men to go from occasional substance use to abuse, and thus begin to suffer social and physical consequences.
- The criminalization of substance abuse during pregnancy has made many pregnant substance abusing women reluctant to seek treatment.
- Having a substance abuse problem may exclude victims from domestic violence services.
- Women in recovery are likely to have a history of violent trauma and are at high risk of being diagnosed with PTSD (SAMHSA 1997b).

The stigma against chemically dependent women is much worse when they are also the victims of domestic violence; as noted above, this is true for 50 percent of all chemically dependent women. Despite this significant correlation between domestic violence and chemical dependency, hardly any research has been conducted and little has been written about the need to develop intervention strategies that simultaneously address both the batterer's substance abuse and domestic violence. Even though there is often substance abuse group treatment for men in domestic violence programs, most of it is traditional substance abuse treatment with little focus

on the domestic violence issues. Similarly, little has been done to assist battered women with chemical dependency problems in order to meet their needs for both safety and sobriety. *Neither system* is currently equipped to provide the range of services needed by battered women and batterers who are chemically dependent. The issue of cross-training and integrated assessment will be discussed below in “Responses for Victim Interventions and Assessment.”

In the addictions treatment system, misinformation often leads counselors to understand and respond to domestic violence through the use of an addiction’s “hard love” framework, an approach that has particularly harmful consequences for battered women. Such an approach identifies battering either as a symptom of abuse or addiction—or as an addiction itself. The interventions that follow are based on the erroneous belief that correlation equals causation. The significant correlation between substance abuse and domestic violence denotes *some* connection between the two, but gives no clear picture of causation; it is entirely possible that some third factor is causing this relationship. Much research is needed in this area before conclusions can be drawn about this relationship. Even if there is shown to be some type of causation, this would indicate that a new paradigm of treatment is necessary to effectively treat both issues simultaneously.

This erroneous belief of causation often leads to interventions based on a number of harmful, false assumptions by substance abuse counselors:

- *Alcohol use or alcoholism causes men to batter.* It may predispose a person to violence, but the causes of any crime are always multiple and complex. The presence of two problems simply means *both* need to be treated—not excused.
- *Alcoholism treatment alone will adequately address the domestic violence issue.* Traditional treatment almost never addresses this issue directly; only in the discussion of taking full responsibility for “the wreckage of the past” is it generally addressed.
- *Battered women are “co-dependent” and thus contribute to the continuation of the abuse.* This mixes and corrupts concepts. In traditional alcohol treatment, a battered woman may be “co-dependent” regarding the substance abuse. This concept has nothing to do with domestic violence, and it was *never* meant to be used to remove the responsibility for the substance abuse (or any other problem, such as battering) from the substance abuser.
- *Addicted battered women must get sober before they can begin to address their victimization.* Both issues must be treated simultaneously. (Note the National Institute of Drug Abuse Principle #3 on page 20.)

SUBSTANCE ABUSE AS A POST-VICTIMIZATION FACTOR

Research reveals that the trauma of victimization leads a considerable number of victims to use alcohol and other drugs as a means of coping with the trauma:

- Nearly nine in ten alcoholic women were physically or sexually abused as children (Miller and Downs 1993).

- Exposure to sexual or physical abuse often contributes to the development of a variety of short- and long-term psychological disturbances, for example, PTSD, depression, anxiety, anger, self-destructiveness, suicidal behavior, low self-esteem, and difficulties with interpersonal relationships (Gil-Rivas, Fiorentine, and Anglin 1996).
- Women who have been assaulted are twice as likely as nonassaulted women to use or abuse substances (Kilpatrick et al. 1997).
- Of the adult women receiving substance abuse treatment in the 1999 National Treatment Improvement Evaluation Study, 43 percent reported having been sexually abused. Significantly more of these sexually abused women also reported physical abuse, mental health problems, suicide attempts, and poor general health—all of which could be potential obstacles to successful substance abuse treatment. In spite of these additional problems, sexually abused women did as well in treatment as nonabused women (CSAT October 1999).
- When a highly specific diagnostic instrument was employed to assess victimization history among substance abusers, 65 percent of the women and 16 percent of the men reported a history of sexual assault (Grice, Dustan, and Brady 1992).

There are several comprehensive and well designed community surveys that have documented the strong prevalence of PTSD in crime victims. The most recent (Breslau et al. 1998) surveyed over 2,000 young adults in metropolitan Detroit to measure the frequency and recovery rate of PTSD responses after all kinds of trauma. The analysis confirmed the findings of another large community survey (Resnik et al. 1993).

Findings indicated the following:

- Crime victims who suffered more brutal trauma showed higher frequencies of PTSD: rape (49%), torture (54%), badly beaten (32%), and sexual assault (24%).
- Overall, assaultive violence of all kinds had the highest risk of PTSD (21%) compared with other traumas (9%).
- Women's risk of PTSD following exposure to any trauma was twice as high as men's.
- Twenty-six percent of PTSD cases had improved by six months, 40 percent by one year, and 50 percent by two years. In more than one-third of the cases, PTSD persisted for more than five years.
- Women who had been directly exposed to trauma were a highest risk for nonrecovery.

Drug and alcohol abuse is strongly associated with PTSD. A recent article (Stewart 1996) presents a critical review of over 300 clinical studies that demonstrate a highly positive correlation between trauma, PTSD, and alcohol abuse.

- Alcohol and drug abuse is the most prevalent of all psychiatric disorders in the United States—16 percent of the population.
- Alcohol abusers report three times as much trauma as nondrinkers.

- Studies show a much stronger association with PTSD and alcohol abuse than with trauma exposure alone.
- PTSD signs and symptoms precede the development of alcohol abuse, suggesting that PTSD somehow promotes abuse.
- Studies show a high degree of coexistence between PTSD and alcohol abuse—40 to 70 percent of subjects with PTSD will also have a diagnosis of alcohol abuse.

VICTIMIZATION, PTSD, AND SUBSTANCE ABUSE: A PRELIMINARY CONCEPTUAL MODEL

Because of their exposure to trauma, crime victims are at high risk of developing PTSD (20% or one of every five victims—a conservative average) and at additional risk of abusing drugs and alcohol (three or four times the normal prevalence) if the PTSD persists—as it will for over one-third of the cases. Extrapolating from these frequencies brings the stark realization that *many thousands* of crime victims are at high risk for presenting with the comorbid disorders of PTSD and alcohol abuse. If they remain untreated, these absolute numbers would be accumulative.

Research from the National Center for PTSD (1999) clearly demonstrates that PTSD and alcohol abuse is potentially a very serious problem for crime victims and their families:

1. PTSD and alcohol problems often occur together. People with PTSD are more likely than others of similar background to have alcohol use disorders both before and after being diagnosed with PTSD, and people with alcohol use disorders often also have PTSD.
 - 25 to 75 percent of survivors of abusive or violent trauma report problematic alcohol use.
 - 10 to 33 percent of survivors of accidental, illness, or disaster trauma report problematic alcohol use, especially if troubled by persistent health problems or pain.
 - Being diagnosed with PTSD increases the risk of developing an alcohol use disorder.
2. Alcohol problems often lead to trauma and also disrupt relationships. Persons with alcohol use disorders are more likely than others of similar background to experience psychological trauma and to have problems with conflict and intimacy in relationships.
 - Women exposed to trauma show an increased risk for an alcohol use disorder even if they are not experiencing PTSD.
 - Women with problematic alcohol use are more likely than other women to have been sexually abused at some point in their life.
 - Men and women reporting sexual abuse have higher rates of alcohol and drug use disorders than other men and women.
 - Problematic alcohol use is associated with a chaotic lifestyle, which reduces family emotional closeness, increases family conflict, and reduces parenting abilities.
3. PTSD symptoms often are worsened by alcohol use. Although alcohol can provide a feeling of distraction and relief, it also reduces the ability to concentrate, to enjoy life and be

productive, to sleep restfully, and to cope with trauma memories and stress. Alcohol use and intoxication also increase emotional numbing, social isolation, anger and irritability, depression, and the feeling of needing to be on guard (hypervigilance).

- Alcohol use disorders reduce the effectiveness of PTSD treatment.
- Many individuals with PTSD experience sleep disturbances (trouble falling asleep or waking up after they fall asleep). When a person with PTSD experiences sleep disturbances, using alcohol as a way to “self medicate” becomes a “two edged sword”: it may help with one sleep-related problem but exacerbate another.
- Alcohol use may decrease the severity and the number of frightening nightmares commonly experienced in PTSD, but may continue the cycle of avoidance found in PTSD. When a person withdraws from alcohol, nightmares often increase.

Longitudinal studies have shown that the PTSD disorder precedes drug and alcohol abuse. Drugs and alcohol are abused as a maladaptive effort to self-medicate—to moderate the traumatic signs and symptoms of the trauma. Some individuals are incapable of accommodating themselves to the involuntary fear and intrusions of flashbacks and nightmares that interfere with sleep. “Using” drugs or alcohol as a tranquilizer or hypnotic is a short-term solution that may introduce a long-term problem. Abruptly discontinuing drugs or alcohol after several weeks of daily use will create a state of “rebound” in which the central nervous system is suddenly free of the inhibiting effects of whatever substance has been abused. That will begin an intense resurgence of the trauma responses that reinforces the need for continual abuse. When this cycle of abuse to control the mental distress of trauma becomes persistent and maladaptive, it is difficult to interrupt because it has now become the primary way that the victim can calm his or her mind from the mental effects of the crime.

RESPONSES FOR VICTIM INTERVENTIONS AND ASSESSMENT

EDUCATION

Crime victims, and those who provide support services to them, need to know the basic interactive effects of trauma, PTSD, and substance abuse, as highlighted in this chapter. Education will bring a recognition and identification of crime victims presenting with these disorders and their maladaptive combination.

The combination of criminal victimization and substance abuse presents a “double-edged sword” for victims and practitioners. In general, societal attitudes toward both tend to be negative. There is a need for public education about victimization and its negative effects on individuals, families, and communities, and the need for a societal response that makes victim assistance and support a community-wide priority for government, the private sector, and individuals.

PROMOTE RESEARCH AND EDUCATION SPECIFIC TO SUBSTANCE ABUSE AMONG WOMEN

The “double stigma” of substance abuse and victimization, particularly among women, needs to be addressed in a context appropriate for practitioners and society in general. In his article

entitled “Substance-abusing Women: False Stereotypes and Real Needs,” M. E. Goldberg (1995) offers insights into approaches that dispel myths and focus on what is known about substance abuse and women:

The most desirable type of remedy is prevention of substance abuse among women. Prevention programs should include not only educational programs in schools, such as programs focused on the dangers of substance abuse to unborn children and special risk factors affecting women, but also real efforts to reduce some major risk factors to women. Prevention of sexual and physical abuse of girls would be a major contribution of the prevention of substance abuse in women. Better treatment techniques for adults who sexually or physically abuse children would also be helpful. Generalized efforts to increase the self esteem of women and their ability to act independently of male partners would also be useful in preventing the development of substance abuse problems in women.

Additional research on the causes of women’s substance abuse is also very important to improve treatments designed for women. In addition, much substance abuse occurs in individuals who are concurrently experiencing other psychological disorders, the so-called “dual diagnosis” patients. It is essential to learn how the psychological disorders of women, especially depression, interact with substance abuse to aid in the development of treatment for the many women who use substances to self-medicate (Goldberg 1995).

REORIENTATION

PTSD and substance abuse are so prevalent with crime victims that any personnel providing supportive services would be negligent in:

- Ignoring the maladaptive effects of PTSD and substance abuse—that “it will get better on its own” despite hard evidence that it won’t.
- Denying the destructive feedback of PTSD and substance abuse—sometimes related to the provider’s denial of his or her own substance abuse problem.
- Remaining uninformed about the criteria for suspecting the presence of these disorders and the mechanism and resources for appropriate referral.

AGENCY POLICY: CROSS TRAINING AND INTEGRATED ASSESSMENT

The professions of mental health, substance abuse treatment, criminal and juvenile justice, and victim assistance all possess unique and differing expertise and perspectives about victimization and substance abuse. When these sources of knowledge and expertise remain isolated, it is crime victims who suffer the often devastating consequences. Crime victims, and those who provide support services to them, need to know the very basic interactive effects of trauma, PTSD, and substance abuse. Education will bring a recognition and identification of crime victims presenting with these disorders and their maladaptive combinations.

The existing knowledge base needs to be shared among professions to promote a wide understanding of the many issues relevant to victimization and substance abuse. There is considerable, yet segmented, expertise in all professions with whom crime victims interact. By combining the various sources of knowledge, victim-serving professionals can increase their

capacity to effectively help victims with substance abuse problems and create collaborative approaches that *share* information and resources, rather than require the creation of new ones.

An agency should consider developing—

- Guidelines and requirements for training and orienting personnel to the widespread effects of PTSD and substance abuse with crime victims.
- A rudimentary protocol for identifying crime victims with substance abuse and extra-agency resources for referral.

For example, the State of New York Office for the Prevention of Domestic Violence has developed a training curriculum that incorporates research, policies, and promising practices that address the concerns and perspectives of crime victims, service providers, substance abuse treatment professionals, mental health professionals, batterer treatment professionals, and public policymakers. This agency identified that different professions' use of terms and language posed barriers to effective communication. One of the curriculum's innovative components is *Table A* (on the following page) that contrasts common language usages within the three key involved fields "in an effort to make communication between them a little easier" (State of New York Office for the Prevention of Domestic Violence 1998).

PROVIDE TRAINING ABOUT CONFIDENTIALITY PROTECTIONS SPECIFIC TO SUBSTANCE ABUSE

The federal confidentiality law and regulations concerning substance abuse directly resulted from concerns about the social stigma associated with substance abuse, and concerns that people might hesitate to seek treatment if they feared disclosure of their addiction. According to the Center for Substance Abuse Treatment, "the purpose of the law and regulations is to decrease the risk that information about individuals in recovery will be disseminated and that they will be subjected to discrimination, and to encourage people to seek treatment of substance abuse disorders" (CSAT and Brooks 2000).

Professionals who assist victims should be familiar with this federal law and regulations which, according to CSAT, "protect any information about a client who has applied for or received any substance abuse-related assessment, diagnosis, individual counseling, group counseling, treatment, or referral for treatment. . . . Information protected by the federal confidentiality regulations may always be disclosed after the client signs a proper consent form (for minors, however, parental consent must also be obtained in some states). The regulations also permit disclosure without the client's consent in several situations, including during medical emergencies, in communications among program staff, when reporting is mandated as in instances of child abuse or neglect, or when there is a danger to self or others." (Ibid.) The law is codified as 42 U.S.C. §290dd-2; the implementing federal regulations are contained in 42 Code of Federal Regulations (C.F.R.), Part 2.

CHEMICAL DEPENDENCY	BATTERED WOMEN	BATTERERS
Recovering	Survivor/victim	Nonabusive/noncoercive
Recovery	Enacting safety-related strategies/healing from the effects of the abuse	Accepting responsibility for choice to use violence; behaving noncoercively
Treatment	Provision of information and support with goal of safety and empowerment	Intervention with accountability/provision of information to support choice to behave noncoercively
Self-help	Peer support	Legal and social accountability/peer accountability
Powerlessness	Empowerment	Abuse of power
Medical model/individual is "sick," has a disease	Socio-political model/society is "sick"	Socio-political model/society is "sick"
Social service mission	Social change mission	Social change mission
Loses control over substance	Is controlled by partner's use of violence and coercion	Selective use of violence/escalates violence in order to maintain control over partner
Family as dysfunctional	Family engaging in adaptive strategies in an attempt to protect themselves	Battering is functional in the sense that the batterer gets what he wants
Enabling	Protecting self from harmful consequences	
Co-dependent/co-alcoholic	Socialized female behavior/adaptive survival strategies	
Addicted to substance	Trapped in relationship by fear and lack of support	Chooses to engage in behavior supported by attitudes of male privilege and lack of accountability
Relapse—a part of the recovery process	Leaving and returning—a part of the safety process	Reverting to violence—a crime
Intergenerational patterns of addiction/biological and environmental predisposition	No such pattern for female victimization	Intergenerational patterns of male violence/socially learned and supported behavior
Increased physiological tolerance to substance	Coping/managing/surviving in the midst of danger and fear	Social tolerance of battering may contribute to batterer's choice to escalate violent behavior.

Table A

PROMOTE ACCESS TO SERVICES FOR VICTIMS

In addition to the dual stigma of substance abuse and victimization that may hinder victims from seeking substance abuse treatment services, there are other barriers service providers must seek to overcome, such as the following:

- Victims' lack of health insurance that adequately covers substance abuse treatment.
- Other financial limitations when, combined with a lack of free substance abuse treatment programs, may preclude victims from seeking treatment.

- Barriers specific to substance abusing women with children, including lack of child care and fear that any disclosure of substance abuse problems may affect custody agreements.
- Potential fears among adults who were victimized as children about disclosing substance abuse problems to, or seeking assistance from, professionals who are viewed as authority figures.
- Cultural considerations that hinder some people's self-perceptions of victimization and/or substance abuse and their likelihood of seeking assistance.
- Gender-specific issues, such as substance abuse clinicians being "less likely to ask men about their childhood abuse and neglect histories, and that men are less likely than women to talk about these histories. Much of the trauma-related research has focused on women, particularly regarding battering, spousal abuse, rape, and incest. As a result, most assessment instruments have been based on women. Overall, there is a lack of gender-specific instruments." (CSAT and SAMHSA 2000, 41).

In identifying barriers to services for victims with substance dependency or abuse issues, victim service providers can collaborate with allied professionals—including substance abuse, mental health, insurance, child protection and culturally-specific service providers and agencies—to eliminate factors that prevent victims from seeking treatment.

ENHANCE THE PROVISION OF DIRECT CLINICAL SERVICES FOR VICTIMS WITH CHEMICAL DEPENDENCIES

Every resource that offers clinical assistance for crime victims should be required to identify and manage the effects of substance abuse in order to create a plan for the client that addresses and seeks to prevent the use or abuse of substances as a technique for coping with trauma. Clinical staff should be thoroughly familiar with the process of assessing a crime victim for the disorders of PTSD and substance abuse. This assessment might include screening instruments that would reliably measure the presence of PTSD and substance abuse. Clinical services would require the simultaneous management of PTSD and substance abuse. While management of substance abuse will take priority, the treatment of the underlying PTSD should begin when the victim has stabilized, since untreated PTSD creates high risk for the relapse of substance abuse.

There are no controlled studies of victims with these combined disorders to guide practitioners in "staging" interventions specific for PTSD or substance abuse. In the absence of controlled studies, it would be appropriate to offer comprehensive and flexible clinical services for both, instead of an "absolute" protocol for only one.

PROMOTE GREATER UNDERSTANDING OF SUBSTANCE ABUSE ASSESSMENT AND TREATMENT AMONG PROFESSIONALS WHO ASSIST VICTIMS OF CRIME

While victim service providers are not expected to be substance abuse treatment "experts," it is important for them to understand the tools available for substance abuse assessment so that they can ensure that such tools are incorporated into case planning and treatment. According to Dr. Ted Rynearson, there is a crucial need to develop an assessment tool for substance use and abuse that is specific to people who have suffered sudden loss or trauma, including victims. Currently, Dr. Rynearson utilizes the standardized DAST assessment instrument that asks clients a series of

thirty-two questions to: identify the use, abuse, and dependence on alcohol and other drugs; determine physical, behavioral, and emotional problems that relate to substance use and abuse; and ascertain the client's perceptions about how others may feel about the client's substance use.

Furthermore, an understanding of the goals of effective substance abuse treatment can help victim service providers and allied professionals know what treatment involves and what the potential outcomes of substance abuse treatment are for their clients. This level of understanding will enhance service providers' ability to explain treatment processes and goals to their victim clients.

The National Institute of Drug Abuse has published a research-based guide that describes the thirteen principles of drug addiction treatment; ten principles specific to this chapter are:

1. *No single treatment is appropriate for all individuals.* Matching treatment settings, interventions, and services to each individual's particular problems (i.e., criminal victimization) and needs is critical to his or her ultimate success in returning to productive functioning in the family, workplace, and society.
2. *Treatment needs to be readily available.* Because individuals who are addicted to drugs may be uncertain about entering treatment, taking advantage of opportunities when they are ready for treatment is crucial. Potential treatment applicants can be lost if treatment is not immediately available or is not readily accessible.
3. *Effective treatment attends to multiple needs of the individual, not just his or her drug use.* To be effective, treatment must address the individual's drug use and any associated medical, psychological, social, vocational, and legal problems.
4. *An individual's treatment and services plan must be assessed continually and modified as necessary to ensure that the plan meets the person's changing needs.* A patient may require varying combinations of services and treatment components during the course of treatment and recovery. In addition to counseling or psychotherapy, a patient at times may require medication, other medical services, family therapy, parenting instruction, vocational rehabilitation, and social and legal services. It is critical that the treatment approach be appropriate to the individual's age, gender, ethnicity, and culture.
5. *Remaining in treatment for an adequate period of time is critical for treatment effectiveness.* The appropriate duration for an individual depends on his or her problems and needs. Research indicates that for most patients, the threshold of significant improvement is reached at about 3 months in treatment. After this threshold is reached, additional treatment can produce further progress toward recovery. Because people often leave treatment prematurely, programs should include strategies to engage and keep patients in treatment.
6. *Counseling (individual and/or group) and other behavioral therapies are critical components of effective treatment for addiction.* In therapy, patients address issues of motivation, build skills to resist drug use, replace drug-using activities with constructive and rewarding nondrug-using activities, and improve problem-solving abilities. Behavioral therapy also facilitates interpersonal relationships and the individual's ability to function in the family and community.

7. *Addicted or drug-abusing individuals with coexisting mental disorders should have both disorders treated in an integrated way.* Because addictive disorders and mental disorders often occur in the same individual, patients presenting for either condition should be assessed and treated for the co-occurrence of the other type of disorder.
8. *Treatment does not need to be voluntary to be effective.* Strong motivation can facilitate the treatment process. Sanctions or enticements in the family, employment setting, or criminal justice system can increase significantly both treatment entry and retention rates and the success of drug treatment interventions.
9. *Possible drug use during treatment must be monitored continuously.* Lapses to drug use can occur during treatment. The objective monitoring of a patient's drug and alcohol use during treatment, such as through urinalysis or other tests, can help the patient withstand urges to use drugs. Such monitoring also can provide early evidence of drug use so that the individual's treatment plan can be adjusted. Feedback to patients who test positive for illicit drug use is an important element of monitoring.
10. *Recovery from drug addiction can be a long-term process and frequently requires multiple episodes of treatment.* As with other chronic illnesses, relapses to drug use can occur during or after successful treatment episodes. Addicted individuals may require prolonged treatment and multiple episodes of treatment to achieve long-term abstinence and fully restored functioning. Participation in self-help support programs during and following treatment often is helpful in maintaining abstinence (NIDA 11 April 2000).

ADDRESS CORRELATING CHILD/ADOLESCENT VICTIMIZATION AND SUBSTANCE ABUSE ISSUES

Professionals who assist victims of crime should be aware of substance abuse as both a pre- and post-victimization factor for youth. The links between substance abuse and child/adolescent victimization are clear, and research findings offer importance guidance in developing effective prevention and intervention approaches. Collaboration among victim service providers, child protection and justice professionals, and mental health professionals is necessary to achieve this goal. Attention should be paid to—

- Conducting comprehensive assessments of adolescents who use and abuse alcohol and other drugs to determine if a history of maltreatment is a factor in their lives.
- Identifying if child maltreatment in a family context coexists with substance abuse to provide effective interventions that address both issues. Substance abuse can emerge at coexistent levels, i.e., the perpetrator, the victim, or both may be involved with alcohol and/or drugs.
- Coordinating services to high risk youth among child protective service professionals, victim service and justice professionals, educators, pediatric medical practitioners, substance abuse treatment staff, and mental health professionals (Callanan 1999).

PROVIDE SUPPORTIVE SERVICES TO VICTIMS WHOSE SUPPORTIVE INDIVIDUALS ARE CHEMICALLY DEPENDENT

Victims' ability to cope with their trauma is substantially dependent on their level of social support. If people within a victim's support system are chemically dependent, it can have detrimental effects on the victims' psychological and emotional well-being. To address this concern, victim service providers can—

- Implement intake protocols that screen victims for information about the substance abuse behavior of their family members or other loved ones.
- Give victims appropriate referrals for individual or group counseling, and/or local Al-Anon meetings so that the victim can address the emotional, spiritual, and practical issues that arise from the substance abuse (Callanan 1999).

FEDERAL INITIATIVES

The Substance Abuse and Mental Health Services Administration (SAMHSA) has provided over \$7 million in grants to fourteen community-based programs in ten states for a study of women with substance abuse and mental health problems who are victims of violence. Beginning in 1998, each of the programs received about \$500,000 per year for three years. A coordinating center was awarded \$1.2 million to provide guidance and direction in program development to the fourteen grantees.

This two-phase *Women and Violence Study* will generate valuable knowledge on the confluence of violence and co-occurring substance abuse and mental health disorders affecting women and their children. Each of the two phases will run for three years. Research has clearly shown that existing health care systems are not designed, nor are they prepared, to adequately address the problem of these co-occurring disorders in women, the associated violence, and the effects on their children.

This Knowledge Development and Application (KDA) program focuses on women ages eighteen and above with co-occurring disorders who have histories of physical and/or sexual abuse and who are “high-end users” (who have experienced at least two treatment episodes within either substance abuse or mental health systems). Any dependent children of these women will also be included in the program.

Phase one of the study focuses federal support to assist local communities in developing their own strategies to integrate services that address the needs of affected women and their children. Each local community will also develop an appropriate blend of services that will address trauma-related problems experienced by women with co-occurring disorders. Phase two will include implementation of strategies and services from phase one and evaluation of program outcomes. SAMHSA staff will be active participants in all aspects of the cooperative agreements with grantees, serving as collaborators with project directors from the study sites.

The Office for Victims of Crime (OVC) is now engaged in developing a vehicle and process to further clarify and, ultimately, develop initiatives for addressing the relationship between substance abuse and victimization. Research and practitioner experience indicates that this relationship is significant and appears to have three facets:

- Substance abuse as a pre-victimization factor.
- Substance abuse as a post-victimization factor associated with victim trauma.
- Professionals and volunteers who assist victims and abuse or develop dependencies on alcohol and other drugs as a means to cope with vicarious and secondary trauma.

As a first step, OVC is developing a new text chapter and producing a training film about substance abuse among crime victims and those who serve them for its National Victim Assistance Academy curriculum.

Concurrently, OVC is identifying individuals within the Justice Department, especially VAWO, and within SAMHSA, especially CSAT, who are interested in partnering with OVC in a small Substance Abuse and Victimization Working Group that is envisioned as the vehicle to achieving OVC's ultimate goals in this area. OVC has already partnered with the American Probation and Parole Association (APPA) which has recently engaged its organization in researching this issue to develop a strategy that would provide resources for victim service providers.

The Working Group on Substance Abuse and Victimization will pursue the following long-term objectives:

- Develop structures and linkages to maintain a coalition of organizations that share concerns about substance abuse and victimization.
- Promote public and professional awareness of the relationship of criminal victimization and substance abuse.
- Identify areas where additional information on victims and substance abuse is needed.
- Promote the development and delivery of collaborative approaches to provide comprehensive treatment and access to needed services for victims who are substance abusers or at high risk of abusing substances.
- Promote training and technical assistance about substance abuse and victimization issues to victim assistance personnel, mental health and substance abuse treatment providers, and criminal/juvenile justice professionals.
- Promote cross-training among various disciplines that provide services to victims, and services relevant to substance abuse.

In addition to establishing a Working Group, OVC plans to sponsor a series of focus groups dealing with substance abuse and victimization to clarify the issues involved for both victims and providers, and to develop recommendations for further actions to address these issues. Input from a multifaceted Working Group would greatly enhance OVC's ability to draw from a more

diverse cross-section of people working with this issue, and foster state and Federal follow-up capability.

CONCLUSION

Finally, it should be emphasized that this attention to and service for psychiatric disorders with crime victims is viewed as crime-related. PTSD and substance abuse are common responses to the trauma of crime and should first be viewed as secondary effects of the intolerable horror and helplessness forced upon these people. Recovery for victims cannot begin until and unless our understanding and service is based upon this compassionate insight—our recognition that given the same circumstances, we might be in the same predicament.

PROMISING PRACTICES

- *Project Heartland* is an unprecedented program of disaster mental health services activated by the Oklahoma Department of Mental Health and Substance Abuse Services in direct response to the bombing of the Murrah Federal Building in April 1995. The program was funded from May 1995 through February 1998 by the Federal Emergency Management Agency in order to provide crisis counseling and intervention, support groups, outreach, and consultation/education to individuals affected by the bombing disaster. Since people are often reluctant to seek mental health services after a traumatic event, the program's activities were designed to be accessible not only at the Project Heartland Center, but in clients' homes and workplaces, schools, and other locations. In March 1997, Project Heartland received additional funding from the U.S. Department of Justice to cover the expense of stationing counselors in Safe Havens in Denver and Oklahoma City to provide services, as needed, for survivors and family members viewing the trial proceedings (Project Heartland 1999).

Those who receive Project Heartland services can be grouped into two general categories. "Clients" are defined as those who received direct, personalized attention from a Project Heartland counselor in individual, group, or marital therapy sessions; in an emergency crisis intervention; in support group meetings; or through advocacy or referral efforts. "Other recipients" are defined as persons who received supportive services at the trial-related Safe Havens or who received less personalized services, such as contacts by outreach workers offering educational materials and information about services; debriefing sessions as part of workplace groups; or educational seminars on topics such as grief or traumatic stress. From June 1, 1995, when data collection began, through December 31, 1998, Project Heartland provided services to 8,999 clients and 188,426 other recipients.

- *Advocacy for Women and Kids in Emergencies (AWAKE)*. Children's Hospital in Boston, MA developed AWAKE to serve battered women who also have substance abuse issues. In addition to the traditional services of counseling, legal advocacy, and emergency housing, this program offers drug and alcohol recovery services. Contact: Jennifer Robertson, Director, AWAKE, Children's Hospital, 300 Longwood Avenue, Boston, MA 02115 (617-355-6000), e-mail <Robertson@A1.tch.harvard.edu>.

- *Homicide Support Project*, Seattle, WA. The purpose of this program is to train professionals across the country to provide effective assistance to crime victims experiencing traumatic grief and loss. Supported by a VOCA grant, the Homicide Support Project team (consisting of a psychiatrist, a crisis counselor, bereavement specialists, victim assistance advocates, and prosecuting attorney) has written a training manual. It includes a battery of screening instruments to guide clinicians in assessing and recommending appropriate intervention for substance abuse, PTSD, depression, and other mental health problems caused by or co-existing with the victim's traumatic grief. Contact: Dr. Ted Rynearson (206-223-6600).
- *Greentree Shelter*, Montgomery County, MD. Greentree Shelter serves homeless families, primarily single mothers and their children. A disproportionate number of these single mothers reports histories of pervasive sexual abuse as children. Substance abuse by many of the women and their partners and long-standing patterns of domestic violence complicate recovery. Unlike many homeless or domestic violence shelters, at Greentree Shelter, families are not evicted because of an alcohol- or other drug-related relapse. The mothers receive comprehensive services including individual and group counseling, child care and after-school care, substance abuse referrals, education, and prevention services. Contact: Sheryl Brissett-Chapman, Executive Director, Baptist Home for Children and Families, 6301 Greentree Road, Bethesda, MD 20817 (301-365-4480, extension 115).
- *American Probation and Parole Association (APPA) National Working Group*. In 1999, APPA instituted a National Working Group to address not only the issue of victims and substance abuse, but also the critical topic of substance abuse among professionals who serve victims, primarily as a consequence and response to the stress and vicarious trauma associated with professions such as victim assistance and criminal or juvenile justice. The APPA National Working Group is establishing a national network of victim services, justice, mental health, and allied professionals concerned about these issues, and conducting an exhaustive literature review to establish a scientific basis for prevention and intervention responses.
- *Health Practitioner Intervention Program*. The Commonwealth of Virginia Department of Health Professions has contracted with a private firm to provide confidential services for the health professional (including social workers) who may be impaired by any physical or mental disability or who suffers from chemical dependency. The purpose of the Health Practitioner Intervention Program is "to increase the number of practitioners who will seek assistance as an alternative to disciplinary action, thereby enhancing public protection, as well as providing an alternative for the practitioner." Available services include assessment, evaluation, referral, intervention, coordination, monitoring, and advocacy.

1. Define the differences between (1) substance use, (2) substance dependence, and (3) substance abuse.

2. Explain substance use or abuse as applied to three different victim populations (e.g., adolescent victims, child victims, homicide victims).

3. Describe the difference between substance abuse as a correlative, as opposed to a causative, factor in victimization.

4. Explain how substance abuse can be a pre- and postvictimization factor.

5. List three positive steps that victim advocates can take to assist crime victims with substance abuse.

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SIGNIFICANT RESEARCH**CULTURAL CONSIDERATIONS IN ASSISTING VICTIMS OF CRIME**

“Cultural Considerations in Assisting Victims of Crime” is a two-year research project conducted by the Washington, DC-based National MultiCultural Institute (NMCI) and funded by the Office for Victims of Crime to:

- Survey the needs for programs that provide culturally competent services to diverse victims.
- Address gaps in current training curricula.
- Disseminate the materials via training to criminal justice professionals nationwide.

Report on Needs and Promising Practices. The resulting *Report on Needs and Promising Practices* presents an overview of current victimization issues as they affect people of diverse backgrounds and cultures, and assesses the strengths and weaknesses of victim assistance programs, with the following findings:

- Programmatic barriers to effective delivery of victims’ services, including—
 - Assumed similarity.
 - Misinformation about victim services and victim compensation.
 - Language barriers.
 - Lack of diversity among program staff.
- Barriers related to victim and provider belief systems, including—
 - Distrust of the criminal justice system, fear of deportation.
 - Loyalty to one’s cultural groups.
 - Shame and taboo.
 - Cross-cultural communication.
 - Prejudice.
 - Expectations of service provider’s role.
 - Grieving and healing process.
 - Perception of privacy.
 - Role of the family.

NMCI research also confirmed that while there are several general training curricula on cultural diversity, there is a lack of training curricula material specific to victims of crime.

Cultural Competence Assessment Tool for Victim Service Providers. As part of the third phase of the project, NMCI developed a *Cultural Competence Assessment Tool for Victim Service Providers* that addresses the barriers victims often face, and provides a mechanism for internal assessment within service agencies and criminal justice professionals. NMCI has piloted the instrument at 100 sites. The data will be analyzed in the latter half of 2000 and the instrument will be utilized by providers to:

- Evaluate providers' culturally competent behaviors.
- Assess knowledge, skills, and perceived preparedness in addressing the needs of the populations served.
- Determine which immigrant populations are most challenging to serve.
- Design interventions to improve culturally competent victim services.
- Determine strengths and areas for growth.
- Determine recommendations for agency policy change.
- Determine which provider demographic factors are most likely to correlate with providing culturally competent services (NMCI January 2000).

ADVOCACY FOR IMMIGRANT BATTERED WOMEN

A survey conducted by the Immigrant Women's Task Force of the Northern California Coalition for Immigrants' Rights revealed that 34 percent of Latinas and 25 percent of Filipinas surveyed had experienced domestic violence in either their country of origin, the U.S., or both. Further evidence indicates that there are large numbers of immigrant women trapped in violent relationships who are afraid to ask anyone for help. Language barriers, fear of deportation, and a poor understanding of their rights in the community are the most commonly cited barriers to their seeking help. Frequently, batterers manipulate their partners' unsettled immigration status as a means of keeping them in the abusive relationships (FVPPF n.d.).

Shelters for battered women are often concerned with the legal consequences of serving battered immigrant women without legal documentation. According to the Family Violence Prevention Fund (FVPPF), nonprofit organizations are explicitly exempt from verifying immigration status as a condition for providing services. Immigration status is not relevant to a battered woman using the shelter, nor should it affect provision of services (Ibid).

FVPPF has developed a brochure that is available in Arabic, English, Chinese, Korean, Russian, Spanish, Tagalog, and Vietnamese. It informs immigrant battered women of their rights (regardless of their immigration status) and provides them with crucial information about whom to contact for assistance, where to go, what they need to take with them when leaving, protection orders, and temporary public assistance (Ibid).

The role of the victim advocate in helping battered immigrant victims is to learn about possible options, assist victims in accessing these options, and respect the decisions that they make. In-

depth coverage of these issues can be found in the *Domestic Violence In Immigrant Refugee Communities: Asserting the Rights of Battered Women*, available through the FVPF Web site: < <http://www.fvvpf.org/immigration/index.html> > .

An additional resource for immigrant victims of domestic violence is the National Domestic Violence Hotline for crisis intervention and detailed information on shelters, legal advocacy, assistance, and social service programs. The hotline is available 24 hours a day in English and Spanish and through translators, in 139 other languages: (800-799-SAFE) or from a TTY (800-787-3224).

PROMISING PRACTICES

- *NMCI Training Program for Criminal Justice Professionals*. NMCI has developed a curriculum for a one-day training program for law enforcement officers and administrators, victim advocates, and prosecutors. The training identifies the barriers to effective delivery of services to diverse victims and provides participants with the knowledge, skills, and awareness necessary to overcome these barriers. Workshops can be delivered to a targeted audience that works with victims in one specific capacity or to victims of one specific type of crime. Case studies allow participants to analyze real situations, envision the elements of a culturally competent program and service delivery, and design a culturally competent needs assessment and outreach plan.
- *Hope in the Cities (HIC)* is an effort to bring together political, business, and community leaders in Richmond, VA to address matters of racial healing. Using a large interracial, multifaith network of people from business, government, education, media, religious, and community organizations, Hope in the Cities seeks to develop a process of healing that involves honest conversations on race, acceptance of responsibility, and acts of reconciliation. HIC utilizes its experience and resources to encourage reconciliation and responsibility for positive change in race relations, by creating cross-racial partnerships in many communities throughout the country, including Los Angeles, CA; Philadelphia, PA; Chicago, IL, and Hartford, CT. Hope in the Cities, 1103 Sunset Avenue, Richmond, VA 23221 (804-358-1764) < <http://hopeinthecities.org> > .
- *Conflict Intervention Unit (CIU), Chelsea MA*. Chelsea (population 36,000), the poorest city in Massachusetts, leads the Boston region in unemployment, has the highest crime rate, and is home to an estimated 10,000 undocumented immigrants. Nearly 30 percent of the population live in one ten-block area of rundown dwellings. Chelsea's CIU—an initiative of the local Chief of Police—was formed using individuals from the community who were trained to help people solve conflicts that often escalate into assaults or litigation. From May 1998 to August 1999, the CIU mediated 111 disputes, of which only five went to court. CIU has reduced crime and racial tension in minority communities by giving residents a peaceful way of resolving disputes without involving the local police department. Conflict Intervention Unit, Chelsea Police Department, 180 Crescent Avenue, Chelsea MA 02150, (617-889-8670) (Bash, Amato, and Sacks January 2000).

- *It IS Your Business*. A collaborative effort between the Family Violence Prevention Fund (FVPPF) and the Institute on Domestic Violence in the African American Community (NIDVAAC), *It IS Your Business* is a campaign designed to provide the African-American community with information about how to prevent domestic violence and protect women at risk for abuse. While the message is that domestic violence is everyone's concern, the material is directed towards African-American males. The community action kit provides educational information on domestic violence, how to confront African-American males known to be abusing women, and how to strengthen communities to make them safer. The campaign provides African American-oriented radio stations nationwide with a series of twelve professionally-produced, serialized 90-second public service announcements (PSAs) that educate listeners about safe interventions to help battered women and provide referrals for resource materials. Other materials in the *It IS Your Business* kits are bumper stickers, a catalogue of awareness-raising items, and stickers for neighborhood businesses and agencies. National Institute on Domestic Violence in the African American Community, University of Minnesota, 386 McNeal Hall, 1985 Buford Avenue, St. Paul, MN 55108-6142, (612-624-5357).

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ABSTRACT

The racial and ethnic diversity of the United States has changed considerably in the last few decades. An increasing proportion of Latino, Asian, and African-Americans have integrated with the European-American population. With this transition, victim assistance professionals are faced with new challenges. Recognizing and respecting individual cultural differences are important to sensitive and effective work with victims. In addition, differences in concepts of suffering and healing can influence how a victim may experience the effects of victimization and the process of recovery.

The term “culture” can be reasonably applied to various demographic categories. For example, cultures or subcultures can reflect differences by age, gender, sexual orientation, religion, and geographic region. Each of these groups has its particular self-identity and lifestyle and employs particular ways of viewing and meeting the traumas and triumphs of life. For this discussion, however, “culture” represents race and ethnicity. It is this diversity that both enriches and obstructs much of our involvement and interaction with others.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following:

- The vast array of cultural differences among the people of the United States.
- Basic principles of culturally-proficient and culturally-sensitive interaction with crime victims.
- Specific practices and considerations that will help victim assistance professionals provide appropriate services to crime victims of various cultures.

INTRODUCTION

Across America, racial and ethnic heritages are being dramatically interwoven. An array of languages, religions, customs, and traditions is infusing the nation with both vibrancy and challenge. Molefi Asante, Chair of African-American Studies at Temple University observed:

Once America was a microcosm of European nationalities; today America is a microcosm of the world.

Projections for the U. S. population in the year 2000 are 71.8% white, 12.2% African-American, and 11.4% Hispanic. By the year 2030, however, these percentages will be 60.5% white, 18.9% Hispanic, 13.1% African-American, and 6.6% Asian (U.S. Bureau of the Census 1997).

The shift is even more dramatic in some states:

- In California, it is estimated that by the year 2020, the state population will be 40.1% white, 37.7% Hispanic, 7.5% African-American, and 14.7% Asian and others. The white population, in other words, will no longer be the majority.
- In Texas the projection for 2010 is that 65% of the state will be Hispanic (U.S. Bureau of Census, 1997). Between 1990-2030, 87.5% of the total change in population will be due to growth in minority populations. Almost 75% of this growth will be due to immigrants and their first generation descendants (Murdock et al. 1997).

The criminal justice system is not exempt from the consequences of these demographic changes that are generating a new definition of “American” (Ogawa 1998). As Ogawa states:

Crime victims experience their bond of humanness, and therefore also their particular victimization, through a prism replete with racial histories, ethnic colorations, and cultural variations. Every criminal justice and crime victim-related issue is fundamentally multicultural.

As the European-American population continues to decrease in relative proportion, there is a corresponding and accelerating increase of Latino, Asian, and African-American populations. These changes raise the following concerns for victim service providers:

- How do the criminal and juvenile justice systems adhere to equal justice for this diverse range of people?
- How can victim assistance programs fashion priorities and ensure competence in order to serve the widening spectrum of people?

DIVERSITY WITHIN DIVERSITY

Two eternal truths about human beings are people differ from one another and people are similar to one another. When highlighting the commonalities within cultural identities, overgeneralizations are often made at the risk of overlooking distinctions within these groups. The variety within cultural groups may be obscured by the emphasis placed on distinguishing among cultural groups. In other words, any aggregate labeling of people is part logic and part insult.

For example, the term “Indian” was a misnomer foisted upon the Arawak tribe of the southeastern United States by an errant Italian navigator who had set sail for India. It is now (mistakenly) used to describe all the native populations of the Western Hemisphere. “American Indians,” preferably called “Native Americans,” are now acknowledged by the

Bureau of the Census to be over 500 separate nations and tribes with 187 different languages (U.S. Bureau of the Census 1997).

The term “Hispanic” refers to those who share a common language, i.e. Spanish. However, not everyone who is from a Spanish-speaking country speaks Spanish (for example, the native peoples from the central mountains in Mexico).

Just as it is presumptuous to consider a Boston Irishman, an Anglo-California yuppie, a Greenwich Village Jewish artist, a Texas rodeo star, and a Santa Fe New Age vegetarian as all the same because they are all “white,” it would be just as inappropriate to consider all “Latinos” (or Asians or African-Americans) as inherently alike. As Ross, Millen, and Martinez have pointed out, “There are some ways in which any particular Chicano is like all other Chicanos, and there are some ways in which a particular Chicano is like no other Chicano.”

Intertwined throughout our racial and ethnic identities are the distinctions of age, gender, generation, degree of acculturation, and socioeconomic status. “Ecological fallacy” (Robinson 1951, 351) occurs when one fails to consider variables *between* individuals.

Points to reflect upon in providing services.

- No one is just what we label or classify them.
- People are inseparable from their racial and ethnic backgrounds but not strictly determined by them.
- All crime victims deserve to be treated as individuals even as the nuances of race and culture (and the degrees of acculturation) are recognized.
- Victim service providers must be aware of the cultural context of the victims with whom they are working, continually assess the adequacy of their communication styles and counseling methods, and be flexible enough to make adjustments on a case-by-case basis.

WHAT “CULTURALLY-SENSITIVE SERVICE” IS NOT

Color blindness.

I haven't noticed that you are different. We are all humans. We all have the same feelings. I don't care if you are pink, green or purple.

Presumably with good intentions to treat everyone equally, such overtures are sometimes made by victim service providers. There is, however, no universal response to suffering. The role of racial experience and cultural history cannot be readily dissolved into some melting pot of generic humanity. As Tello states:

What it (color blindness) does demonstrate is the service provider's inability to understand and articulate these differences. When this occurs, the service provider may attempt to justify his or her own position by minimizing the role of culture.

Individual experiences in culture, language, and identity serve to filter and shape how a person perceives events and reacts to both small and life-altering events. As Parsons writes (1985), “Ethnic identification is an irreducible entity, central to how persons organize experience.”

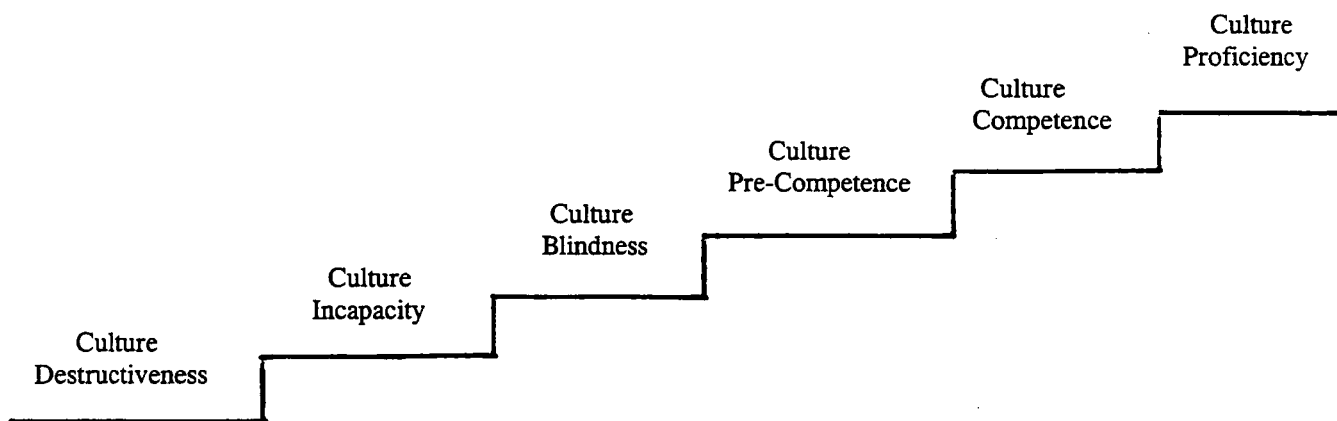
Memorizing cultural idiosyncrasies. Service to culturally diverse crime victims is not primarily a command of every minute custom or memorization of an encyclopedia of rigid “do’s and don’ts.” This would be an impossible task. A stereotypic approach to any victim is obviously simplistic and harmful. Instead, an attempt should be made to *learn* the significance of several major cultural forms, for example, the meaning to the persons practicing those traditions.

The victim service provider can thus begin to gain an understanding of the culture and a knowledge of the people from the perspective in which they see themselves rather than focusing upon their isolated behaviors and “unusual thinking.” A relevant example occurred following a mass murder in Stockton, California:

- In the aftermath of Patrick Purdy’s deadly rifle assault on the schoolchildren of Cleveland Elementary School in Stockton, California in 1989, there was an outpouring of concern and support from across the nation. Five children had been killed and twenty-nine children and one teacher were wounded. Two of the central events in the healing process for the Cambodian and Vietnamese surviving family members were the Buddhist funeral service and a subsequent ceremonial purification of the school grounds for the purpose of “releasing” the children’s spirits.

These rituals were strange to the local district attorney’s victim assistance staff, but their involvement in facilitating and participating in these events, their willingness to depend upon the Buddhist monks for leadership, and their efforts to quickly learn the most important Southeast Asian mourning customs enabled them to truly meet the needs of the victims they served.

BASIC QUALIFICATIONS OF CULTURALLY-COMPETENT SERVICE



Culture Destructiveness is the conscious denial of another's culture, and/or the belief that one's own belief system is superior to all others.

Culture Incapacity understands that there are differences among cultures but refuses or does not do anything to change.

Culture Blindness overlooks differences as though they do not exist.

Culture Pre-competence begins to realize that there is a world outside of oneself.

Culture Competence values others and their differences; diversity is recognized and accepted.

Culture Proficiency occurs when diversity works together.

COMPASSION AND SINCERITY

Most minorities have developed a sharp sense for detecting condescension, manipulation, and insincerity. There is no substitute for compassion as the foundation, and sincerity as its expression, for carrying out victim services equally and fairly. Although it is not possible to feel the same compassion for all victims, providers have the responsibility to provide the same compassionate service to every victim. Compassionate and sincere advocacy knows no borders.

The plight of undocumented residents or illegal aliens, for example, involves complex issues of personal prejudices and international politics. Sentiments among Americans regarding the clandestine migration of those who seek a better life here, mostly from Mexico and Central America, range from compassion for the safety and dignity of those fleeing poverty and war to border vigilante hunts and savage beatings. Once in the United States, undocumented aliens become easy prey for employment exploitation, consumer fraud, housing discrimination, and criminal victimization because assistance from government authorities is attached to the fear of deportation. There is an epidemic of sexual assaults, for example, committed upon undocumented Latinas. Their immigration status, however, does not mean that they should receive less protection under America's criminal laws or less right to victim services.

RESPECT

Respect includes withholding ethnocentric judgments about the cultural practices of others. A place of remembrance for a deceased person, for example, is often found in an Asian home.

After my father died, my mother placed his photograph on the hutch in the dining area of her home. She offers the best of the fruit she buys at the market and the first plate of anything she cooks is placed next to the photograph. It is her way of honoring the over 55 years of married life they shared. This custom may be strange to most Westerners, but it is a Japanese and Buddhist tradition to have an ancestral altar (Ogawa 1990).

Respect also means not minimizing the experience of others. In the inner city of Los Angeles, gang and drug-related homicides are common. When one particular slaying occurred, the

newspaper headline routinely announced, “Just Another Day in South Central.” The familiar scenario of young African-American males seeking reprisal for a cocaine buy gone awry was presented. The alarming difference in this case was that the victims were two mistakenly killed teenage girls. For their parents, loved ones, and friends, this was *not* just another day.

As one of the girl’s mothers stated, gang violence and the fear it brought to her neighborhood were never acceptable. There was never a “tolerance of crime” merely because it was an everyday occurrence. The day her daughter died was not and can never be “ordinary.” It is the deepest tragedy that will never leave her.

DELIVERY OF SERVICES

Translating standard materials. A frequent method of outreach to non-English speaking victims is to provide translated materials with portrayals of racially diverse people. When the translation explains how to seek a restraining order, to locate the courthouse and prosecutor’s office, to apply for criminal injuries compensation, or to complete forms, such multilingual brochures and handbooks improve accessibility to the criminal justice system. Key words in English should also be included to enhance recognition and familiarity. However, several points are important to consider:

- When counseling about the effects of victimization or when self-help suggestions are being provided, these must be evaluated as to whether or not they actually give needed assistance or merely bestow readable materials upon those literate in a language.
- All crisis intervention and counseling modalities are based upon specific philosophies of suffering and healing. Approaches that are derived from conventional Western theories are most prevalent in victim services.
- Approaches and methods that incorporate the perceptions, beliefs, values, and experience of diverse cultures must also be made available to crime victims.

Agency organization and outreach. The manner in which victim service providers organize their agencies may unknowingly deny or hinder entry to various groups. The responsibility for delivery of services rests with the providers and not with (potential) recipients. It is simplistic to bemoan the scarcity of certain groups utilizing services by attributing this primarily to their lack of education or awareness. Minorities, in fact, often view prevailing services as unresponsive to their needs and uninformed of their preferred practices and beliefs.

Therefore, the methods for reaching culturally diverse victims must include traditional resources within the various communities as well as the inauguration of victim-specific ones. For example, the historical role of African-American churches, the reliance upon Mexican curanderas and Native American shamans, and the social constructs of Asian life must be understood and incorporated. Establishing some type of presence in ethnic neighborhoods, whether store-front offices, mobile crisis units, outreach to homes, or coordination with community-based organizations, is essential.

All victim service agencies need to look inward and examine their internal voice about diversity. In order for agencies to move from rhetoric to the implementation of sound policies and procedures, the following process can be particularly instructive:

- Spend time researching the composition of your community. What is its racial and ethnic composition?
- Look at your agency. Does it reflect, proportionately, the composition of the community? Examine the following components:
 - *Board of Directors.* Persons of diverse cultures and from different backgrounds should sit at the policy making table. The Board or group of advisors should reflect the composition of the community. Those persons should have a grasp of their community's problems and should be willing to actively help address these difficulties. Don't look for participants in the usual ways; be creative! Many times those who are "appointed" may not be the "anointed" community leaders.
 - *Staff.* Understanding that it may not be possible to mirror every aspect of the community, it is important that in the hiring practices ethnic/cultural applicants be given utmost consideration. Staff members must not be tokens to meet some guidelines or quotas; their professional competence, compassion, and all other important elements that makeup the qualifications for the position, must be taken into account. In addition, agencies should carefully note whether or not persons of ethnic and diverse cultures are a part of agency management. This can be a real statement of empowerment and commitment to inclusiveness.
 - *Clients.* Do the persons who use victim services, such as crime victims, family members, and significant others, represent the diverse population of the community? If so, how? For example, if clients in a rape crisis center avail themselves of medical treatment but are reluctant to participate in counseling, the agency should examine this pattern and the reasons for it, and proactively address it by making the necessary paradigm shifts.

Initial contact. The first contact minorities have with the criminal justice system will either confirm or dispel suspicion as to how they will be treated. Proper pronunciation of a person's surname is an excellent place to start. Surnames also have histories and meaning that allow conversation beyond introduction. In working with immigrant, refugee, or native populations, it is also helpful to learn a few words of greeting from that culture.

- *Be careful, however, of your intonation and loudness.* The Native Hawaiian word "aloha," for example, has been frequently corrupted. The root "ha" refers to the "breath of life," the giving (exhaling) and receiving (inhaling) of life itself. As a greeting, it means the imparting of life to others and the acknowledgment of accepting life from others. When the "ha" is crudely enunciated, it collapses the spiritual essence of this meaning.
- *The willingness to go beyond what is comfortable and usual conveys your intent to communicate.* A community service law enforcement officer approached a Laotian home to speak to community members gathered there. He saw a large number of shoes on the

porch. He slipped off his own shoes and entered the home. Immediately, the Laotians saw the officer without foot wear. They knew he would listen to them because he had already indicated, by this simple act, a willingness to respect their cultural customs and family home.

- *Victim service providers who are observant and attentive will be able to notice proper forms of greeting and welcome.* South Texans, for example, may prefer a very firm handshake. Native Americans usually prefer the placing of a hand upon the outstretched offer of a hand. For some Asians, a slight bow would be appropriate.

The Asian home is a sanctuary wherein various rules and proprieties are followed. A victim service provider should be observant and alert to cues as to appropriate words and actions rather than be consumed by anxiety about committing mistakes.

Appraise your prejudices. Darnell Hawkins, a sociologist in the Black Studies Department at the University of Illinois-Chicago, observed that “Black victims of crime in general are not treated seriously, particularly if the offender is also black.”

Attitudes toward African-American women especially are rooted in the long period of legalized slavery in America and proliferated by current prejudices. African-American women were the sexual property of white slave masters. Since they had no rights to resist or protest, there was no definition of rape to protect them and thus no legal recourse.

Today, many African-American women assume they will be treated unfairly by police and prosecutors when they do report rape. Any rape case where there is little corroborating evidence, such as eyewitnesses or physical injuries to substantiate the charges against a defendant, presents obstacles. When a female rape victim is African-American, there appears to be greater reluctance by legal authorities to proceed beyond preliminary investigation.

- Lafree studied thirty-eight jury trials of sexual assault cases in Indiana, and found that jurors were less likely to believe in a defendant’s guilt when the victim was African-American (1989, 290). Interviews with jurors suggested that stereotypes regarding the sexual behavior of African-American women influenced some jurors (McKean 1994).

When racism invades criminal proceedings, it subverts the concept of justice being blind.

- In a California prosecutor’s office, for example, an assistant district attorney was heard to make this comment about a young white woman who had been beaten by her African-American husband: “She deserved it because she married a “n-----.” In the mind of this prosecutor, any white woman who is in an intimate relationship with a African-American male (and perhaps any minority male) has somehow abrogated her rights to ordinary sympathy and legal protection. His attitude universally degrades women and marks any African-American male as a dangerous partner.

Responding to hate crimes. Recently, our country has been replete with stories of horrific displays of violence based on hate crime:

- In June 1998 in Jasper, Texas, James Byrd, Jr. was decapitated when after being severely beaten, he was chained to the back of a truck by three white men and his body dragged for several miles.
- In October 1998, Matthew Shepard was brutally beaten in Wyoming by two men with a history of harassing gay men. He later died of his massive injuries.
- In Fayetteville, North Carolina, in December 1995, Jackie Burden and Michael James were shot to death by three Army soldiers who decided to kill them because they were African-American.

Resistance to current, rapid ethnographic changes due to large-scale immigration has joined with long-standing racial bigotry to produce a climate of racial tension. Whether or not this constitutes an adjustment period to form a more pluralistic society or the brewing of polarization is unknown. With the incidents of ethnoviolence spreading, the signs are not encouraging.

In 1995, there were 7,947 incidents of hate crimes reported to the FBI. Sixty-one percent were motivated by racial basis and 10 percent by ethnicity/national origin bias. There were 10,469 victims, including twenty murder victims (FBI 1997). KLANWATCH, however, estimates the number of hate crimes to be five times the FBI's numbers (APA 1995, 1).

The following are key questions to consider in responding to hate or bias crimes:

- How seriously do we regard bias crimes and respond to hate violence?
- Do we understand how being targeted because of race and ethnicity affects these victims?

DEVELOPING A CROSS-CULTURAL STYLE

AVOID MISUSE AND DISTORTION OF CULTURAL VALUES

On April 14, 1989, Ramon Salcido, a Mexican vineyard worker in California, murdered his daughters, his wife, his mother-in-law, his sister-in-law, and an employer. Alcohol and jealousy fueled Salcido's "journey of destruction," which resulted in the worst mass homicide in the history of Sonoma County. The media accounts portrayed Salcido as a "hot-blooded Latin who gloried in machismo." This implied that his gruesome acts were somehow culturally-based in the characteristic way Latino men treat their wives.

- Some Latino abusers claim a "cultural birthright" to (brutally) dominate their spouses, but their argument is not legally acceptable nor true to the proper meaning of machismo.
- Insensitive representations by the American media and negative stereotypes of the Mexican culture in general have contributed to a distortion of traditional male/female roles governed by machismo.
- The term "macho" often is assigned to the male who is over-aggressive, controlling, temperamental, and boastful.

- The essence of machismo, notwithstanding, is, in the words of Rodriquez and Casaus, “a man who meets his family responsibilities by providing food, shelter, and protection for his wife, children and, in some cases, other relatives living with the family.”
- Mexican family life is based upon mutual respect and interdependence. Husbands are reminded not to disrupt the well-being of the family by selfish and outrageous acts.

Mexican culture, in other words, is not pathological as has been assumed by those who have regarded machismo as promoting wife-battering. Indeed, it is the balance of relationships in Latino families which provides the safeguards preventing domestic strife. Ramon Salcido is an aberration of his cultural heritage, as is any criminal is of any culture. His savage act was a *failure to achieve machismo, not a fated demonstration of it.*

- The lesson for victim service providers is that misinterpreting and exaggerating elements of a culture may be extremely detrimental to understanding the dynamics of victimization experienced by a person of that culture.
- Condemning or disparaging cultural patterns stemming from false and stereotypical generalizations also denies victims the ability and right to draw natural strength from their cultures.

Renee Candalaria-Brent, a Puerto Rican woman and the Community Educator for Rape Crisis Volunteers of Cumberland County in Fayetteville, North Carolina, says: “I’m not sure if victim service providers know or understand that one problem that Hispanic victims face is the fact that not all have the same status in the United States. Puerto Ricans are one of the few Hispanic groups who are automatically U.S. citizens, regardless if they are born in Puerto Rico or the U.S. They have the same rights and privileges as U.S. citizens.”

She goes on to point out that individuals who are born in other Latin American countries or on Caribbean Islands such as the Dominican Republic are not U.S. citizens and have to apply for citizenship. This lack of citizenship may keep individuals from coming forward when they are victims of crime because they fear deportation.

It is also a challenge for agencies to provide services for victims who are sponsored in this country by their abusers.

Case example of the crucial importance of mental health terms. A therapist told “Kim” that she needed to “heal the child within her.” Kim, a Southeast Asian refugee, listened in astonishment and became very nervous and agitated. She wondered how this Caucasian woman could know that she was pregnant when Kim herself was unaware of this. More so, she did not want another child by her abusive husband. Noticing the look of anguish in her client’s face, the therapist hurriedly explained that the term “child within” was not to be taken literally. It was merely an expression from a popular Western therapy that meant the “spirit” of a child within someone. Hearing this explanation, Kim fled the room.

Upon returning to the shelter where she was staying, Kim tearfully announced to a staff member that the spirit of the child she had lost through miscarriage several months earlier was distressed and trapped inside of her! It was many hours before Kim could be assured that her fears were needless.

- *Evaluate mental health concepts.* For Southeast Asians, the notion of mental health or psychological well-being is novel. Individual insight to benefit the “self” is incomprehensible to cultures that assign identity and worth to harmonious relationships.

A critical need for Kim and other battered Asian immigrant or refugee women is therefore to regain a sense of belonging. Without her traditional family ties through her husband, Kim became an oddity in the Southeast Asian community. Her isolation needed to be ameliorated by a strong base of support provided by other women in the shelter.

Rather than individual therapy, Kim needed to learn how to maintain and broaden her linkages to others, including gaining sufficient proficiency in English to secure employment and networking with other single parents. Western views of normality should also be carefully applied.

Case example of Native American self-treatment. The Sioux practice a form of self-treatment called wacinko. This is a sort of “time-out” by which the person intentionally sets aside active and nonproductive involvement in a stressful situation. This practice has been frequently misdiagnosed by Western psychiatrists as a reactive depressive illness marked by withdrawal.

Wacinko is in fact a solution to a problem, a trust that a resolution will naturally occur. This is a cultural form of healing in which passivity is not hopelessness but hopefulness.

CULTURALLY-APPROPRIATE LISTENING

Listening is fundamental to human relationships and counseling. The principles and manner of listening, however, differ across cultures. Asians and Pacific Islanders, for example, deflect direct eye contact in conversation as a sign of patient listening and deference. Words are believed lost through the force of personalities when attention is drawn to physical presence and posturing. Staring is therefore considered impolite and confrontational.

Many Western cultures, on the other hand, value direct eye contact as a sign of sympathy or respect. Looking elsewhere is seen as disinterest, evasiveness, or rudeness. Misunderstanding can occur if some allowance is not made for these differences.

MULTICULTURAL VICTIM SERVICES

Five core tenets of providing quality multicultural victim services are:

1. Acknowledgment of the different and valid cultural definitions of personal well-being and recovery from traumatic events.

2. Support of the sophisticated and varied cultural pathways to “mental health” and incorporation of these into appropriate victim services and referrals.
3. Extensive cultural awareness training and competency testing to enable victim assistance staff to have the capacity to understand persons whose thinking, behavior, and expressive modes are culturally different.
4. Multiethnic and multilingual teamwork as a resource to implement and monitor effective victim services.
5. Cross-cultural perspective to benefit from the principles and methods of other cultures.

LEARNING FROM DIVERSITY

Serving diverse crime victims well means not just learning *about* other races and cultures (a collection of information and facts), but also learning *from* them. Unless victim service providers absorb the wisdom and experience of other people and then allow these to have a personal effect upon their lives, they will fail to appreciate the tremendous contributions that others can make to their comprehension of suffering and the process of healing.

A key principle in Eastern psychotherapies, for example, is that “life is attention.” Life is only that which occupies one’s attention. Where attention goes, in other words, life energy follows. It is therefore crucial to be practical and purposeful to what and to whom one’s attention is given. This is transculturalism, a sharing of some truth across cultures. Victim service providers can serve a diversity of people only as well as they engage in such sharing.

PROMISING PRACTICES

- *Raksha, Inc.*, Atlanta, GA. This program provides special assistance to women of Asian descent who are victims of domestic violence. Program advocates work with local law enforcement and other victim assistance programs to address the special needs of this population. Services are provided with careful consideration of the cultural concerns of the women.
- *The Multicultural Youth Project*, Chinese Mutual Aid Association (CMAA), Chicago, IL. CMAA founded the Multicultural Youth Project in 1995 as a coalition of groups representing Chinese, Vietnamese, Cambodians, Laotians, Ethiopians, and Bosnians. The Project bridges the divides among these groups and provides youth with an alternative to violence.
- *Battered Women Immigrant Program*. The American Bar Association on Domestic Violence, in cooperation with AYUDA (“HELP”), a grassroots agency for Latina victims of domestic violence, is finalizing a curriculum for victim advocates and attorneys on the Battered Immigrant Women Provisions of the Violence Against Women Act (VAWA). This curriculum will include information about VAWA’s recently issued regulations, immigration law, cultural issues, and ways to assist victims who want to petition for residency.

- *Filipino American Service Group, Inc. (FASGI)*. In 1997, the Office for Victims of Crime funded the Filipino American Service Group, Inc. (FASGI) to provide direct services to Asian women and children trafficked and held as garment or sex industry workers. FASGI worked to assist trafficked women in re-establishing healthy and normal lives, and to ensure their availability for service as effective material witnesses. The project has developed guidelines for use by the U.S. Immigration and Naturalization Service (INS) and federal courts in releasing trafficked women to community care. It is expected that this model will be replicated in other regions of the country.
- *Victim-Witness Program*. The Office for Victims of Crime has been working with INS to establish a victim-witness program to identify victims of crime and refer them to services. Since its inception, INCS has established sixty-eight Victim-Witness Coordinators throughout the country to assist crime victims. OVC, in conjunction with INS, has recently developing a training video, "A Balance to Maintain," for all INS employees on victims' issues; this video is also available from the OVC Resource Center. A national training program is under development.
- *The National Hispanic Council on Aging* in Washington, D.C. is conducting a project designed to increase Latino elderly's awareness of telemarketing fraud through education and the coordination of prevention and intervention services. Groups identified for the study were selected from geographical areas with large Latino populations and high numbers of immigrants who present socioeconomic characteristics that place them at high risk for telemarketing fraud. The project seeks to develop a model for replication in other areas.
- *Diversity and Tolerance Education*. Tolerance education in elementary schools is being used across the country to help children relate to others from different backgrounds and cultures. Sociologists have said that children recognize racial and sexual differences early in life, and that by age twelve they have already developed stereotypes. Effective programs, therefore, target children ages four to nine. Classroom exercises vary from newsletters written for a certain age group to theatrical productions and role playing. However, lessons students learn in the classroom need to be reinforced through parental involvement (BJA 1997).
- *The Green Circle Program* based in Philadelphia, Pennsylvania, strives to promote awareness, understanding, and appreciation of diversity in groups and schools across the United States. In 1992, the American Bar Association's Young Lawyers Division (YLD) launched four tolerance education pilot programs in elementary schools, middle schools, high schools, and colleges throughout the country. The programs featured education about the law, open discussions, and mock trials to give students a greater understanding of prejudice and discrimination (Ibid.).
- *Multilingual Reporting and Education Services*. Some states provide funding for law enforcement agencies to hire bilingual officers or provide education on preconceptions that immigrants may have about law enforcement. Substations, police stations located in the immigrant community with community service officers (CSO's), give residents easier access to officers. Employing bilingual police officers and posting bilingual notices will help bridge both language and cultural gaps between law enforcement agencies and immigrants

who do not speak English. By reaching out to the immigrant communities, law enforcement can better protect minority groups that might otherwise fear police and make them more comfortable about reporting crime (Ibid.).

- *Diversity Awareness Media Campaigns.* The news media can help educate the public about other cultures, thereby decreasing prejudice. Community and religious leaders work together to persuade local newspapers and television stations to cover cultural festivals and produce specials and documentaries to acquaint residents with the customs and cultures of their neighbors (Ibid.).
- *The Anti-Defamation League's A World of Difference Program.* The ADL's Boston office in 1985 started the "A World of Difference" program, which links media and educational resources to develop diversity awareness programming used in elementary and secondary schools, colleges, workplaces, law enforcement agencies, and community organizations. The ADL in Washington, D.C., together with WUSA-TV, created a program focusing on multicultural education training for teachers through live specials, documentaries, and other programs. The ADL has been invited to establish "A World of Difference" programs in Germany, Russia, and South Africa (Ibid.).

1. Briefly describe the demographic changes that are underway in the U.S. population.
2. In what way might two people of a particular race or ethnicity be similar, and in what ways might they be different?
3. List three principles that should form the foundation of your culturally-sensitive interaction with crime victims from any culture.
4. Describe three practices that would be beneficial in your work with crime victims of different cultural backgrounds.
5. Identify at least two different philosophies of life and healing that may influence the way a victim views victimization and recovery.

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ABSTRACT

This chapter provides a comprehensive overview of domestic violence, details numerous research studies and findings from state and local domestic violence programs, and reviews case experiences of advocates who work with victims and batterers. Protocols and policies for criminal justice system, legal, and coordinated community-based interventions are also examined, along with summaries of federal and state laws relevant to domestic violence prevention and interventions. Aspects of the physical, psychological, and financial impact of domestic violence on its victims, and on children who witness violence, are addressed.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The prevalence and definition of domestic violence.
- The dynamics of domestic violence.
- Advocacy for victims of domestic violence.
- The criminal justice system and domestic violence.
- The effects of domestic violence on children.
- Development of a coordinated response to domestic violence.
- Relevant federal and state domestic violence laws.
- Promising practices that address domestic violence issues.

STATISTICAL OVERVIEW

- In 1998, one-third of all murdered females were killed by an intimate partner (Rennison and Welchans May 2000).
- During 1998, women were the victims of intimate partner violence about five times more often than males. There were 767 female victims of intimate partner violence per 100,000 women that year, compared to 146 male victims (Ibid.).
- Between 1993 and 1998, about half of the intimate partner violence against women was reported to police. Black women were more likely than other women to report such violence (Ibid.).

- About 45% of the female intimate violence victims in 1998 lived in households with children younger than twelve years old (Ibid.).
- According to the FBI's *Uniform Crime Report*, spousal abuse (including common-law spouses) accounted for 43% of all family violence incidents reported to police in 1998 (FBI 17 October 1999).
- Victims of family violence are overwhelmingly female—71% for family violence versus 58% for all other types of violence (Ibid., 281).
- A slightly larger percentage of family violence victims are white compared to victims of overall violence, 74% and 72%, respectively (Ibid.).
- In 15.1% of family murders, the offender used his/her feet, hands, or fists to kill his/her intended victim (Ibid., 282).
- In 1996, women experienced an estimated 840,000 rapes, sexual assaults, robberies, aggravated assaults, and simple victimizations at the hands of an intimate, down from 1.1 million in 1993 (BJS 18 February 1999).
- Intimate violence is primarily a crime against women. In 1996, females were the victims of about 75% of murders of intimates and about 85% of nonlethal intimate violence (Ibid., 1).
- About 10% of all handgun purchase applications were rejected in 1998 because the applicant had been convicted of a domestic violence offense, and 3% were rejected because the applicant was the subject of a domestic violence protection order (BJS June 1999, 1).
- Among women victimized by a violent intimate in 1996, about two-thirds of black females reported the abuse to law enforcement professionals, but only about one-half of white female victims did (BJS March 1998, 19).
- Nearly six in ten female domestic violence victims in 1996 reported that police responded within ten minutes of receiving the report of abuse (Ibid., 20).
- Data from the National Violence Against Women Survey indicate that violence against women is predominantly intimate partner violence. Of the women who reported being raped and/or physically assaulted since the age of eighteen, three-quarters were victimized by a current or former husband, cohabiting partner, date, or boyfriend (NIJ and CDC 1998, 12).
- When raped or physically assaulted by a current or former intimate partner, women were significantly more likely than men to sustain injuries and to report the assault, whether the time frame considered was the person's lifetime or the preceding twelve months preceding the survey (Ibid.).

PREVALENCE ESTIMATES: INTIMATE PARTNER AND DOMESTIC VIOLENCE

(The following section was developed by the National Violence Against Women Prevention Research Center, April 1999.)

Recently, violence among intimates has received increased attention in this and other countries, and the medical need to identify victims of domestic violence is particularly well established. Domestic violence is found across ethnic, racial, and socioeconomic classes (Hotaling and Sugarman 1990). Approximately 20 to 30 percent of marriages in this country have been characterized at one point by overt interpersonal aggression (Straus and Gelles 1990; Straus, Gelles, and Steinmetz 1980), and about 1,800,000 to 4,000,000 women in the United States women are physically abused by their partners annually (Straus and Gelles 1986). In a wide scale study of couples, Straus and Gelles (1990) found that almost 13 percent of men had physically aggressed against their partners *in the past year*. Over 33 percent of these aggressive acts were classified as severe (i.e., punching, beating up, threatening with a knife or gun). Women are up to six times as likely to suffer violence at the hands of a partner or ex-partner than from a stranger (Bachman and Saltzman 1995), and are more likely to suffer injury when their assailant is an intimate (Bachman and Saltzman 1995).

Physicians are frequently in direct contact with recent victims of domestic violence. Twenty-two to 35 percent of emergency room visits by women are in response to partner violence (Abbot et al. 1995; McLeer and Anwar 1989; Randall 1990), and approximately 53 percent of domestic violence victims present to physicians repeatedly (i.e., six or more times) with trauma-related injuries (Stark, Flitcraft, and Frazier 1979). Female victims of domestic violence are up to thirteen times more likely to suffer injury to their breasts, chests, or abdomens than accident victims (AMA 1992a). Thus, clinicians observing these injuries should be aware of the increased potential for past and future victimization. Sexual assault is also widely prevalent in domestic settings. Thirty-three to 50 percent of women who are physically assaulted by their partners also suffer sexual assault at their hands (Frieze and Browne 1989). Indeed, in their large-sample survey, Kilpatrick, Edmunds, and Seymour (1992) found that only 22 percent of rapes were perpetrated by strangers, whereas husbands and boyfriends were responsible for 19 percent, and other relatives accounted for 38 percent (the remaining rapes were perpetrated by nonrelatives and acquaintances).

Violence also seems to be widespread within the context of dating relationships. Approximately one-third of college students report experiencing relationship aggression (Arias, Samios, and O'Leary 1987; Bernard and Bernard 1983; Breslin et al. 1990; Rouse, Breen, and Howell 1988; White and Koss 1991). Some studies have revealed even higher prevalence rates of physical aggression among nonmarried relative to married couples (Stets and Straus 1989; Yilo and Straus 1981). Propensity for domestic violence is inversely related to the male partner's income and age, and positively associated with his number of alcohol-related problems (Barnett and Fagan 1993; Hotaling and Sugarman 1990; Pan, Neidig, and O'Leary 1994). As might be expected, a higher level of marital discord has also been associated with increased risk of physical assault (Hotaling and Sugarman 1990; Pan, Neidig, and O'Leary 1994).

As noted, women are at greatest risk of injury, sexual assault, and homicide by their partners. Disappointingly, Warshaw (1989) noted that 92 percent of domestic violence cases presenting to an emergency department received no referral or follow-up information, and Kurz (1987) reported that no physician response to abuse was observed in 40 percent of positively identified domestic violence victims. This is unfortunate when considering that partner violence is typically ongoing, and failure to identify and intervene, either directly or indirectly in the form of information and referral, maximizes the potential that one's patient will eventually experience severe physical and emotional injury or even death.

DEFINING DOMESTIC VIOLENCE

Various definitions of domestic violence are utilized nationwide, reflecting both legal definitions and descriptions relevant to specific disciplines of caregivers, including victim advocates, medical professionals, and criminal justice practitioners. While it is necessary for victim service providers to determine the legal definition of domestic violence in both civil and criminal law in their respective states, it is useful to start with a generic definition of domestic violence:

Domestic violence is a pattern of coercive behavior designed to exert power and control over a person in an intimate relationship through the use of intimidating, threatening, harmful, or harassing behavior.

The following isolates elements of domestic violence: what it is, who commits it, and when, where, and why it typically occurs.

WHAT IS DOMESTIC VIOLENCE?

Domestic violence is coercive behavior through the use of intimidating, threatening, harmful, or harassing behavior. This definition validates that domestic violence includes multiple forms of abuse—physical, sexual, and emotional or psychological. Here are specific examples of these types of behavior:

Physical abuse. Physical abuse is usually recurrent and usually escalates both in frequency and severity. It may include the following:

- Pushing, shoving, slapping, hitting, punching, kicking the victim.
- Holding, tying down, or restraining the victim.
- Inflicting bruises, welts, lacerations, punctures, fractures, burns, scratches.
- Strangling the victim.
- Pulling the victim's hair or dragging the victim by the victim's hair or body parts.

- Assaulting the victim with a weapon.
- Inflicting injury upon pets or animals.

Sexual abuse. Sexual abuse in violent relationships is often the most difficult aspect of abuse for women to discuss. It may include any form of forced sex or sexual degradation:

- Trying to make or making the victim perform sexual acts against her will.
- Pursuing sexual activity when the victim is not fully conscious, or is not asked, or is afraid to say no.
- Physically hurting the victim during sex or assaulting her genitals, including the use of objects or weapons intravaginally, orally, or anally.
- Coercing the victim to have sex without protection against pregnancy or sexually transmittable diseases.
- Criticizing the victim and calling her sexually degrading names (AMA 1992b, 40-41).
- Engaging in unwanted sexual contact that may result in torn, stained, or bloody underclothing; difficulty walking or sitting; pain, itching, bruising, or bleeding in genital areas; unexplained venereal disease or genital infections.

Emotional or psychological abuse. Emotional or psychological abuse may precede or accompany physical violence as a means of controlling through fear and degradation. It may include the following:

- Threats of harm.
- Physical and social isolation.
- Extreme jealousy and possessiveness.
- Deprivation of resources to meet basic needs.
- Intimidation, degradation, and humiliation.
- Name calling and constant criticizing, insulting, and belittling the victim.
- False accusations, blaming the victim for everything.
- Ignoring, dismissing, or ridiculing the victim's needs.
- Lying, breaking promises, and destroying the victim's trust.
- Driving fast and recklessly to frighten and intimidate the victim.
- Leaving the victim in a dangerous place.
- Refusing to help when the victim is sick or injured.
- Threats or acts of violence/injury upon pets or animals.

WHO COMMITS DOMESTIC VIOLENCE?

Domestic violence is primarily perpetrated by men against women. Numerous studies repeatedly illustrate this finding, as shown in the statistics cited earlier. Yet, in recent years, some studies suggest women use violence in intimate relationships as frequently as men do. These studies are refuted by credible members of the domestic violence discipline, particularly batterers' treatment providers, who are concerned about flaws in such studies:

1. *Motivation for the use of violence.* Most of the recent studies suggesting women and men equally engage in domestic violence fail to ask the survey respondent what motivated the use of violence in the intimate relationship. In studies that ask this question, the answer is consistent: Men use violence to establish or maintain power and control, and women use violence either in self-defense, in anticipation of violence, or in retaliation for violence perpetrated against them. In other words, if a woman is able to free herself from the abuser, she is very unlikely to continue to use violence. By contrast, most men engage in serial domestic violence: If he leaves or is left by one victim, he quickly becomes involved with another woman against whom he engages in domestic violence. If this question is factored into these studies, it becomes clear that women's use of violence is largely in response to the violence perpetrated against her.
2. *Impact of violence on the intimate other—the fear factor.* Recent studies suggesting women and men equally engage in domestic violence generally fail to ask what the impact of the domestic violence is on the victim. When this question is asked, women report greater numbers of injuries, greater severity of injuries, and greater risk of harm. Men report few or no injuries, unless the woman uses a weapon, in particular a gun. The issue most of these studies fail to examine is “who is afraid of whom?” Women report tremendous fear of violence—and injury—by the intimate other. Men largely report they are unafraid of the woman's use of violence, often finding it annoying or even amusing, unless the woman uses a weapon. Women generally only use a weapon in an effort to make him stop being violent.
3. *Credibility of response.* Recent studies that suggest women and men equally engage in domestic violence fail to factor in the credibility of the survey respondent. There are several issues to consider:
 - First, those who work with batterers know that men who batter deny, minimize, and blame their use of violence on others. Thus, if these men are asked if they use violence in a relationship, there is a high probability they will say they do not. By comparison, a female victim of abuse is likely to feel responsible for the abuse and thus say she does use violence, even when in self-defense, in anticipation of violence or in retaliation for abuse against her.
 - Second, it is crucial to know just how a study defines “abuse” and what questions the survey respondents were asked before accepting their findings. National studies show that men do not define many forms of violence as abuse. For example, if a couple in which domestic violence is perpetrated by the man against the woman is asked whether they have ever used violence, there is high probability the man will say he has not done so, because he does not define his behavior (including shoving, kicking, striking, hitting, punching, etc.) as abusive. Rather, he justifies his behavior

as being provoked, triggered, and/or in response to something she did or did not do; and therefore, in his belief system, his behavior is not abusive because she is responsible for his actions. The woman, by contrast, will admit she has struck back or even initiated violence in response to his violence.

- Finally, if the study asks an open-ended question about abuse, rather than asking whether the person has engaged in specific forms of abuse, women are far more likely to include in their definition of abuse such behavior as shoving, pushing, slapping, or restraining the other person in addition to other more overt forms of violence. Men often do not include what they perceive to be “minor” forms of abuse in their definitions.
- The bottom line: Unless the survey asks questions about specific types of behavior, there is no way to assess what the survey respondent meant when she or he did or did not acknowledge the use of violence against his or her intimate other.

Although domestic violence is perpetrated by both genders, it is crucial to note and understand the above-described gender differences in the use of violence by men and women. This chapter refers to victims of domestic violence generally as females—this is not to exclude the genuine existence of male victims of domestic violence, but rather to acknowledge the reality that the vast majority of domestic violence victims are women.

WHEN DOES DOMESTIC VIOLENCE OCCUR?

Domestic violence occurs as a pattern of abuse, not as a single isolated incident. When dealing with victims of domestic abuse, it is important to ask whether the types of behavior described above or described in the power and control wheel (see *Appendix A*) are occurring or have occurred at any time in the past. Domestic violence can be distinguished from one-time situational violence, which can and does occur in many intimate relationships, such as the individual who shoves or slaps his spouse when learning she is having an affair or filing for a divorce. While this means of conflict resolution is not acceptable—and may result in an arrest and prosecution—it is not domestic violence because it is not a pattern of abuse. The role of the victim advocate is to ask questions to ascertain whether a pattern of physical, sexual, and/or emotional and psychological abuse is or has occurred.

WHERE DOES DOMESTIC VIOLENCE OCCUR?

Domestic violence occurs in intimate relationships. These relationships include current or former spouses, partners, and significant others, including boyfriend/girlfriends, gays, lesbians, transgendered persons, inter-sex persons, and bisexuals; family members, both by blood or by familial ties, such as in-laws, step-family members and foster family members; those who currently or formerly reside together, such as roommates and household members; those who have or share a child in common, or created a child in common; and those who provide services to a dependent person, such as attendants or caregivers for an elderly person or for a physically, cognitively, or mentally disabled person.

WHY DOES A PERSON ENGAGE IN DOMESTIC VIOLENCE?

A person engages in domestic violence because he or she wishes to gain and/or maintain power and control over an intimate other, and believes he or she is entitled to do so.

Power and control wheels. The power and control wheel demonstrates the pattern of coercive behavior in a domestic violence relationship (see a sample in *Appendix A* following this chapter). At the heart of the wheel is power and control. This is the motivation behind the abuse—the answer to the question: *Why does a person engage in domestic violence?* The abuser has a need to ensure that he gains/maintains control of how the partner thinks, feels, and behaves. The outside of the wheel contains the cement of the abusive relationship: the threat of or actual use of physical and sexual violence. Physical and sexual abuse is the behavior most people think of as “the problem.” It is the abuse most easily recognized or identified and often the only behavior that is illegal. However, the abuser may not need to use physical forms of abuse against the victim to maintain control because the victim attempts to do all she can to avoid the physical and sexual attacks. A victim need only be threatened or harmed once to know the abuser is willing and able to use physical and/or sexual abuse against her.

Inside the wheel are a variety of behaviors, known as tactics, which the abuser uses to gain and maintain control. Not all of these tactics are used in every relationship, and the tactics may be changed as the victim’s response changes. The abuser will switch tactics when the victim learns to respond to one type of tactic or attack. When the struggle to challenge the abuser becomes too exhausting or too dangerous, the victim begins to modify her behavior—slowly giving up control of pieces of her life in order to avoid further abuse or to survive.

A victim advocate needs to be aware of three issues when dealing with a victim of domestic violence. First, most victims report they experience far greater shame and lasting effects as the result of *psychological and emotional abuse* than as the result of physical abuse. Victims report they feel less able to explain “crazy-making behavior” to others; they are more often disbelieved when they report forms of psychological and emotional abuse; and they do not have any visible injury to substantiate their allegations. Victims often report that the physical injuries heal and are forgotten—the psychological and emotional injuries repeatedly haunt their minds.

Second, while all abusive tactics are harmful to victims, the *use of isolation* may have the most severe impact on victims of domestic abuse. Once the abuser has succeeded in isolating the victim, she has no one with whom to reality check, making it more likely she will believe the abuser’s perceptions of reality—including the abuser telling her she is responsible for the abuse. This means she has no one to whom she can describe the psychological and emotional abuse, which leads her to feeling more desperate and alone. Continued isolation also means she has fewer options and resources. This means women in isolated communities, such as rural farms or suburban homes with large lawns, are already physically isolated, possibly putting them at higher risk of injury and nonreporting.

A third issue to consider when dealing with victims of domestic violence is that the *use of power and control tactics varies according to the abuser and the victim*. The original Power and Control Wheel, developed by the Domestic Violence Intervention Project of Duluth, Minnesota, reflects the experience of those first victims who sought services from a domestic violence program or shelter: relatively young, able-bodied, white women. Because it is now known that domestic violence is perpetrated against women in all cultures, of all conditions, and all ages, additional power and control wheels have been created to reflect the tactics reported as experienced by these victims. It is useful for victim advocates to share with victims the power and control wheel(s) most appropriate to their situation. For example, domestic violence against the elderly has often been ignored, misunderstood, or misnamed as caregiver stress. A power and control wheel depicting domestic violence in later life illustrates power and control tactics that may not be used against a younger victim. At the other end of the life cycle, statistics indicate teen violence is the most rapidly growing form of domestic violence in the country. Again, the tactics used against a teen victim of domestic violence may be very different from those used against an older victim.

Victim advocates need to recognize that domestic violence can and does occur against all women, regardless of age, socioeconomic status, culture, race, etc. The sample Power and Control Wheel in *Appendix A* illustrates some of the tactics used by batterers. The Equality Wheel, also in *Appendix A*, depicts male/female interactions in a healthy relationship.

THE DYNAMICS OF DOMESTIC VIOLENCE

The underlying reason for the abuser's behavior and the victim's response to his behavior are known as the dynamics of domestic violence. To understand why an abuser behaves as he does and why the victim responds to his behavior as she does, the victim advocate needs to be familiar with the abuser's and the victim's thinking patterns.

The best indicator of whether a man will abuse his spouse/intimate other is whether he has experienced or witnessed violence in his family of origin. Yet, not all men from violent homes abuse their spouse/intimate other. What makes the difference? The answer is simple—his thinking pattern.

A thinking pattern can be described as the thoughts one has that lead to behavior, all underscored by one's belief system. The specific steps in a thinking pattern follow:

- First. A person is presented with a *stimulus* (a situation, a conversation, an interaction).
- Second. The person has an intellectual reaction to the stimulus, known as a *thought*.
- Third. The person has an emotional reaction to the thought, known as a *feeling*.
- Fourth. The person engages in *behavior* as a result of the feelings the person is experiencing.
- Fifth. The person experiences *consequences*—negative and/or positive—as a result of the person's behavior.

- Underlying this process is a *belief system* that makes it possible for the person to choose his/her thoughts and engage in certain behavior.
- *In summary*: A person's thoughts create a feeling, upon which the person acts, that results in a particular outcome all based on the person's belief system.

A typical scenario involving a thinking pattern in terms of the dynamics between an abuser and the victim is as follows:

- *First, a stimulus*. The abuser sees his wife talking to another man at a party.
- *Second, a thought*. The abuser thinks any or all of these thoughts to himself: "She is interested in that man. Look at how she is flirting with him. She is coming on to him. They are probably making plans to go off and sleep together. She is planning to leave me."
- *Third, a feeling*. Angry; upset; scared of being left by the victim for another man.
- *Fourth, a behavior*. The abuser will do something to exert power and control over the victim. This could include any/all of these, or other actions: He will give her "the look," signaling his displeasure with her for talking to another man. He will remove her from the situation either forcibly or by intervening in the conversation. He will yell at her for not paying attention to him and for paying attention to someone else. Dependent on how severe his thoughts are—and thus how upset he has made himself—his tactics will escalate to the use of physical and sexual violence. In addition, if he does not get the reaction he wants from the victim, he will change his tactics and escalate in his reactions.
- *Fifth, consequences*. A positive consequence, from the abuser's perspective, is that his wife will discontinue her behavior and quit talking to the other man. Another positive consequence may be that she will apologize for her behavior, which allows the man to believe she is doing something wrong and his fears are founded. Another positive consequence may be that he bolsters his sense of self-esteem by letting those around him know he has control over his wife—he is the "man in charge." An additional positive consequence may be that he makes her cry, which means she is not enjoying herself or appearing attractive to other men at this party.

The negative consequence may be that he is now in a bad mood. Another negative consequence may be that he no longer enjoys the party. An additional negative consequence may be that his wife begins to distance herself from him and he does not feel connected to her. If he engages in violent behavior, a final negative consequence may be an arrest, charge, and criminal justice intervention.

- *Finally, the belief system*. Underlying this thought pattern is his belief system. Any or all of these beliefs are likely: "She doesn't really love me." "If I don't treat her like a man and keep her in her place, she will go off with some other guy." "If she really knew me, she wouldn't like me, so I better not let her get away from me." "Women will sleep around if you give them the chance." "She is responsible for taking care of all my needs." "I have a right to expect her to act like my woman."

Now let's examine the other half of the dynamics—the victim's response to this scenario:

- *First, a stimulus.* The wife sees her husband watching her as she talks to another man at a party.
- *Second, a thought.* The wife thinks any or all of these thoughts: “Uh oh. My husband is looking unhappy that I am talking to some other guy. I don't want to upset him so I think I will go over and stand by him.” “Sometimes this gets so tiring—being watched all the time. But I know he will become angry if I keep talking to this guy, so I'd better keep the peace and go stand by my husband.” “I am really enjoying this conversation—it's been a long time since someone just talked to me. But I know my husband. If I am having a good time, he thinks it means I am interested in the person I'm talking with. I better not break the rules or I will pay a price.” “I can't understand why my husband thinks I would want to be with this guy—he's no match for my husband! I can sense he is getting agitated. I need to reassure him I love him.”
- *Third, a feeling.* Scared; apprehensive; uneasy; wary; guilty; contrite; resentful; angry.
- *Fourth, a behavior.* The victim's behavior is in response to the abuser's action(s). She will take her cues from her husband as to her behavior choices. If the abuser gives her a look, she will walk away from the other man at the party and come and stand by the abuser. Knowing that he is having an emotional response to her conversation with another man, she may take any of a variety of actions. She may simply try to talk to her husband. She may try to appease him by doing things like asking if he needs anything, criticizing the man with whom she just had a conversation, or assuring him that there is nothing going on between her and the other guy. Most victims will try at this juncture to smooth the situation over to avoid more of an emotional response from him. However, a victim is all too human and may not always make choices to best protect herself from escalation of his tactics: she may be tired, a little or very intoxicated, or so excited about getting positive attention from someone else that she is moody with her husband or rebuffs him when he begins to accuse her. This will likely result in his escalating the use of tactics to include such behavior as the silent treatment, leaving the party, accusing her of wrongdoing, threats, and the use of violence. In response to his escalated tactics, the victim will continue to assess whether she wishes to appease him or try to reason with him. Regardless of her efforts to appease him (using such behaviors as trying to explain herself, assuring him of her fidelity, or admitting to wrongdoing by talking to the other man), if the abuser has engaged in a lot of negative thinking, he will likely hear all of her words as an admission of fault and excuses for her unacceptable behavior. He will escalate his tactics dependent on the level of his negative thinking and her response to him. In most situations, the victim will try to keep him calm. However, there is never a guarantee that her behavior will result in his being rational because she has no control over his choice of thoughts.
- *Fifth, consequences.* A positive consequence, from the wife's perspective, is that her husband is once again calmed down, and the peace is restored. Another positive consequence may be that she feels flattered because he is expressing his fear of losing her. An additional positive consequence may be that she is pleased with herself for not incurring punishment from him even though she believes she “broke the rules”—rules he imposed

upon her. From her viewpoint, a positive consequence may be that she perceives others as viewing her husband as a real macho man.

The negative consequence may be that she is now in an apprehensive mood, and she may no longer enjoy the party. Another negative consequence may be that she feels wary so she begins to distance herself from him and she does not feel connected to him. If he engages in violent behavior, she will view arrest, charge, and criminal justice intervention as a negative consequence because she feels responsible for making him mad, and she believes she has broken the rules he told her to follow. Further, she believes and/or knows he will subject her to higher levels of abuse if he is arrested, charged, or prosecuted. She believes his involvement in the criminal justice system is due to her failure to act like a good wife.

- *Finally, the belief system.* Underlying this thought pattern is her belief system. Any or all of these beliefs are likely: “My role as a wife is to make this marriage work.” “If I didn’t break the rules, he wouldn’t get upset. I must be a bad person because I keep breaking the rules.” “I know he really loves me or he wouldn’t act so jealous. That’s just how men express their love.” “He will go back to being the wonderful man I fell in love with once I quit upsetting him.” “I don’t know what I would do without him. He’s the only man who’d ever want me.”

TYPICAL DEVELOPMENT OF A DOMESTIC VIOLENCE RELATIONSHIP

Most victims describe the *beginning of their relationship* as being wonderful and intense. He pays a lot of attention to her; he wants to be with her all the time; he wants to be with her when she is with her friends and family members; he takes an active interest in where she goes, what she does, and how she spends her time; he suggests they spend most of their time doing things they both enjoy doing, rather than doing things on their own, so they can be together; he begins to make decisions for her, explaining he is happy to help her out; he is extremely attentive in public places, huddling over her, monitoring who she interacts with and letting other guys know she is with him. Simultaneously, he flatters her, confides in her, and reveals that he really wants to make a life with her. Sometimes he admits he does not know how to live without her. Then he begins to pout or express concerns about her interest in him if she does things independently of him. He may also explain how glad he is that she is not like his former spouse/partner, who was really difficult and even forced him to leave or doesn’t let him see his kids. He explains his former spouse/partner did not understand him and turned everyone against him.

For many victims, they mistake these behaviors as devotion to a relationship—rather than recognizing these behaviors as *red flags that indicate an abusive personality*. These red flags include his insistence on obtaining information about her whereabouts at all times. Other red flags include the rapidness with which he establishes himself in her life, including making decisions for her, stating his inability to live without her, and insisting on a commitment to a relationship. His discussion about his former spouse/partner is a red flag as he does not take responsibility for the problems he experienced with that person. Big red flags include saying things like “she had him arrested” or she slapped a restraining order on him. He is already displaying abuser characteristics: signs of obsessive and controlling behavior. He is acting on

his belief system which says he is to be in charge, make the rules, and can expect her to follow him and attend to his needs.

As the relationship continues, *she is drawn to the positive side of his actions*: his attentiveness and his interest in her activities and the people in her life. She may enjoy feeling doted upon and may be flattered by his initial bouts of jealousy. She makes a commitment to him—usually under pressure from him very early in their relationship—and is happy to be with someone who cares so much about her life. As time passes, she becomes aware of feeling discomfort around some of his behavior, such as his reactions when she discusses doing things with others, but dismisses these feelings due to her desire to make the relationship work. Like any person in a new relationship, she figures it will take time for them to develop a trusting relationship.

Domestic violence generally begins with forms of control through psychological and emotional abuse. He begins to suggest she ought not to do certain things or ought to do things a certain way if she loves him. He begins to subtly suggest she may wish to wear or not wear certain items of clothing. He tells her she may wish to change her hairstyle to look a certain way. He tells her he would prefer her to act or not act in certain ways, such as how she talks, walks, or smiles. Generally these statements begin in a subtle manner by suggesting the changes he would like her to make, but the implication is that her appearance or behavior is not good enough. She also begins to experience his anger if she does something he does not like. He begins to demand that she never do that again, or if she does not make the suggested changes, he asks her if she does not love him or thinks she is too good for him. He believes any action she takes that draws positive attention from others, especially attention from other men, is a threat to him. Again, just as any person in a new relationship is apt to do, she tends to attribute his reactions to their not yet knowing each other very well. She believes she will earn his trust.

When confronted with the *first incident of physical abuse*, the victim will typically view the response as an aberration—a behavior that is not typical of this person and will not occur again. It is normal, then, for the victim to excuse or explain the behavior—to “forgive” the behavior. This is a normal response for anyone in a new relationship experiencing a new situation. The abuser’s telling her that he is sorry and it will never happen again reinforces this response. She has no reason to think it will ever happen again, so she will, understandably, accept his apologies and/or explanation. Further, she is likely to question what caused this behavior and wonder what she did to prompt this behavior, since he has never acted in this manner before.

If an unacceptable form of psychological or physical abuse occurs again, the victim will respond as most persons do: They will likely ask why the person is repeating such behavior. In an abusive relationship, the *abuser will quickly shift the focus from his behavior to her behavior*—stating that his actions are “provoked,” “triggered,” and/or “caused” by something she did or did not do. This form of blaming can be quite subtle or very overt. He makes it clear that she is responsible “for setting him off” and it won’t happen again if she just changes *her* behavior. She wants their relationship to return to the way things used to be, so she is likely to accept his statements, thinking she can easily change whatever behavior he now

claims caused him to act as he did. This process, repeated over and over again, begins to erode her sense of confidence and self-esteem. In addition, she begins to internalize the blame.

Simultaneously, he is beginning the isolation process. He questions whom she spends time with, suggests family and friends are interfering with their relationship, and either asks or forbids her from seeing them again. Even if he does not prevent her from such contacts, he makes it very difficult either before or after (or both) she spends time with others by engaging in such behavior as questioning exactly what they did, where they went, and what they talked about. He acts in a suspicious manner and becomes uncomfortable if she describes doing anything that suggests she had a good time without him. After awhile, it is easier for her to simply quit seeing the people of whom he disapproves rather than face the consequences. She tries to figure out what will set him off so she can avoid those situations. It takes her a long time to realize nothing she does can please him or stop his constant barrage of criticism. As she becomes more isolated, she has fewer people with whom to reality check.

Additionally, she experiences a lot of emotional conflict. She is confused about what is happening to her, but she also feels responsible, resulting in feelings of shame, embarrassment, and humiliation. She does not want to believe she could be “one of those women” so she works to justify why he behaved in an abusive fashion, further reinforcing her sense of blame. She is grieving the loss of the person she has come to love and the life they intended to create, so she keeps struggling to change her behavior so he has no reason to become upset and act badly. She keeps trying to control him by changing her behavior to conform to his ever-growing list of complaints. All the while, he is engaged in the thinking pattern of denying he is doing anything unreasonable in making such demands, blaming his actions on her and believing she is responsible for the conflicts they experience. They become enmeshed in a pattern that stops only when she learns she is not responsible for his behavior and when he is held accountable for his behavior.

Adding to the complexity of this pattern is his *increasing use of threats and force*. This creates a new reaction—fear—which often keeps the woman trapped in the relationship. If she confronts him, he escalates his use of threats and force. If she states her intention to leave if he does not change his behavior, he engages in more severe forms of abuse, telling her that he will kill her if she tries to leave the relationship. She may find it takes less energy to stay and appease him than to try to leave. She may also come to realize it is safer to stay in the relationship than to leave.

OBSTACLES PREVENTING A VICTIM FROM LEAVING

The victim of abuse fears that when she tries to leave, she cannot make it on her own, for a variety of reasons such as lack of finances, lack of resources (i.e., housing), inability to care for the children without assistance, fear of what he will do when he finds the children and her, his pleas and promises that he will change if she just gives him one more chance, her desire to have a lasting marriage/relationship and father for her children, and her all-too-human desire to be with someone who loves her. Interspersed with his abusive behavior are his pronouncements of his love for her, his promise that he will change, and his statements that only she can help him change.

The reality is that most people in nonabusive relationships do not immediately leave even when they believe there is a problem with the relationship. Most people leave more than once before they finally sever the relationship. Victims of domestic violence act just like everyone else: they waiver; they return; and they give it another chance. Rather than saying victims of domestic violence do not leave, it is more accurate to describe their pattern as coming and going from the relationship. Most victims of domestic violence repeatedly attempt to leave the relationship, but return when they cannot overcome the obstacles of getting away from the abuser. They will make a final separation if they are able to find a combination of resources to attend to the needs of their children and themselves, and to do so safely.

The question is *not*: “Why does a victim stay?” But rather, “What are the obstacles that prevent a victim from leaving?” A victim may face any/or all of these, or other obstacles:

1. *Economic dependence* on the abuser.
2. *Fear for her safety* and the safety of her children and/or other family members.
3. *Isolation*. She has no support system or others with whom to reality check.
4. *Low self-esteem*, especially after years of being told by the abuser how worthless she is and how she is to blame for all the violence that occurs.
5. *Beliefs about family*. She may believe that a family is not to air its dirty laundry and that all families encounter hard times. These beliefs are often reinforced by family, church members, and the legal system.
6. *Beliefs about marriage*. She may believe she must stay married forever, that it is “God’s will.”
7. *Belief that she is the only person who can stop the abuser* which is reinforced by the abuser who says that she is the only one who ever understood him.
8. *Belief that he will find her* no matter what she does to try to leave. This belief is based in reality if the abuser has hurt the victim when she attempted to leave.
9. *Lack of options and resources*. She does not have the money or the resources to support herself and her children.
10. *Fear of being seriously hurt or killed* if she attempts to leave. This fear is reinforced by the abuser who tells her that he will kill her if she ever tries to leave. Victims know these are not idle threats as they have feared for their lives before.
11. *Threats against others if the victim leaves*. The abuser frequently threatens to hurt all those whom the victim knows and loves—including children, family members, friends, and co-workers.
12. *Health concerns*. A victim of family violence may experience her own health issues in later life that make it difficult for her to leave, or she may feel that she must stay to take care of the abusive partner because of his health issues.
13. *Society’s ageist responses to elder victims*. When elder victims of domestic violence report abuse, those to whom the abuse is reported often presume the abuse is the result of

the victim's age, not the result of abuse. For example, people may blame the bruises on the victim's frail condition rather than on abuse. People may interpret the victim's silence around financial and other issues as senility and lack of ability rather than fear to speak up in the presence of the abusive person.

LEAVING DOES NOT MEAN SAFETY

Those who work with victims of domestic violence often put their emphasis on pushing the victim to leave the relationship. This approach may, in fact, put her at higher risk of danger. An appropriate response is to help her determine what her risks are and help her to problem-solve how to minimize those risks. In some cases, staying within the relationship may be the safest response.

- Statistics indicate that women are at a greater risk of becoming victims of domestic homicide when they attempt to leave the relationship. In fact, women who leave their batterers are at a 75 percent greater risk of being killed by their batterer than those who stay (Wilson and Daly 1993).
- Victims who attempt to leave are often hunted down—stalked, harassed, threatened, and pursued across county and state lines. Because abusers believe they are entitled to control the behavior of their partners, they may continue this behavior even after the petition for divorce is filed or granted. This is so common it is known as “separation violence.”
- The rate of attack against women separated from their husbands is about three times higher than that of divorced women and 25 times higher than that of married women.

HOW THE DYNAMICS OF DOMESTIC VIOLENCE AFFECT LEGAL CASES

Once victim service providers working within the legal system understand the dynamics of domestic violence, they know to expect and prepare for these types of victim behavior:

- Repeated filing and dropping of a case.
- Changing her story once the seriousness of abuse is disclosed.
- Minimizing the abuse once it is discovered.
- Changing her mind about what is wanted in the settlement or a willingness to give up important legal rights.
- Denying anything ever happened or explaining away all the documented abuse.
- Taking responsibility for the abuse by either saying she provoked or deserved it or by explaining its occurrence by saying she fell down or ran into a wall.

It is crucial for members of the legal system to view these behaviors as the victim's effort to be safe and stay alive.

- The victim will do whatever it takes to feel safe. If it feels safe to start an action, she will do so. If she assesses she is in more danger by continuing her involvement with the criminal justice system, she will back away.
- A victim is at great risk once she takes steps or indicates her intent to leave. The abuser will likely increase the tactics used to control her. The victim will now either receive a lot of positive or negative attention from the abuser, which may result in her not wanting to continue with the action such as the protective order, divorce, or prosecution.
- Working with victims can be a frustrating experience. The victim service provider, including the attorney, wants the best legal outcome. The victim's goal is to stay alive or get out of the relationship safely. These goals may conflict.
- Each person has a separate role in the system. The prosecutor's role is to hold the batterer accountable for his behavior. The advocate's role is to help the victim understand the system, to provide accurate and complete information about her options and resources and to support the choices she makes. The victim's role is to stay safe. All members of the system need to support her efforts to stay safe and alive.

When a prosecutor is involved in a case with a reluctant witness (which is likely to be most cases, because the dynamics of domestic abuse teach us that the victim will not testify if she believes it will subject her or her children to further violence), the prosecutor needs to educate the jury as to her behavior. If the prosecutor uses an expert witness, the witness is being asked to describe the “battered woman’s syndrome.” The battered woman’s syndrome explains her behavior via the cycle of violence and the theory of learned helplessness. What follows is an examination of these concepts and their drawbacks. Nationally, prosecutors report they are more successful in cases with reluctant witnesses when they provide this explanation, rather than rely on an expert.

The Cycle of Violence. In 1979, Dr. Lenore Walker—in the landmark book *The Battered Woman*—identified three distinct phases that comprise the “cycle of violence.” Dr. Walker determined that the phases vary in duration and intensity; as such, it is difficult to predict how long a batterer and victim will remain in any one phase or in the length of individual cycles.

Phase One is described as the tension building phase in which the abuser becomes more and more prone to react to any stimulus negatively. The victim responds to the escalation in tension by trying to nurture or appease him—or to stay out of his way. In this phase, the abuser becomes fearful that the victim may leave him, which is reinforced as she avoids him in the hope of not triggering the impending explosion. He becomes more oppressive, jealous, threatening, and possessive. Victims often describe this phase as “walking on eggshells.”

Phase Two is the battering incident. Phase two is the shortest phase, usually lasting from minutes to a few hours. When the acute attack is over, it is usually followed by initial shock, denial, and disbelief that it really happened. Both the batterer and the victim find ways of rationalizing the seriousness of such attacks. Many victims report reactions similar to those of disaster victims. Victims of catastrophe usually suffer emotional collapse twenty-four to forty-eight hours after the disaster. Symptoms include listlessness, depression, and feelings of

helplessness. Similarly, battered women often do not experience the full emotional impact of an attack until twenty-four to forty-eight hours after it has occurred.

Phase Three is described as the “honeymoon phase.” Just as phase two is characterized by brutality, phase three is characterized by the extremely kind, loving, and contrite behavior of the abuser. He knows he has gone too far and tries to make it up to his victim. It is a phase welcomed by both parties, but ironically it is the phase during which the woman’s victimization becomes complete. In this phase, the batterer constantly behaves in a charming and loving manner. He is usually sorry for his actions in the previous phase. He conveys his remorse to the victim, promises that he will never do it again, and begs her forgiveness. He is like a child caught with his hand in the cookie jar. The batterer truly believes that he will never again hurt the woman he loves, and that he will be able to control himself from now on. He also believes that he has taught his partner such a lesson that she will never again behave in a way that tempts him to physically assault her. He is quite sincere and can easily convince anyone involved that his behavior will change.

The batterer frequently begins an intense campaign to win forgiveness and to prevent his victim from separating herself from him permanently. It is common for an abuser in phase three to shower his victim with elaborate gifts and to attempt to “romance” her into forgiveness. He may enlist the aid of significant others—family, friends, clergy, even counselors—to persuade her that breaking up the relationship is a bad decision. Often everyone involved believes the rationalizations—that he is sorry and will change, that his workload or his drinking is to blame, that the children need a father, that the abuser needs the help of the victim—and somehow the victim begins to assume responsibility for his behavior. She sees herself as the one who must stand by her man while he gets the help he so desperately needs. In reality, it is very unlikely that the abuser will ever seriously seek professional help to change his violent behavior as long as the victim stays with him. Most often, the abuser will seek help only after his victim has left him and if he thinks seeking counseling will convince her to return. The battered woman chooses to believe that the behavior she sees during phase three is what her spouse/partner is really like. She chooses to believe that the contrite behavior is more indicative of the real person than the battering behavior.

Victims and advocates for domestic violence victims identify several *drawbacks to the use of the cycle of violence*. First, not all victims experience these stages. Some abusers simply batter without any indication they are about to do so—there is no tension building phase. Many victims report they never experience a honeymoon phase—he shows no remorse or contrition in spite of the severity of abuse. Most victims report if they ever experienced a honeymoon phase, it disappears over time. Victims report their experience of violence is *not* a cycle: they may experience none of these phases or they may experience the phases in random order.

A second problem with the use of the cycle of violence is the tendency of the legal system to use it to try to “explain” why violence occurs. In fact, it does not answer the key question the legal system needs to address: Why does the batterer engage in violence? The power and control wheel is the current tool used to explain both the why (to exert power and control) and the how (tactics used to exert power and control) of domestic violence.

Another problem with the cycle of violence is its description of the third phase, in which the abuser is said to show remorse in an attempt to prevent her from leaving. In reality, since there have been concerted efforts to arrest abusers and hold them accountable through the criminal justice system, many victims report abusers as likely to use negative efforts to keep her in the relationship or to encourage her to drop the charges. For example, after an arrest he may act in a loving, begging, contrite manner or he may become more agitated and threatening, blaming her for the consequences of his behavior. He is just as likely to threaten harm to her if she attempts to leave as he is to beg her to stay. The honeymoon phase might more accurately be described as a coercion phase, the coercion may be through the use of positive and/or negative tactics.

Finally, the cycle of violence fails to address the thinking patterns of the abuser and the victim. Rather, it tends to be explained in terms of their pathology—his sense of desperation and her response based on her low self-esteem. While this may be true, it also shifts the focus from the abuser's violence and makes the issue a "couple's problem," rather than focusing on his choice to use violence and other controlling behaviors to accomplish his goal of control.

In spite of its limitations, the cycle of violence is commonly referred to in the criminal justice system because it is a component of what is known as the battered woman's syndrome. An attorney may use the battered woman's syndrome to explain why the victim's behavior in the incident under scrutiny is reasonable in light of this woman's circumstances. For example, a prosecutor might introduce the battered woman's syndrome to explain why the victim recants, while a defense attorney might use it to explain the victim's belief that she had to use the amount of force or violence she did that resulted in her abuser's death. The battered woman's syndrome, however, does not consider the thinking patterns of the abuser and the victim.

The battered woman's syndrome requires the attorney to explain both the cycle of violence and the theory of learned helplessness and show how they apply to the victim in the legal case. The theory of learned helplessness can be even more troubling than the cycle of violence for victims of domestic violence.

The Psychosocial Theory of Learned Helplessness. As detailed in *Domestic Violence: A Guide for Health Care Providers*, published by the Colorado Domestic Violence Coalition and Colorado Department of Health in 1994, "learned helplessness" is a psychological theory that describes what happens when a person loses the ability to predict what actions will produce a particular outcome. Because the battered woman tries to protect herself and her family as best she can, those with learned helplessness choose only those actions that have a high probability of being successful.

As the battering and isolation increase, a shift in the survivor's comprehension of the situation occurs. She increasingly perceives escape as impossible. While she may continue to work at her paid job, eat, clean house, take care of the children, laugh with coworkers and appear self-confident and independent, *surviving* the battering relationship becomes the focus of her life.

In the survivor's eyes, the batterer becomes more and more powerful. She sees police and other agencies as less and less able to help (Walker 1979). She feels trapped and alone. She

will likely develop a variety of coping mechanisms that may include withdrawal, asking permission to do even trivial things, manipulation, substance abuse, and asking that criminal charges be dropped.

The *problem with the use of the theory of learned helplessness* is it suggests/implies/requires a passive victim. In reality, victims often do shift their survival mechanisms from very assertive and community-based options to simply trying to keep the abuse and its impact quiet. This may not be a sign of passivity, as the theory of learned helplessness suggests, but rather a sign of her recognition that a more quiet response to his violence will provide the best safety for her and her children. A jury has a hard time buying into the theory of learned helplessness when presented with a victim who has used violence to kill her abuser.

Recent studies on the battered woman's syndrome suggest the theory of learned helplessness has limited usefulness in the legal system. Rather, a jury can far better understand why a victim makes the choices she does when the jury is given an accurate and complete description of the batterers' abusive tactics. This information alone—without trying to fit her into a cycle of violence which may not apply to her experiences or to paint her as exhibiting learned helplessness—may be enough to allow the jury to understand she is acting in a reasonable manner in light of her experiences.

Prior to making a choice to use the battered woman's syndrome, a prosecutor needs to clearly understand the pros and cons of this decision. This information can be obtained from the National Clearinghouse on the Defense of Battered Women. The Clearinghouse has a number of treatises on this issue which examine under what conditions the battered woman's syndrome may be helpful but also outline the serious drawbacks to its use. The Clearinghouse also provides information as to how to explain to a jury the victim's actions by presenting her life to the jury through the use of witnesses and police testimony. The Clearinghouse can be reached at 800-903-0111, ext. 3.

ADVOCACY FOR VICTIMS OF DOMESTIC VIOLENCE

There are thousands of staff and volunteers in communities across the country who assist, support, and serve victims of domestic violence. Often these professionals provide a lifeline to women and children who desperately need assistance and direction but are confused by the dynamics of their victimization, the thought of leaving a violent environment, and, in some cases, entering into the criminal justice system.

The following are goals of advocacy for victims of domestic violence:

- Empower women with the ability to make significant changes and solve problems.
- Increase a victim's ability to make a successful transition from a battering environment to independence.

- Connect the victim—both in the short- and long-term—with community resources that provide support, encouragement, and assistance.
- Provide information and support throughout the criminal justice system and beyond.

Multiple responsibilities are associated with assisting victims of domestic violence:

- Responding to crisis calls from victims through twenty-four-hour hotlines.
- Accompanying or following law enforcement officials who respond to domestic violence incidents.
- Providing safety and shelter to battered women and their children.
- Providing follow-on services to increase the number of victims who file charges or seek protection through the civil or criminal courts.
- Advising victims about their legal rights throughout the criminal justice system. (see “Domestic Violence and the Criminal Justice System” later in this chapter).
- Advising victims about information and resources relevant to protection and security, divorce, custody, and visitation.
- Helping victims develop “safety plans.”
- Providing information and assistance to victims who leave battering environments, including temporary and long-term housing, employment training (or re-training) and placement, and child care.
- Providing assistance in financial matters, including child support, restitution, victim compensation, and financial planning.
- Upon request, acting as liaison between the victim and the criminal justice system.
- Providing peer counseling.
- Providing support groups.
- Providing information and referrals to community resource agencies, including public assistance, child protective agencies, public and mental health agencies, social services, and schools.
- Providing training to law enforcement, criminal justice, social service, mental health, and other allied professionals about the dynamics of domestic violence and the specific rights and needs of domestic violence victims.
- Working to establish or strengthen a coordinated community response to domestic violence and its victims.
- Generating greatly needed public awareness about domestic violence and its effects on victims, witnesses, communities, and society in general.
- Working to affect changes in laws, agency policies, protocols, and programs that enhance rights and services for victims of domestic violence.

VICTIM VALIDATION

One of the most crucial skills a victim advocate must possess is the ability to validate the victim's feelings, experiences, and fears. Many domestic violence victims do not view themselves as victims, and fail to realize that domestic violence is a crime perpetrated against many other women.

Guidelines for validation of domestic violence victims include the following:

- Learn and practice effective communication skills, including verbal and nonverbal techniques.
- When interviewing the battered woman, do not ask for verification of her story from second parties.
- Assess the complete history of violence, including the current battering incident as well as the first and worst incidents.
- When conducting this assessment, ask the woman directly to describe the violent acts and how she felt when and after they occurred as well as how she feels now. Do *not* avoid speaking directly about the violence. Provide encouragement and support to the victim for sharing her feelings and experiences.
- Empathize with the victim and validate her feelings, stressing the criminal nature of the violence, and the fact that the victim is *not* to blame.
- Universalize the crime of domestic violence, pointing out the scope and prevalence of such crimes that cut across socioeconomic, racial, cultural, and geographic lines.
- Provide information and referrals for continued support and assistance, including local, state, and national resources.
- Develop a plan for follow-up contact, support, and assistance from you, your agency, or allied community service or criminal justice agencies.
- Affirm the fact that the victim is *not* alone and that there are people and programs available to assist and support her.

VICTIM-CENTERED ADVOCACY

In her book, *Safety Planning with Battered Women—Complex Lives/Difficult Choices*, Jill Davies encourages advocates to provide woman-centered advocacy, which for purposes of this discussion will be hereinafter referred to as victim-centered advocacy. Victim-centered advocacy involves engaging in a risk analysis with the client based on her perceptions. An advocate needs to find out what a client perceives as risks, and how the advocate can most effectively use this information to advance the woman's plans and priorities. The advocate and the woman may be working at cross-purposes, either deliberately, because they have different goals, or inadvertently, because the advocate does not know enough to ask about the client's concerns.

Victim-centered advocacy involves a three-step process: (1) help the client identify what she perceives as batterer-generated risks and what the effect of staying or leaving may be on those risks; (2) help the client identify life-generated risks and identify how the abuser may manipulate these risks to further his control; and (3) assess the client's past and current safety plans.

The first step involves identification of *batterer-generated risks*. These include risk of physical injury; risk of psychological harm (including concerns regarding her mental health, drug and alcohol abuse, and suicidal ideation); child-related risks; financial risks; risks to family and friends, including the possible loss of relationship with them; and risks involving arrest and legal status. Gathering this information involves approaching each woman as a unique individual whose concerns may vary from those of other victims; listening effectively; and understanding that a woman's perspective will change as the process unfolds.

The second step in identification of batterer-generated risks is to listen effectively. This involves creating a safe place in which the woman can speak openly. Only then can an assessment of risk factors be made. This approach is quite different from the approach taken by an advocate who says "I only have twenty minutes to spend with the client so I make sure I spend the time describing what services are available to her." This approach to advocacy does not explore whether any of these services are relevant to the particular woman. In addition, this approach does little or nothing to establish trust with the client. Without a relationship of trust, the client is less likely to contact the advocate again. Establishing trust begins by listening to her story and hearing her concerns and questions.

Battered women analyze the risks to themselves and their children on an ongoing basis. What she fears as the biggest risk will likely change as his tactics change and as she receives information that allows her to reassess her previous concerns. Unfortunately, advocacy often stops at assessment of the physical risks, which is only one of her fears.

An advocate can also assist the client to identify *life-generated risks*. These include such issues as: finances; home location; physical and mental health; discrimination based on race, ethnicity, gender, sexual orientation, age, disability or other form of bias; and inadequate response from major social institutions including the legal and/or health system and workplace. Beyond identification of the concerns, real or perceived, the client expresses about such life-generated risks, the advocate also needs to assist the client in discussing the methods by which the batterer may manipulate these risks to reinforce his power and control.

Once the batterer-generated and life-generated risks are discovered, the advocate can begin the process of giving the client complete and accurate information to dispel any concerns or explain options to address the concern. The advocate can also begin the process of allowing the woman to engage in decision making and safety planning. As women weigh the risks and their options, the decision they face is more complex than simply whether to stay or to leave. Even if the woman does stay in the relationship, it does not mean she accepts the violence. It cannot be overemphasized that leaving the relationship provides neither a guarantee of her safety nor a guarantee that other risks will be reduced, despite social beliefs to that effect.

Studies show that women typically try many strategies to deal with the abuse. Researchers find the process of change is slow for most battered women, with an average of leaving five times before permanently leaving, and an average length of eight years to leave permanently. As noted earlier, studies also show women who left suffered more abuse than those who stayed.

After identifying the risks, the goal is to help the victim to create a safety plan that addresses the batterer-generated and life-generated risks. Such a plan includes protection strategies, staying strategies, and leaving strategies.

DEVELOPING A SAFETY PLAN

If and when a victim is able to leave her battering environment, it is essential that she has a “safety plan” to increase her opportunity for a successful departure. Advance planning is crucial. Start by assessing the batterer-generated and life-generated risks with her. Based on this information, concerns and actions may need to include the following:

- Does she have family and friends with whom she can stay?
- Would she find a protective or restraining order helpful?
- Can a victim advocate safely contact her at home? What should the advocate do if the batterer answers the phone?
- Does she know how to contact emergency assistance (i.e., 911)?
- If she believes the violence might begin or escalate, can she leave for a few days?
- Does she know how to contact a shelter? (If she doesn't, provide her with information for future use.)
- Does she have a neighbor she can contact or with whom she can work out a signal for assistance when violence erupts or appears inevitable?
- If she has a car, can she hide a set of keys?
- Can she pack an extra set of clothes for herself and the children, and store them—along with an extra set of house and car keys—with a neighbor or friend?
- Can she leave extra cash, checkbook, or savings account book hidden or with a friend for emergency access?
- Can she collect and store originals or copies of important records such as birth certificates, social security cards, drivers' license, financial records (such as banking and other financial accounts, mortgage or rent receipts, the title to the car, etc.), and medical records for herself and her children?
- Does she have a concrete plan for where she should go and how she can get there regardless of when she leaves?
- Does she have a disability that requires assistance or a specialized safety plan?

- Does she want access to counseling for her children or herself?
- Are there any other concerns that need to be addressed?

DOMESTIC VIOLENCE AND THE CRIMINAL JUSTICE SYSTEM

INITIAL CONTACT WITH THE LEGAL SYSTEM THROUGH 911 EMERGENCY CALLS

Domestic violence calls should receive priority from law enforcement agencies. Dispatchers should be specially trained in how to handle such calls, including victim sensitivity and nonjudgmental attitudes in cases of repeat calls. Information dispatchers should obtain the information that is essential to police response:

- Who is calling.
- Address of complainant.
- Telephone number (usually automatically provided by computer in 911 systems).
- Location of caller if not at the scene of the crime.
- Who is present (including children).
- What is happening (is the victim and/or others in household safe?).
- Whether weapons are present.
- Whether there are any injuries to victim(s) and/or witnesses.
- Status of the alleged assailant:
 - Location of assailant.
 - Prior history of abuse by assailant.
 - Any court orders or protective conditions in effect.
- Status of the offender within the criminal justice system (when applicable).
- Lethality assessment: Is the assailant threatening the use of violence, the use of force, the use of weapons, or suicide or other lethality indicators (see the lethality assessment checklist in “Prosecutor Role in Lethality Assessment” later in this chapter).

Police dispatchers are encouraged to remain on the line to maintain contact with a victim in crisis and to be able to relay important information to the responding law enforcement officer(s). The 911 call is invaluable for later criminal justice intervention because it contains information as to who was doing what to whom and the impact of the violence on the victim and children.

POLICE RESPONSE/ARREST

Many law enforcement agencies have developed and implemented protocols and policies for responding to domestic violence. As crisis responders, both victim sensitivity and caution are

vital to the safety and security of all involved. In addition, responding officers can provide a valuable service to victims of domestic violence by offering them information and referrals to assistance and support from victim service providers.

A law enforcement protocol for responding to domestic violence can include the following objectives:

- Obtain as much information as possible from the dispatcher.
- Approach the scene with caution, preferably with a partner.
- When the alleged assailant is present, immediately separate him from the victim.
- When the alleged assailant is *not* present, immediately attempt to ascertain his location.
- Secure the scene and check for weapons. Make mental notes about the condition of the scene. Check for the presence of witnesses, especially children.
- Immediately detect signs of injury to the victim(s) and seek emergency medical treatment, as needed.
- Interview victim and any witnesses separate from the assailant/offender:
 - Maintain sensitivity toward the victim(s).
 - Be accurate and thorough, because the police report will be the basis for the case.
 - Determine history of violence.
- Collect the following evidence:
 - Record “excited utterances” (excited statements made by victims or witnesses at the critical stage immediately following the arrival of law enforcement), which may be allowed into court as exceptions to the rule against hearsay.
 - Record statements from victim(s), witness(es), and alleged assailant.
 - Observe demeanor of victim and alleged assailant.
 - Photograph victim and crime scene.
 - Take notes and draw sketches that describe the crime scene.
 - Obtain a copy of the emergency response or dispatcher audiotapes (911 call) and/or police videotape of scene.
 - Include medical and emergency room records.
- Determine “probable cause” for arrest.
- Determine violation of any court order, injunction, or specific conditions of probation and parole.
- Provide information about domestic violence to the victim. This information includes statements such as “You are not responsible for his violence.” “You do not deserve to be abused.” “I am concerned for your safety.” “Your children are being affected by witnessing violence against you.” “I just want you and your children to be safe, and I want him to get help for his use of violence.” “His behavior will not stop without intervention.”

- Provide any information required by law outside the presence of the abuser. This includes information about a no-contact waiver or how to bail the abuser out of jail.
- Provide an immediate referral to a shelter, domestic violence program, or victim services.
- Follow-up with the victim after the initial contact to determine her current status and to take additional photos.

POLICE REPORT

Because domestic violence cases are prosecuted largely without the assistance of the victim, it is crucial the officer recognize his/her role as the chief witness for the case. The officer will be the witness who provides both the eyes-at-the-scene report for the jury and an impartial—and thus, credible—description of what occurred. This person is the “make-it-or-break-it” witness. The officer’s testimony, coupled with an explanation of why the victim acts as she does, is generally all that is needed for successful prosecution. The police report is the crux of the prosecution and must be thorough, accurate, and nonjudgmental. The following items are needed in the police report for successful prosecution with a reluctant witness:

1. Times (incident, arrival, statement).
2. What parties are present? If certain parties are not present, where are they? Document your effort to locate missing party(ies) and how they responded if located.
3. Record (describe) the emotional state of the victim and suspect. This information is needed to establish the foundation for testimony.
4. Determine injury to victim; injury to suspect. Self-defense? Strangulation? Attach a body map with victim/suspect injury (e.g., marks, bruises, swelling, or statement of the same).
5. Obtain nonconsent statement from victim, if appropriate, i.e., nonconsent to injury by the suspect. In some states nonconsent is an element of crime.
6. Describe the scene, especially where parties say the incident occurred. Does the injury match the story? Is anything disturbed? Are there any signs of force?
7. Determine relationship of victim/suspect: Where did they live in the past few years? Who are their relatives and friends?
8. State if children are present or not present and witnesses or involved. Also, describe the involvement of children.
9. Take pictures of the victim and suspect. Take pictures of the condition of the home and places of incident/injury. Repeat photos of injuries several times later.
10. Collect evidence. Telephone? Torn clothing? Weapons? Blood stains? Any items used to defend or injure?
11. Determine if medical attention was sought. Obtain a copy of the medical release.

12. Note when any of the following are present: temporary order or injunction; probation; alcohol or other drug for victim/suspect; suicide threats; and/or abused pets.
13. Include all statements/excited utterances from parties—make no editorial/speculative remarks.
14. Note how the parties interact. For example: the suspect's treatment of the victim; who answers questions; description of language and behavior directed at the victim by the suspect; victim's eye contact or continual "checking in" with the suspect.
15. Record witnesses' names, addresses, telephone numbers, workplaces, relationship, and the same information for family and friends.
16. Note how the responding officer can reach the victim during the next twenty-four hours: name, address, workplace, family contact name and telephone number, and the telephone number of a person who knows how to reach the victim.
17. Take notes for narrative: victim statement; suspect statement; witness and child's statement; probable cause for arrested party; description of injuries to both parties; possibility of self-defense; any history of abuse; presence of risk factors. Determine if statements of incident match the physical evidence and injuries. If not, how do they differ? Are there self defense wounds such as bite marks, scratches, marks on suspect's knuckles or hands?
18. Request to save the 911 tape and request a copy of the videotape, if either exists.

PRETRIAL RELEASE AND TRIAL STRATEGY: ADVOCATE AND PROSECUTION ROLE

Many prosecutors have victim support programs within their agencies or rely upon services available from community-based victim service organizations. Services for victims of domestic violence may include the following:

- Completing the intake process for a criminal case, which includes histories of the victim and any children; case history; court orders (when applicable); victim/defendant description; information about the current incident and the history of violence; defendant information; and referrals.
- Assistance in securing protective measures.
- Referral to appropriate victim and social service agencies.
- Court preparation.
- Court accompaniment.
- Providing information about civil and criminal remedies.
- Providing counseling and support groups.
- Ongoing use of victim-centered advocacy.

The safety of the victim and any children must be paramount in any decisions made concerning pretrial release. Victim service providers should provide the prosecutor with the following information and advocate for these measures to help ensure victim security:

Information to convey to the prosecutor.

- Wishes of the victim, including wishes for batterer to receive treatment including alcohol or other drug treatment. Victim-centered advocacy should be used to ascertain the victim's wishes.
- Concrete steps that could be taken by members of the legal system to ensure victim safety and to hold the abuser accountable.
- Whether the victim is reluctant to testify.
- Information as to the victim's beliefs regarding lethality assessment (see checklist below).
- Need for the abuser to know the decision to prosecute rests with the state—not with the victim. This can reduce the likelihood that the abuser will pressure the victim throughout the trial.

Safety measures to suggest to the prosecutor, dependent on the victim's situation:

- Pretrial incarceration.
- Higher bail/bond or denial of bail.
- Victim notification of defendant's release.
- No contact between the victim and the defendant as a condition of bond and/or condition of release. Generally, no contact should be ordered in all cases to avoid further abuse.
- Protective or restraining orders and their enforcement.
- Alternative safe housing for the victim and any children.

In some jurisdictions, postcharge diversion programs are used to suspend case processing while the abuser undergoes batterers' treatment. Victim service providers must be aware of these programs and able to explain them to victims, including program guidelines; treatment modalities; and whether or not the defendant will be prosecuted upon "successful" completion of the program as well as what could happen if he does not complete it.

PROSECUTION AND THE COURTS

When prosecuting domestic violence cases, all members of the criminal justice system need to proceed with two goals in mind at all times: provide safety for the victim and hold the abuser accountable for his behavior. The victim will make decisions about what she believes best protects her and her children. Her decisions may appear to conflict with the desires of one or more members of the criminal justice system. Victim advocates should anticipate this tension and be prepared to explain why it exists. They should not force or expect a victim to act

against what she believes best provides for her safety; to do so puts her at high risk of abuse/death.

Prosecutors play a key role in holding domestic violence offenders accountable and in assisting victims and witnesses in such cases. In 1998, the National Council of Juvenile and Family Court Judges published two recommendations for prosecutors relevant to domestic violence:

- Prosecutors should initiate, manage, and pursue prosecution in all family violence cases where a criminal case can be proved, including proceeding without the active involvement of the victim, if necessary.
- Prosecutors should have specialized family violence personnel and written procedures for prompt screening and charging in family violence cases.

These recommendations serve to place responsibility for prosecuting batterers on the criminal justice system rather than on the victim; to provide specialized services for victims and witnesses; and to expedite criminal justice processes in domestic violence cases. They are a reminder of the separate roles of each member of the legal system.

Many prosecutors' offices today offer specialized units for domestic violence cases and victims, with personnel trained in the dynamics of domestic violence, legal issues specific to such cases, and victim sensitivity. Furthermore, vertical prosecution units include prosecutors whose caseloads contain solely domestic violence cases.

Prosecutors are encouraged to adopt some version of a "no drop" policy in which cases proceed whether or not the prosecutor is dealing with a reluctant victim. They should avoid referring to the victim as being "noncooperative;" she *is* cooperative: she is making choices to do what she believes best enhances her safety and the safety of her children.

Prosecutors should expect to deal with victims who do not wish to testify for a variety of factors, among them fear of retaliation. Cases can and are easily won with a reluctant witness by preparing the case from the beginning as if it is a homicide case. This is done as follows:

- Use each step of the process to educate the jury. At voir-dire, ask specific questions about what prospective jurors know and believe about domestic violence. Ask questions to find out if the jurors are capable of understanding that a victim may be reluctant to testify.
- Always prepare a case as if the victim will be reluctant to testify. Even those victims who begin the process as a willing witness may become reluctant under pressure from the abuser.
- Provide training to all line officers so they know what information prosecutors need from them in their police report to prosecute a domestic violence case with a reluctant witness. Training programs should include an explanation about why this information is necessary.
- Provide training that emphasizes the need for excited utterances and their admissibility in court as an exception to hearsay rules. Prosecutors need to train police officers to be "partners" with the prosecution.

- Begin a program of “cameras for cops.” Every squad needs to be outfitted with cameras so the officer can provide a key component to a successful prosecution: pictures can document the severity of the abuse the victim is attempting to minimize, explain away, or deny.
- Use the police officer who responded to the call as the chief witness. This person provides information regarding “excited utterances” from the crime scene (i.e., excited statements made by victims or witnesses at the critical stage immediately following the arrival of law enforcement). The officer will also provide other information (see “Police Report” earlier in this chapter).
- Use testimony from family members or witnesses, including their statements of past abuse.
- Use 911 audio tapes.
- Use sworn statements of victims.
- Use testimony from victim advocates.
- Use videotapes of victims from initial interviews.
- Use expert witnesses unless the prosecutor chooses to explain the victim’s reluctance.
- Subpoena the victim to appear at the trial. In most cases, the reluctant witness will appear for the trial, but may minimize or explain away the incident(s). The victim may even deny what occurred, although this is less likely to occur with the use of a 911 tape. In a few cases, the victim does not show up at all for the trial. The prosecutor who subpoenas the victim allows her to be clear about the role of the state in prosecuting this case; and it clearly tells the abuser that the victim is attending the trial because she has been ordered by the court to appear. Victims report they are in less danger from the abuser when they show up at court because of a court order (the subpoena).

In some cases, the victim does not show up even with the issuance of a subpoena. The prosecutor needs to decide how crucial the victim’s testimony is to determine whether the prosecutor will send an officer out to bring the victim in for the trial. Generally, if the prosecutor has prepared the case well and has the testimony of a police officer regarding the incident, the case can go forward without the victim’s presence. It is absolutely contrary to the goals of the criminal justice system to prosecute a victim for failure to respond to a subpoena. This action gives the victim the message that if she calls for help, she will be punished. It also gives the abuser another tool for manipulation by reminding the victim that the criminal justice system will not take her fears seriously if she calls for help. This defeats the purpose of prosecution in these cases and further endangers the victim’s safety while contributing to the abuser’s belief system that she is the problem.

PROSECUTOR ROLE IN LETHALITY ASSESSMENT

Throughout the trial, the prosecutor needs to do a lethality assessment to make choices relevant to major decisions such as whether to subpoena the victim to appear; whether to set no contact conditions; and whether to provide enhanced safety measures. The prosecutor also needs to present this information to the judge and the jury so they understand the severity of the abuse and the likelihood of its continuation.

While all batterers are dangerous, some are more likely to kill than others are, and some are more likely to kill at specific times. Assessment is difficult and never foolproof. The following checklist (adapted from *Beyond the Duty to Warn*, written by Barbara Hart) provides a list of issues to be explored with the victim to assess lethality. The presence of any of the following factors does not mean the batterer will kill; however, the greater number of these indicators demonstrated by the batterer or the greater the intensity of the indicators, the greater the likelihood of a life-threatening attack. When assessing lethality, it is important to gather information about these indicators from the batterer and the battered victim separately. Further, information obtained from the victim is significantly more reliable than that from the batterer. Finally, lethality is to be assessed for the victim, family members and those who assist the victim.

1. *Threats of homicide or suicide.* The batterer who has threatened to kill himself, his partner, the children and/or relatives must be considered extremely dangerous.
2. *Fantasies of homicide or suicide.* The more the batterer has developed a fantasy about who, how, when, and/or where to kill, the more dangerous the batterer may be. A batterer who has previously acted out part of a homicide or suicide fantasy may believe killing is a viable “solution” to his “problems.” As with suicide assessment, the more detailed the plan and the more available the method, the greater the risk.
3. *Weapons.* When a batterer possesses weapons and has used them or threatened to use them in the past, access to weapons increases the potential for lethal assault. The use of guns is a strong indicator of homicide potential. If the batterer has a history of arson, fire should be considered a lethal weapon.
4. *Depression.* If a batterer is acutely depressed and sees little hope for moving beyond the depression, the batterer may be a candidate for suicide or homicide.
5. *Alcohol or other drug consumption.* Consumption of alcohol or other drugs when in a state of despair or fury can escalate violence.
6. *Obsessiveness about partner or family member, also exhibited as “ownership” of the battered partner.* A batterer who obsesses about his or her partner, indicating an unwillingness or inability to live without the partner, likely believes he or she is entitled to the partner no-matter-what. Statements such as “death before divorce,” or “you belong to me and no one else can ever have you,” are an indication that the batterer believes his or her partner has no right to a life separate from the batterer. A batterer who believes in entitlement to his partner, including the partner’s services, loyalty, and obedience, is likely to be life threatening.
7. *Centrality of the partner.* A batterer who either idolizes or depends on his partner to organize and sustain his life, or who isolates himself from the community, may find the loss of his partner represents the loss of hope for the future. If the batterer’s partner tries to leave or end the relationship, the batterer may retaliate against the partner, rationalizing that the partner’s “betrayal” justifies a lethal reaction. The prosecutor should become familiar with what, if any, support system the batterer has created for himself aside from the victim.

8. *Pet abuse.* If a batterer assaults or mutilates pets, he is more likely to kill a partner.
9. *Rigid beliefs about partner roles.* A batterer who has rigid beliefs about the roles to be assumed by himself and his partner may be more likely to seriously harm or kill the partner. For example, a batterer whose religious beliefs say the man is to be in charge may feel sanctioned to engage in violence.
10. *Repeated outreach to law enforcement.* Partner homicide almost always occurs in the context of a history of violence. If law enforcement is called repeatedly, this pattern may indicate that the batterer is not internally motivated to change his or her behavior. Prior calls to law enforcement likely indicate an elevated risk of life-threatening conduct.
11. *Separation violence.* The most life-endangering rage usually occurs when the batterer believes his partner intends to leave, and the batterer does not desire a life alone.
12. *Escalation of batterer personal risk.* When a batterer begins to act without regard to the legal or social consequences that previously constrained his or her violence, chances of lethal assault increase. One example of this could be the closeted gay or lesbian batterer who is now risking exposure by engaging in severe, life-threatening attacks. Risking the loss of invisibility may be an indication that the batterer is very desperate.
13. *Hostage-taking.* A hostage-taker is at high risk of committing homicide. Between 75 to 90 percent of all hostage-takings in the United States are related to domestic violence situations.
14. *Access to the partner or the partner's family members.* If the batterer cannot find his partner, he cannot kill the partner. If the batterer does not have unsupervised access to the children, the batterer cannot use the children as a means to have contact with his partner. Careful safety planning and police assistance are required when there is to be contact between the batterer and the victim for such things as court appearances, custody/visitation exchanges, or family functions.

JUDICIAL RESPONSE TO POLICY REGARDING DOMESTIC VIOLENCE CASES: DOCKETING

More and more courts today are giving priority to domestic violence cases. In some jurisdictions, all domestic violence cases are heard on the same day, with the same judge, prosecutor, and victim advocate present throughout all proceedings. This use of vertical prosecution units also expedites handling of domestic violence cases. To reduce the potential for further violence, domestic violence cases should be given priority on court dockets. The judge has the greatest, if not total, influence over the docketing calendar.

JUDICIAL RESPONSE DURING TRIAL

The judge has an enormous opportunity to contribute to victim safety and hold the batterer accountable by making appropriate decisions regarding whether to allow pretrial release, and if so, what conditions to place on the abuser. During the course of the trial, the judge sets the tone for questioning in the courtroom. At the time of sentencing, the judge has an excellent opportunity to provide victim safety and to hold the abuser accountable through the use of sentencing options.

These options begin with the judge requesting the following information from the prosecutor:

- Has the prosecutor consulted with the victim to determine her wishes?
- Has the prosecutor ascertained information from the victim outside the presence of the abuser? If not, how does the prosecutor know whether the wishes are coerced by the abuser?
- Has the prosecutor explained to and explored the dynamics of abuse with the victim?
- Has the prosecutor conducted a lethality assessment with the victim? If so, the judge can request the results of this assessment. If not, the judge can delay a decision and the proceedings until such an assessment is conducted.
- What is the defendant's prior record? The judge is then able to determine what conditions are appropriate, including no contact based on an alcohol or other drug assessment, and lethality assessment.

JUDICIAL RESPONSE AT THE TIME OF SENTENCING: MONITORING OFFENDERS

In *Spousal/Partner Assault: A Protocol for the Sentencing and Supervision of Offenders* (1994), former Chief Probation Officer Andrew Klein of Quincy, Massachusetts, offers four key components of strict supervision conditions:

- Punishment.
 - Punitive conditions.
 - Financial assessments.
 - Apology to victim.
 - Community service.
 - Nonjail loss-of-liberty confinement (in cases not involving incarceration).
 - Electronic monitoring.
 - Intensive supervision.
- Rehabilitation.
 - Mandatory treatment that is "batterer-specific" provided by professionals who are specialists.
 - Model regulations for abuser treatment that bar any approach that "blames or intimidates the victim or places the victim in a position of danger that is not appropriate."
 - No couples counseling (keep victim separated from abuser).
 - Mandatory alcohol and other drug treatment, with a mandate of abstinence.
- Retribution/restoration.
 - Restitution (including direct and indirect for replacement costs of damaged property, medical and counseling bills, and attorney costs).
 - Ongoing child support.

- Mortgage or rent payments.
- All payments should be made through the court or correctional institution.
- Protection. The offender should:
 - Obey all outstanding civil protective or restraining orders.
 - Forfeit weapons, particularly guns and rifles.
 - Submit to warrantless searches of person or home.
 - Be supervised at maximum intensity.
 - Satisfy special protective obligations when children are involved such as custody, visitation, etc.

Batterers Intervention Programs. Generally, there are six basic principles upon which successful intervention and treatment programs for batterers are based:

- The batterer is responsible for his behavior. The victim cannot cause the violence or eliminate it.
- Provocation does not provide justification for violence.
- Violence is a behavior of choice—a dysfunctional, destructive choice with negative consequences.
- Nonviolent alternatives to violence exist as functional, appropriate choices.
- Violence is a learned behavior. Just as the perpetrator learns to be violent, so he or she can learn to be nonviolent.
- Violence affects all family members. Although this impact may be less obvious, children learn that violence is an acceptable method of problem solving.

Seven common mainstream procedures for batterers intervention programs were identified by the National Institute of Justice:

1. *Intake.* First contact with batterer referred by the criminal justice system.
2. *Assessment.* Client agrees with terms of the program and is assessed for dangerousness, extent of abuse, substance abuse, mental illness, illiteracy, or other obstacles to treatment.
3. *Victim contact.* Victims may be notified about the batterer's status in the program, of any imminent danger, and victim services.
4. *Orientation.* An initial phase of group intervention that may be more didactic than later meetings.
5. *Group treatment.* A setting for a specific educational curriculum or less structured discussions about relationships, anger-management skills, or group psychotherapy.
6. *Leaving the program.* Batterers may complete the program, be terminated for noncompliance, or be asked to repeat the program.

7. *Followup*. May consist of informal self-help groups of program graduates or less frequent group treatments (Healey, Smith, and O'Sullivan 1998).

There are a number of significant barriers to effective batterers treatment programs, most notably the overall lack of enough programs to meet the needs of convicted domestic violence perpetrators in the United States. Other factors that adversely affect the success of batterer treatment are as follows:

- Offenders who are ordered or mandated by a court to attend a treatment program and may be resistant to change and therefore unwilling to participate.
- Many batterers programs are short in duration (ten to twelve weeks), and may be inadequate to change a behavior learned and acted out over a lifetime.
- Many convicted perpetrators drop out of court-ordered treatment programs prior to completion and sometimes without appropriate sanctions from the court.
- Since most batterers treatment programs require the offenders to pay for the service, it is considered by some batterers to be cost-prohibitive.
- If a batterer, who is also alcohol/drug dependent, receives treatment only for the violent behavior, then the correlating factor of substance abuse is not addressed.

DISPOSITIONS

Victims of domestic violence should have specific rights relevant to disposition, which include the following:

- Consultation with the prosecutor prior to any plea agreement.
- Notification of the disposition.
- Opportunity to provide a victim impact statement to the court, and to have any children also submit impact statements in measures that are commensurate with their age and cognitive development.
- Input into specific conditions of community supervision (in cases resulting in probation).
- Opportunity to request specific measures of relief.
- Securing a permanent restraining order that does not have to be reissued on a monthly or quarterly basis.
- Information and assistance regarding civil remedies.
- Information regarding restitution orders and other financial or legal obligations and enforcement.
- Notification of a convicted offender's release from incarceration (when applicable) or violation of any terms of community supervision.

ORDERS OF PROTECTION

Orders of protection—also called “restraining orders”—are court orders that forbid the abuser from doing certain things to victims, having contact with victims, and/or compelling abusers to comply with certain requirements.

While orders of protection can be issued at any time, it is helpful for victims to seek restraining orders as soon as possible after a domestic violence crime has occurred.

Each jurisdiction has different policies and procedures for issuing and monitoring orders of protection. To best assist victims, service providers should be aware of the following considerations to maximize community response to domestic violence:

- A definition of “domestic violence victim” that precedes the issuance of a protection order.
- The entity which issues orders of protection—family court, municipal court, police department, or a combination depending on the circumstances.
- Domestic violence complaints filed in conjunction with requests for protection are considered to be sworn testimony from the victim that can be utilized in court.
- Whether the victim can receive a copy of either the complaint or the order of protection.
- Whether the victim is entitled to “ex parte” proceedings (only one party, e.g., in this case, the victim, is present before the court, with the defendant not present).
- The difference between temporary restraining orders (TROs) and final restraining orders (FROs) in a jurisdiction.
- What evidence victims should bring (photographs documenting injuries, documentation of medical records and/or expenses, etc.).
- What happens at the hearing (victim testimony, defendant testimony, presentation of evidence, request for relief by the victim, etc.).
- The types of relief available, including—
 - No contact from defendant.
 - Prohibition of future acts of violence, intimidation, or harassment by the defendant.
 - The defendant physically leaving the home and paying child support, restitution, and/or rent or mortgage payments.
 - Carrying insurance for the victim and any children to cover all medical expenses.
 - Paying a fine to the state victim compensation fund.
 - No possession of a weapon.
 - Counseling.
 - Refraining from using alcohol or other drugs.
 - Visitation conditions (when applicable).

- That consent orders (whereby both parties agree that domestic violence has occurred and agree to abide by all terms of a restraining order) are strictly voluntary on the part of the victim, and cannot be coerced.
- That victims should receive information about what to do if any order of protection is violated.
- That advocates should be familiar with and able to explain the full faith and credit law (see “The Federal Domestic Violence Laws and the Enforcement of Those Laws” later in this chapter).

THE EFFECTS OF DOMESTIC VIOLENCE ON CHILDREN

It is significant that seven out of ten persons who enter domestic violence shelters are children. In 1998, the Centers for Disease Control published a study that indicated violence against mothers by their intimate partners may also pose a concurrent risk of abuse to the victim’s children. Conversely, mothers of abused children are at a higher risk of being abused than mothers of nonabused children. Concurrence of child abuse is defined as the proportion of families in the population or research sample in which women and their children are victims of abuse by an intimate. In the mother’s case, the intimate is her partner; the child may be abused by either the mother’s intimate or by the battered mother. A continuing controversy regarding the prevalence of this type of abuse exists, but most authorities describe the concurrence rate as approximately 50 percent (McKibben, DeVos and Newberger 1998; Ross 1996).

Children are often incorporated into patterns of abuse. Batterers may also do the following:

- Physically or sexually abuse their children.
- Neglect children emotionally or financially.
- Threaten to harm the children.
- Use the children as “pawns” in episodes involving partner neglect or abuse.
- Attempt to get children to “take sides” in partner disputes.
- Degrade and humiliate their partners in front of the children.
- Threaten to or actually cut off financial support for children in the event that the partner leaves the battering environment.

The effects on children who witness family violence or who, in some cases, are themselves victims, were summarized in *Family Violence: An Overview* published by the National Center on Child Abuse and Neglect (NCCAN) (n.d.). The ramifications of family violence have almost no boundaries. In addition to the obvious physical injuries and deaths that result, family violence is often cited in research and clinical case studies as contributing to numerous other individual, family, and societal problems:

- According to Pagelow (1984, 81), “Victims of all types of family violence share a common experience of denigration of self that results in diminished self-esteem. The shame and feeling of worthlessness so often expressed by battered women are shared by maltreated children, as well as maltreated elderly parents.”
- In their review of research on the effects of family violence on children, Crites and Coker (Spring 1988) report:
 - Children learn from an important role model (the parent) that violence toward a loved one is acceptable.
 - Children exhibit fear, emotional symptoms such as psychosomatic complaints (physical complaints created by psychological stress), school phobias, enuresis (bed wetting), and insomnia. Young children may try to stop the violence, thus putting themselves at risk for unintended harm or may respond with immobilized shocked staring, running away and hiding, or bed wetting and nightmares.
 - After age five or six, children show strong indications of identifying with the aggressor and losing respect for the victim.
- Many children suffer low self-esteem, sadness, depression, stress disorders, poor impulse control, and feelings of powerlessness, and they are at high risk for alcohol and drug use, sexual acting out, running away, isolation, loneliness, fear, and suicide (Jaffe, Wolfe, and Wilson 1990, 28-29).
- Sons become aggressive, “act out, become disobedient and behave defiantly and destructively,” whereas daughters become “withdrawn, clingy, dependent” (Ibid., 35).
- Some adolescent boys assault their mothers and siblings. Older children, especially girls, take on the burden of protecting their younger siblings during the father’s beatings. They feel constrained from leaving home (Ibid., 30-31).
- Abusers who are extremely domineering and controlling frequently keep or destroy documentation (such as birth certificates and immunization records) as part of their control of the family, thus preventing or seriously delaying the family from receiving welfare benefits or housing assistance (Ibid., 28-29).
- When a victim of domestic violence leaves the relationship, many times she is isolated, scared, and has no place to go. The abuser has made sure she has no outside support system. Additionally, she may not have access to any funds to pay for food or shelter for her and her children. Lack of funds and long waiting lists on affordable housing may require a victim to choose between staying in the relationship or living on the streets. A number of studies have concluded that domestic violence contributes to homelessness, particularly among families with children.
- Recently 44 percent of cities surveyed by the U.S. Conference of Mayors responded that domestic violence is the primary cause of homelessness (Waxman and Trupin 1997). Similarly, children who are desperate to leave violent home environments run away from home, living on the streets or seeking temporary shelter relief.

DEVELOPING A COORDINATED RESPONSE TO DOMESTIC VIOLENCE

Victim advocates, criminal justice professionals, social service providers, and allied professionals cannot operate in a vacuum when it comes to providing quality services to victims of domestic violence. There are many professionals who have responsibilities to domestic violence victims. In a lecture to the American Probation and Parole Association's Annual Institute in Phoenix, Arizona, in 1994, national domestic violence researcher and advocate Sarah Buel identified the following key components of a model domestic violence response by the community:

- Develop and implement a coordinated response with strong advocates from criminal justice, victim services, children's services, and allied professions.
- Establish a Family Violence Coordinating Council with monthly meetings to set an agenda and action plans for the community and to determine and clarify roles and responsibilities of individuals and entities.
- Do not allow mediation between domestic violence victims and perpetrators because it creates a "power versus powerless" structure and poses danger for the victim. All interviews of victims and offenders should be conducted separately.
- Do not allow joint custody under any circumstances.
- Do not allow mutual restraining orders unless there are separate petitions with separate supporting findings. Use a checklist for probable cause; determine the history of abuse (through both criminal and civil proceedings); utilize evidence such as 911 tapes; and determine if the victim has a prior history of abuse.
- Do not allow couple's counseling.
- Implement child visitation centers (such as those in Arizona) that provide supervision, with drop off/pick up times staggered to avoid any contact between the victim and perpetrator.
- Implement parenting classes in every junior high school.
- Implement a massive community education program, designed to be proactive and to offer information and resources *before* women and children are victimized.
- Implement court appointed special advocates (CASAs) and guardian ad litem (GAL) programs to provide advocacy, support, and representation to children in domestic violence cases.
- Offer twenty-four-hour response to victims, as well as twenty-four-hour access to services.
- Implement mechanisms to enforce child support and hold fathers financially accountable.
- Conduct mandatory and frequent training of all professionals whose work involves domestic violence prevention, advocacy, and/or intervention, including orientation training, continuing education, and multicultural awareness.
- Allow for permanent or indefinite restraining orders and orders of protection, eliminating the need for regular renewals.

- Implement frequent briefings on cases and issues affecting victims and the community.
- “Fast track” domestic violence cases through priority docketing, specialized domestic violence courts, and vertical prosecution.

Many communities, counties, and states have formed Domestic Violence Coordinating Councils to address prevention, early interventions, victim assistance, and coordinated responses from the criminal justice system and community in responding to domestic violence. Such Councils serve a variety of purposes:

- Determining how individuals and agencies in the public and private sectors respond to domestic violence and providing an ongoing forum to coordinate existing efforts and to plan for new initiatives.
- Improving the coordination of justice agencies (including law enforcement, prosecutors, courts, probation, prisons, and parole) in domestic violence prevention and response as well as services for both victims and offenders.
- Reviewing policies, protocols, and procedures relevant to domestic violence within justice agencies and making recommendations for improvement and for interagency policies that promote better coordination of services.
- Collaboratively seeking support (including financial and human resources) from the community for domestic violence prevention and victim assistance services.
- Developing and promoting public education and community awareness campaigns about domestic violence, which include publicizing available services and community-based resources for information and referral.
- Coordinating public awareness activities during relevant commemorative observances such as National Domestic Violence Awareness Month in October and National Child Abuse Prevention Month in April.
- Reviewing state and jurisdictional laws relevant to domestic violence prevention and response and making recommendations that contribute to a legislative agenda on domestic violence.
- Developing short- and long-range strategic plans for preventing and responding to domestic violence within the jurisdiction of the Council.

See *Appendix B* for a comprehensive community checklist (1996) detailing important steps to end violence against women, developed by the National Advisory Council on Violence Against Women, established in 1995 by Attorney General Janet Reno and Secretary of Health and Human Services Donna E. Shalala.

THE FEDERAL DOMESTIC VIOLENCE LAWS AND THE ENFORCEMENT OF THOSE LAWS

(The following section is excerpted from an article written by Margaret S. Groban, Violence Against Women Act Specialist, Executive Office for U.S. Attorneys, U.S. Department of Justice, April 1999.)

In 1994, the Congress of the United States, as part of the Crime Bill, enacted legislation empowering the federal government to participate in the fight against domestic violence. The Violence Against Women Act (“VAWA”) recognized that “violence against women is a crime with far-reaching, harmful consequences for families, children and society.” To combat this violent crime problem, VAWA provided that federal domestic violence crimes be prosecuted by the Department of Justice. Consistent with this federal initiative, the Crime Bill also amended the Gun Control Act to include domestic violence related crimes.

This [section] provides a concise summary of the federal statutes in both VAWA and the Gun Control Act that allow prosecution of domestic violence offenders in the federal courts and provides a summary of selected prosecutions under each statute and a checklist of offenses.

THE VIOLENCE AGAINST WOMEN ACT

Interstate Travel to Commit Domestic Violence. 18 U.S.C. §2261

18 U.S.C. §2261(a)(1).

It is a federal crime for a person to travel interstate (or leave or enter Indian country) with the intent to injure, harass, or intimidate that person’s intimate partner when in the course of or as a result of such travel the defendant intentionally commits a violent crime and thereby causes bodily injury. The law requires specific intent to commit domestic violence at the time of interstate travel. The term “intimate partner” includes a spouse, a former spouse, a past or present cohabitant (as long as the parties cohabitated as spouses), and parents of a child in common. The intimate partner definition does not include a girlfriend or boyfriend with whom the defendant has not resided unless protected by state law. There must be bodily injury for prosecution under this statute.

18 U.S.C. §2261(a)(2).

It is a federal crime to cause an intimate partner to cross state lines (or leave or enter Indian country) by force, coercion, duress, or fraud during which or as a result of which, there is bodily harm to the victim. This subsection does not require a showing of specific intent to cause the spouse or intimate partner to travel interstate. It does, however, require proof that the interstate travel resulted from force, coercion, duress, or fraud. As in subsection 2261(a)(1), the defendant must intentionally commit a crime of violence during the course of or as a result of the travel and there must be bodily injury to the spouse or intimate partner.

Interstate Stalking. 18 U.S.C. §2261A. As of September 23, 1996, it is a federal crime to cross a state line with the intent to injure or harass another person, if in the course of or as a

result of such travel, the defendant places such person in reasonable fear of the death of, or serious bodily injury to, that person or a member of that person's immediate family. The law requires specific intent to violate this subsection at the time of interstate travel. "Immediate family" includes a spouse, parent, sibling, child or any other person living in the same household and related by blood or marriage. It is also a federal crime to "stalk," as it is defined in Section 2261A, within the special or maritime jurisdiction of the United States.

Interstate Travel to Violate an Order of Protection. 18 U.S.C. §2262.

18 U.S.C. §2262(a)(1).

This law prohibits interstate travel (or travel into and out of Indian country) with intent to violate a valid protection order that forbids credible threats of violence, repeated harassment, or bodily injury. To establish a violation of this statute, the Government must demonstrate that a person had the specific intent to violate the protection order at the time of interstate travel and that a violation actually occurred. This statute does not require an intimate partner relationship—although this relationship may be required by the state or other governmental body issuing the order—nor does it require bodily injury.

18 U.S.C. §2262(b)(1).

It is a federal crime to cause a spouse or intimate partner to cross state lines (or leave or enter Indian country) by force, coercion, duress, or fraud during which or as a result of which, there is bodily harm to the victim in violation of a valid order of protection. This subsection does not require a showing of specific intent to cause the spouse or intimate partner to travel interstate. It does, however, require proof that the interstate travel resulted from force, coercion, duress, or fraud. The Government must also prove that a person intentionally injured an intimate partner in violation of a protection order during the course of or as a result of the forced or coercive travel. This subsection, unlike corollary Section 2262(a)(1), requires an intimate relationship between the parties.

The U.S. Department of Justice recognizes that under both §§ 2262(a)(1) and (a)(2), law enforcement may be unable to verify the validity of a protection order at the time of arrest. The national data center from which law enforcement and prosecutors now can verify instantaneously protection orders will be of enormous benefit to federal authorities in the prosecution of criminal cases under Section 2262. However, because participation in the protection order registry is voluntary and not all states are participating, it will be necessary to consult with the United States Attorney in the appropriate district for guidance in these cases.

To assist in prosecution under Section 2262, it is necessary to examine the protection order currently used in one's jurisdiction.

Penalties. Penalties for violations of Sections 2261, 2261A and 2262 hinge on the extent of the bodily injury to the victim. Terms of imprisonment range from five years for bodily injury to life if the crime of violence results in the victim's death.

FIREARM OFFENSES

Possession of Firearm While Subject to Order of Protection. 18 U.S.C. §922(g)(8). It is illegal for a person to possess a firearm while subject to a court order restraining such person from harassing, stalking, or threatening an intimate partner or the child of an intimate partner. The protection order must have been issued following an evidentiary hearing as to which the defendant had notice and an opportunity to appear. The protection order must also include a specific finding that the defendant represents a credible threat to the physical safety of the victim or must include an explicit prohibition against the use of force that would reasonably be expected to cause injury.

Transfer of Firearm to Person Subject to Order of Protection. 18 U.S.C. §922(d)(8). It is also illegal to transfer a firearm to a person subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner or the child of an intimate partner. A violation of Section 922(d)(8) must be knowing. Proof concerning knowledge on the part of the supplier may be difficult to establish without a fully operational central registry for protection orders.

Official Use Exemption. 18 U.S.C. §925. The restrictions of Sections 922(d)(8) and (g)(8) do not apply to firearms issued by governmental agencies to a law enforcement officer or military personnel so long as the officer or military personnel is on duty. Personal firearms do not fall within this exemption nor may these personnel possess officially issued firearms when off duty.

Possession of Firearm After Conviction of Misdemeanor Crime of Domestic Violence. 18 U.S.C. §922(g)(9). As of September 30, 1996, it is illegal to possess a firearm after conviction of a misdemeanor crime of domestic violence. This prohibition applies to persons convicted of such misdemeanors at any time, even if the conviction occurred prior to the new law's effective date.

Transfer of Firearm to Person Convicted of a Misdemeanor Crime of Domestic Violence. 18 U.S.C. §922(d)(9). It is also illegal to transfer a firearm to a person convicted of a misdemeanor crime of domestic violence. A violation of Section 922(d)(9) must be knowing.

Official Use Exemption. 18 U.S.C. §925. The official use exemption does not apply to Sections 922(d)(9) and 922(g)(9). This means that law enforcement officers or military personnel who have been convicted of a qualifying domestic violence misdemeanor will not be able to possess or receive firearms for any purpose, including the performance of official duties.

Penalties. The maximum term of imprisonment for a violation of Sections 922(d)(8), 922(g)(8), 922(d)(9), or 922(g)(9), is ten years.

OTHER RELEVANT STATUTES

Full Faith and Credit to Orders of Protection. 18 U.S.C. §2265. This civil law provides that a civil or criminal domestic protection order issued by a court in one state or Indian tribe shall be accorded full faith and credit by the court of another state or tribe, and is to be enforced as if it were the order of the court of the second state or tribe. This law applies to permanent, temporary, and *ex parte* protection orders that comply with the statute's requirements. To comply, the protection order must have provided the defendant with reasonable notice and an opportunity to be heard, in a manner consistent with due process. This law does not apply to mutual protection orders if (a) the original respondent did not file a cross or counter petition seeking a protective order or (b) if such a cross or counter petition was filed, but the court did not make specific findings that each party was entitled to such an order.

Amendment of the Brady Statement. 18 U.S.C. §922(s). The Brady statement requirements were amended as of September 30, 1996, to include a statement that the recipient of the firearm has not been convicted in any court of a misdemeanor crime of domestic violence. The Brady statement still does not require that the firearm recipient state whether he/she is currently subject to a valid protection order. The recipient will be compelled to fill out, at the time of receipt of the firearm(s), an ATF form requiring certification that he/she is not subject to a valid protection order.

Right of Victim to Speak at Bail Hearing. 18 U.S.C. §2263. The victim of a VAWA crime has the right to be heard at a bail hearing with regard to the danger posed by the defendant. In addition, depending upon the circumstances of the case, the United States Attorney's Office may move for pre-trial detention of the defendant.

Other Victims' Rights. 42 U.S.C. §10606(b). All federal crime victims, including a domestic violence victim, have the right to:

- Be treated with fairness and with respect for the victim's dignity and privacy.
- Be reasonably protected from the accused offender.
- Be notified of court proceedings.
- Be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
- Confer with the attorney for the Government in the case.
- Restitution.
- Information about the conviction, sentencing, imprisonment, and release of the offender.

Restitution. 18 U.S.C. §2264. In a VAWA case, the Court must order restitution after conviction to reimburse the victim for the full amount of losses.

Self-Petitioning for Battered Immigrant Women and Children. 8 U.S.C. §1154. VAWA specifically provides that battered and abused spouses and children of citizens and lawful permanent residents may self-petition for independent legal residency. This statute prevents citizens or residents from using the residency process as a means to exert control over an alien spouse or child and allows victims to remain in the United States independent of their abusive husbands/parents.

The federal domestic violence statutes provide powerful weapons for United States Attorney's Offices around the country to assist state and local law enforcement in their fight against domestic violence. Increased awareness of these federal laws will allow the U.S. Department of Justice to work in a collaborative manner with state and local counterparts in an effort to reduce one of the nation's most serious crime problems.

A checklist of federal domestic violence statutes can be found in *Appendix C* at the end of the chapter.

STATE DOMESTIC VIOLENCE LAWS

The Family Violence Division of the National Council of Juvenile and Family Court Judges, with support from the Conrad N. Hilton Foundation, provides assistance to states in drafting, enacting, or implementing domestic violence laws. Its 1998 *Family Violence Legislative Update* highlights key domestic violence public policy initiatives:

- ***Welfare reform.*** Fearing that the tightened federal rules for public assistance mandated by Congress, unrelieved by federal exemptions for victims of domestic violence could jeopardize the safety of battered women and their children, states are beginning to mandate such exemptions themselves.
- ***Full faith and credit.*** Full faith and credit laws require states to provide for full faith and credit for out-of-state protective orders. At the end of the 1997 legislative year, seventeen states had passed such statutes which, when all states follow suit, will make it much easier everywhere in the country to ascertain the existence of orders of protection issued anywhere in the country.
- ***Fee waiver.*** Federal requirements mandate that states eliminate fees charged to victims of domestic violence for orders of protection. In 1997, Louisiana and Nevada mandated that these fees be charged to abusers instead.
- ***Enhanced penalties.*** These laws include among others: enhanced penalties for repeat offenders, making violation of protective orders a felony in cases where the violation constitutes an assault, and increasing penalties for persons who commit acts of domestic violence while they are subject to a protection order.
- ***New crimes of domestic violence.*** In response to the mounting evidence of the detriment that witnessing domestic violence causes children, a handful of states have created new crime categories for committing acts of domestic violence in the presence of children.

Three states have also made it a law to interfere with the reporting of domestic violence. Certain abusers who typically rip the phone out of the wall in order to prevent the police from being called can now be charged for this act as well.

- *Tightened bail/release.* Some states mandate that courts consider victim safety in setting conditions for releasing defendants charged with domestic violence. Some states now also require the imposition of specific release conditions intended to safeguard the victim, including stay-away, no-contact, and no-firearm-possession provisions.
- *Insurance discrimination.* Nearly all states bar insurance discrimination against victims of domestic violence.
- *Batterer treatment/intervention.* These laws may permit or mandate courts to require attendance at batterer treatment/intervention programs for convicted offenders and/or require such programs to be certified to comply with state standards.
- *Custody and visitation.* A number of states statutorily added domestic violence as a factor courts must consider in determining custody or visitation arrangements. In 1997, Massachusetts barred visitation in cases where one parent is convicted of the death of the other by murder in the first degree (National Council of Juvenile and Family Court Judges 1998).

OTHER STATE LEGISLATIVE TRENDS AND ISSUES

In its 1998 “Family Violence Legislative Update,” the National Council of Juvenile and Family Court Judges identified a number of trends in domestic violence legislation:

- Making it easier for victims to keep their addresses confidential when obtaining and maintaining restraining orders.
- Limiting the use of mediation to determine custody and visitation issues in cases where there is domestic violence.
- Creating fatality review commissions.
- Mandating that employers begin to address the safety of victims of domestic violence in the workplace.
- Requiring hospitals to provide the parents of newborn babies with information about domestic violence and its effect on children.
- Authorizing courts to take an offender’s property and garnish a portion of his wages to meet unpaid restitution obligations to his victim.
- Making it a crime to reveal the location of a shelter.

PROMISING PRACTICES

- *Law Enforcement Response Procedures for Children.* The Austin (Texas) Police Department’s Domestic Violence Unit teaches police officers that they must:

- Ensure that every incident reported indicates whether children live in the home, where the children were during the incident, and where they were located when the officer arrived.
 - Let hiding children know the police officers are in the room and then count to five before opening the door or looking under the bed.
 - Kneel down to the child's level when speaking to him or her and calmly ask open-ended questions.
 - Ask the child "How can I help?"
 - Photograph every child whether or not they have visible injuries
 - Document the name, age, school, and teacher of each child in order to alert teachers of the situation.
- One of the most promising innovations in the legal system is the unified family court, which is being implemented in an ever-increasing number of states. Judge Robert W. Page describes the unified family court as "a court for families." A genuine unified family court has authority over child abuse and neglect; divorce, child custody, and visitation; partner abuse; elder abuse; juvenile delinquency; termination of parental rights; and other family law matters. The National Council of Juvenile and Family Court Judges recommends that the family court should have "criminal jurisdiction over adults for crimes committed against family and household members."

In a paper delivered at the National Conference on Family Violence: Health and Justice in 1994, Judge Page's description of the advantages of a unified family court was offered:

The primary advantage claimed for a family court system is the unification of all complaints, petitions, and case types within one case processing and management system in order to provide a more efficient, less costly and damaging, consistent and longer lasting resolution of the problems presented. By directing that all complaints or petitions must be resolved in one unified court, the opportunities for inconsistency and errors based upon inaccurate or incomplete information are greatly reduced (Myers 1994, 3).

- *Advocacy for Women and Kids in Emergencies (AWAKE)*. The nation's first hospital-based program that offers advocacy and support to abused mothers at the same time that the hospital is providing protection to abused children was created in 1986 by Children's Hospital in Boston. AWAKE was formed to broaden child abuse programming to include intervention on behalf of battered women and to coordinate services that are often offered separately, and in conflict, to women and children. In the AWAKE program, battered women with abused children are paired with an advocate experienced in family violence. The advocate devises an immediate safety plan that is updated during each subsequent contact and is designed to keep mothers and children together and safe. Input is sought from a multidisciplinary team (Child Protection Services, District Attorney, Department of Social Services, and outside agencies). Long-term supportive services are also offered to these families. In addition, a 1994 program expansion began offering services at a health center located in a public housing development that are provided by two bilingual, bicultural advocates (FVPPF 1997).
- The Alexandria, Virginia-based Institute for Law and Justice (ILJ), with support from VAWA, has identified over 350 Web sites related to domestic violence. In a summary

contained in the *1998 Report: Evaluation of the STOP Formula Grants Under the Violence Against Women Act of 1994*, ILJ identified eight types of information available to practitioner audiences that can be adopted by other agencies (Burt et al. July 1998):

1. Model police protocols for arrest policies and procedures.
 2. Model protocols for prosecutors agencies.
 3. Model training programs for police and other criminal justice personnel.
 4. Guidelines for enforcement of out-of-state civil protection orders under the constitutional full faith and credit clause.
 5. Interagency agreements and plans among county agencies to enforce domestic violence laws.
 6. Batterer intervention program operational manuals.
 7. Informational pamphlets for victims of domestic violence.
 8. Physician guides for recognizing and treating domestic violence as a health problem.
- ILJ's link page to more than 350 Web sites is located at < www.ilj.org/dv > .
- An on-line Domestic Violence Shelter Tour and Information Site was created by Victim Services, Inc. of New York City. This innovative Web site includes a tour of a domestic violence shelter and features photos and the voices of women who have sought shelter with Victim Services; a children's art gallery of drawings by children who have survived domestic violence; a map that identifies domestic violence resources available across the United States; links to over 150 domestic violence Web sites around the world; and general information about domestic violence and victim assistance. The Victim Services Domestic Violence Shelter Tour and Information Site is located at < www.dvsheltertour.org/ > .
 - *Community Partners*. The East Boston Neighborhood Health Center has trained all its staff to identify and report incidents of violence against women to designated staff members. For example, janitors and clerical workers are asked to contact the nurse supervisor if they witness dangerous behavior on the premises. By teaching all staff that they are important links in keeping victims safe, the center reports an increased awareness among nonmedical personnel about violence against women crimes and improved collaboration with local services in planning for safety.
 - The California Youth Authority (CYA) Office of Prevention and Victim Services has created a series of *Technical Assistance Bulletins* that are designed to educate its staff about important victimization issues that might personally affect their families and them. A *Bulletin* on domestic violence was developed following the murder of a CYA staff member by her ex-boyfriend. It includes information about typologies of battering and victimization, protection issues, developing a safety plan, how to help coworkers who might be in domestic violence situations, and resources for local and national victim assistance programs. CYA encourages other justice agencies to replicate its *Bulletins* for their employees; a copy of the *Domestic Violence Technical Assistance Bulletin* is available by calling 916-262-1392.
 - In Pierce County, Washington, all marriage license applications contain the following citation: "The laws of this state affirm your right to live within the marriage free from violence and abuse. Neither you nor your spouse is the property of the other. The laws

against physical abuse; emotional or psychological abuse; sexual abuse; and battery and assault are applicable to spouses and other family members, and violations of these laws are punishable by either fine or imprisonment, or both.”

- In 1998, the Domestic Violence Unit of the Newcastle County (Delaware) Probation and Parole Department initiated an on-call system for domestic violence matters related to all probationers that makes a probation officer available twenty-four hours a day, seven days a week. When a police officer responds to a domestic violence incident involving a probationer, he or she can contact the on-call officer, who can execute a violation of probation on the new charge; issue a no-contact order; or take other actions as determined to be appropriate. In addition to local law enforcement within the county, the unit also works closely with the state Domestic Violence Coordinating Council and coordinates its efforts closely with victim advocates, state police, family court personnel, and other probation agencies.
- *Temporary Restraining Orders by Fax.* The Los Angeles Commission on Assaults Against Women (LACAAW) has a temporary restraining order fax service that allows victims to file for a temporary restraining order through the LACAAW office rather than going to the courthouse. To increase accessibility of services, women seeking restraining orders have access to advocates who know Spanish or American Sign Language. LACAAW advocates will help fill out the required paperwork and then fax the application to the courthouse. Within three days the courthouse will fax back a response.
- A number of law schools sponsor programs that integrate domestic violence issues into legal education and directly involve students in domestic violence legal advocacy. In a report generated by a focus group of law school professors, victim advocates, and experts in intervention with perpetrators of domestic violence (sponsored in 1996 by the Office for Victims of Crime), several promising practices were identified:
 - Third-year students at the Battered Women’s Rights Clinic at the City University of New York Law School assist low-income clients with a range of legal needs. This may include obtaining civil protection orders, pursuing contempt charges, seeking child support or custody orders, and handling housing or public benefit cases. The clinic teaches students to consider the unique social and economic obstacles confronted by battered women and to work on law reform efforts to overcome these barriers. Students have conducted workshops in local shelters and for victim services agencies and citizen groups.
 - Law students at the University of Georgia Law School assist indigent victims of domestic violence in rural counties to file *pro se* petitions, obtain protective orders, and find appropriate referral services. The Protective Order Project also acts as a resource center for victims and service providers in the community.
 - Students in the Families and the Law Clinic at Catholic University (Washington, DC), Columbus School of Law, develop and run community education projects on dating violence prevention in local high schools. Law students address the dynamics of domestic violence, the civil and criminal remedies available, and dating violence myths. High school students respond to the substance and format of these workshops, viewing

law students as both peer role model and an accurate source of legal information (ABA 1997).

- The American Academy of Facial Plastic and Reconstructive Surgery (AAFPRS), in partnership with the National Coalition Against Domestic Violence, the umbrella group for the majority of domestic violence shelters across the nation, provides free medical services to victims of domestic abuse. Shelter counselors refer domestic violence victims who have received injuries to the face, head, or neck to AAFPRS for consultation with a surgeon, and suitable candidates are given reconstructive surgery at no cost. Since July 1994, 614 victims have been referred to plastic surgeons (OVC 1998).
- In its continuing efforts to educate the medical profession about domestic violence, the American College of Obstetricians and Gynecologists has produced a slide lecture about the health care needs of domestic violence victims. Target audiences include OB-GYN residents, third-year OB-GYN medical students, first- and second-year medical students in courses such as "Introduction to Clinical Medicine," and other health care providers including emergency department personnel, dentists, nurse midwives, nurse practitioners, and mental health providers (OVC 1998).
- The Family Violence Intervention Model for Dental Professionals Project, funded by OVC, has developed comprehensive curricula and educational videos for dentists and dental ancillary staff that provide information about the dynamics of family violence, appropriate interventions by dental staff, and identification of family violence resources for dental providers. Training videos model appropriate interventions in the office environment, and depict the clinical signs of abuse and neglect. The materials have been piloted and incorporated into the training program of the dental school at the university. Additional training programs are scheduled to occur throughout the country.

1. Describe one form of abuse that comprises domestic violence.
2. What are the two characteristics that are significantly and consistently correlated with batterers?
3. Describe one effect of domestic violence on children.
4. Describe three of the responsibilities involved in advocating for victims of domestic violence.
5. Describe a promising practice in domestic violence prevention or intervention (either one that was highlighted in this chapter, or one that exists in your community).

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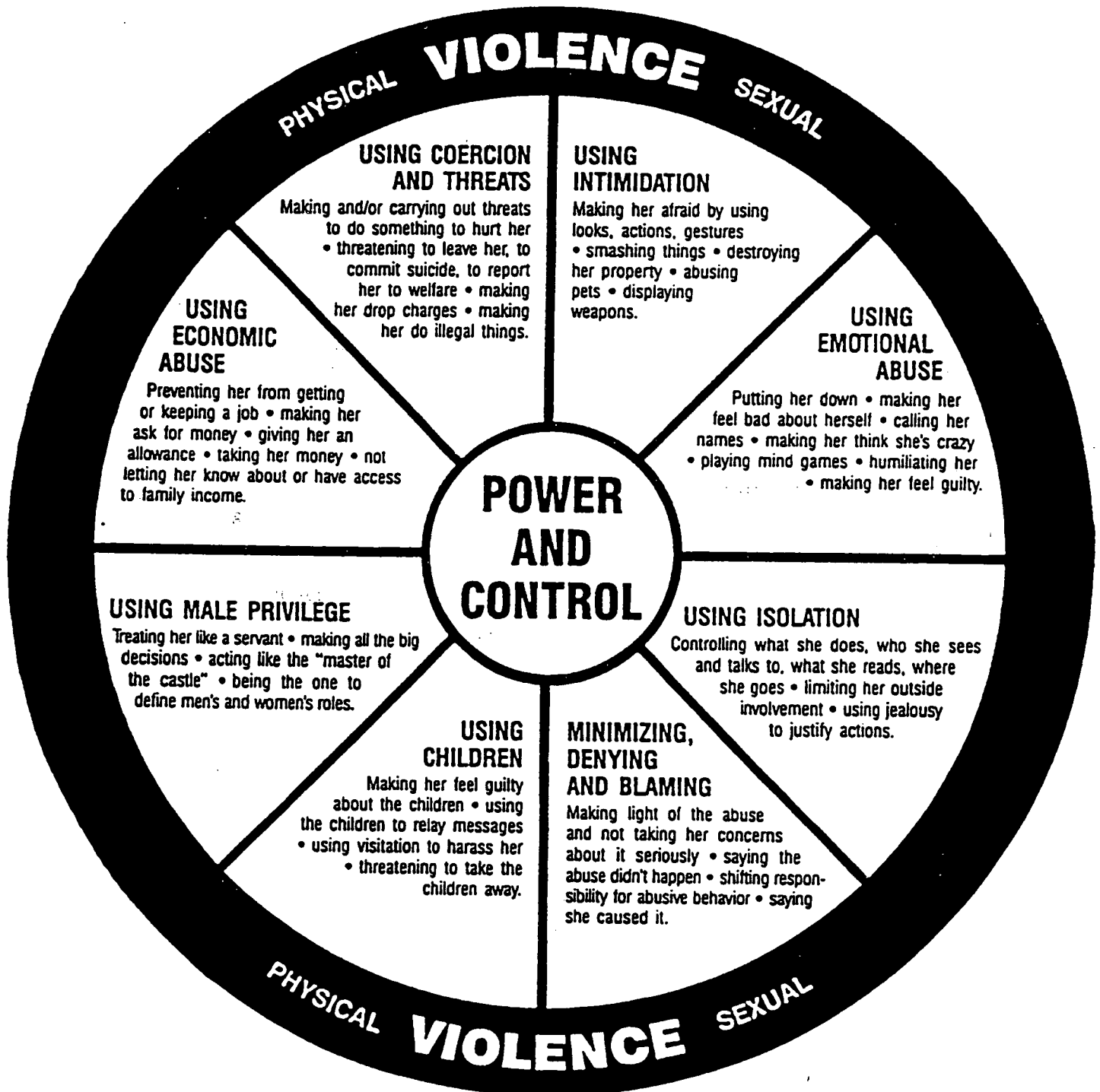
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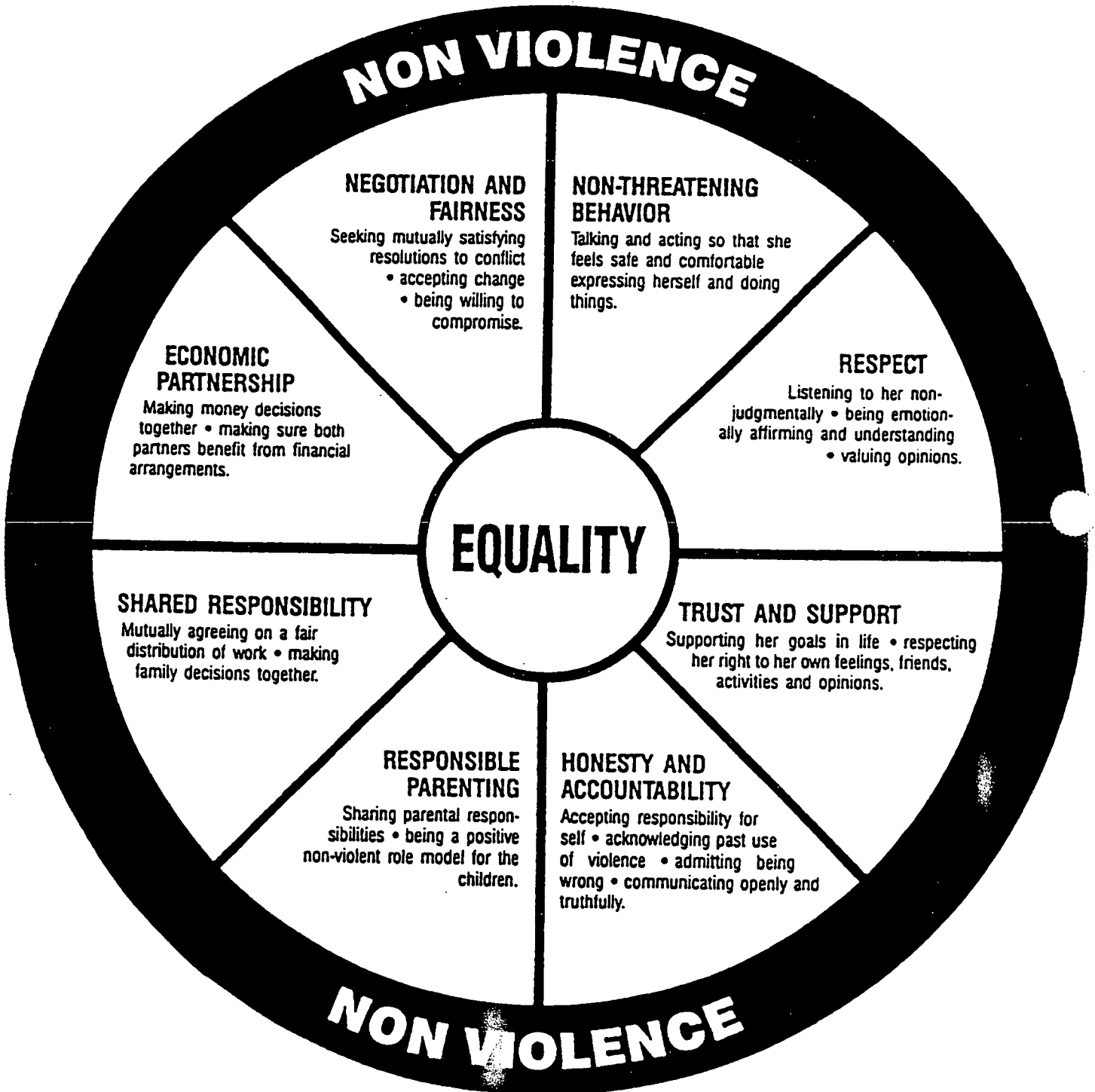
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POWER AND CONTROL WHEEL



EQUALITY WHEEL



A COMMUNITY CHECKLIST: IMPORTANT STEPS TO END VIOLENCE AGAINST WOMEN

In July 1995, a National Advisory Council on Violence Against Women was established by Attorney General Janet Reno and Secretary of Health and Human Services Donna E. Shalala. The purpose of the forty-seven-member, multidisciplinary council was to “help promote greater awareness of the problem of violence against women and its victims, to help devise solutions to the problem, and to advise the federal government on implementing the 1994 Violence Against Women Act.”

The Advisory Council developed a checklist of important steps that communities can take to end violence against women, including the religious community, colleges and universities, law enforcement, health care professionals, the sports industry, the news media, and the workplace.

As Attorney General Reno and Secretary Shalala stated in the introduction to the Community Checklist:

This is not intended to be an exhaustive list but is meant to offer some straightforward, practical suggestions that we believe can make a difference in communities across the country. By coming together as a community, exchanging ideas, and coordinating efforts, we can begin to end this violence that destroys so many American lives.

Published during the 1996 National Domestic Violence Awareness Month, “A Community Checklist” offers valuable insights into what individuals and community constituencies can do to address domestic violence.

RELIGIOUS COMMUNITY

The religious community provides a safe haven for women and families in need. In addition, it exhorts society to share compassion and comfort with those afflicted by the tragedy of domestic violence. Leaders of the religious community have identified actions to share with the nation to create a unified response to violence against women.

- *Become a safe place.* Make your church, temple, mosque, or synagogue a safe place where victims of domestic violence can come for help. Display brochures and posters which include the telephone number of the domestic violence and sexual assault programs in your area. Publicize the National Domestic Violence Hotline number, 800-799-SAFE (7233) or 800-787-3224 (TDD).
- *Educate the congregation.* Provide ways for members of the congregation to learn as much as they can about domestic and sexual violence. Routinely include information in monthly newsletters, on bulletin boards, and in marriage preparation classes. Sponsor educational seminars on violence against women in your congregation.
- *Speak out.* Speak out about domestic violence and sexual assault from the pulpit. As a faith leader, you can have a powerful impact on peoples’ attitudes and beliefs.

- *Lead by example.* Volunteer to serve on the board of directors at the local domestic violence/sexual assault program or attend a training to become a crisis volunteer.
- *Offer space.* Offer meeting space for educational seminars or weekly support groups or serve as a supervised visitation site when parents need to visit safely with their children.
- *Partner with existing resources.* Include your local domestic violence or sexual assault program in donations and community service projects. Adopt a shelter for which your church, temple, mosque or synagogue provides material support, or provide similar support to families as they rebuild their lives following a shelter stay.
- *Prepare to be a resource.* Do the theological and scriptural homework necessary to better understand and respond to family violence and receive training from professionals in the fields of sexual and domestic violence.
- *Intervene.* If you suspect violence is occurring in a relationship, speak to each member of the couple separately. Help the victim plan for safety. Let both individuals know of the community resources available to assist them. Do not attempt couples counseling.
- *Support professional training.* Encourage and support training and education for clergy and lay leaders, hospital chaplains, and seminary students to increase awareness about sexual and domestic violence.
- *Address internal issues.* Encourage continued efforts by religious institutions to address allegations of abuse by religious leaders to ensure that religious leaders are a safe resource for victims and their children.

(Adapted in part from the Nebraska Domestic Violence and Sexual Assault Coalition and the Center for the Prevention of Sexual and Domestic Violence, Seattle, WA. Used with permission.)

COLLEGES AND UNIVERSITIES

Colleges and universities offer important opportunities to educate young men and women about violence against women. Experiences on campuses will be carried forth to everyday life and will influence future actions. Therefore, every effort to inform students may mean one less victim abused or one less crime committed. Leaders in higher education have identified the following strategies to assist educators across the country in reaching out to students and communities, and to make campuses safe places for women.

- *Make the campus a safe place.* Evaluate the safety and security of the campus environment and the quality and availability of resources to ensure safety. For example, establish campus escort services through campus security and student government programs.
- *Increase awareness.* Educate your students, faculty, and staff about the problem of sexual assault and dating violence on college campuses. Provide adequate training on the signs that often accompany abuse, on victims' legal rights, and on available resources.
- *Target special groups.* Identify target groups (i.e., new students, fraternities and sororities, athletes, etc.) on your campus and develop specialized training and resources for them.
- *Coordinate resources.* Identify resources addressing violence against women on your campus and bring together local community and university service providers.
- *Encourage reporting of violence.* Through orientation and awareness programs on campus, encourage students, faculty, and staff to report incidents of violence. Develop effective linkages between campus and community law enforcement personnel.
- *Provide services to the campus community.* Support a coordinated community response to violence against women; ensure that services are comprehensive and appropriate for the entire campus community.
- *Develop an administration response to violence on campus.* Establish protocols to manage complaints of violence on your campus with care for the victim as the first priority. Your protocol should include a clearly defined process for providing assistance to victims and holding the perpetrators accountable.

- *Review and revise the student code of conduct and policies.* Review your campus policies and disciplinary sanctions to assess that violence against women is treated as seriously as other crimes, with equally severe punishments.
- *Provide a voice for women on campus.* Provide support for students and faculty to establish victim advocacy groups on campus.
- *Get the message out to the campus community.* Speak out against domestic violence and sexual assault in your position of leadership on campus. Communicate expectations about appropriate conduct, include them in student policy statements. Post information about available resources in dining halls, health facilities, dormitories, locker rooms, and other places where students are likely to see it.

LAW ENFORCEMENT

Across the country, law enforcement is developing innovative and effective strategies to prevent and prosecute violence against women more effectively. Law enforcement leaders have identified several of these strategies that, if used consistently, may go a long way toward reducing incidents of violence against women.

- *Create a community roundtable.* Convene a community roundtable bringing together police, prosecutors, judges, child protection agencies, survivors, religious leaders, health professionals, business leaders, educators, defense attorneys, and victim advocate groups, and meet regularly. Create specific plans for needed change and develop policies among law enforcement, prosecutors, and others that will result in coordinated, consistent responses to domestic violence.
- *Record domestic violence.* To help understand and respond to the dimensions of violence against women, develop and require the use of a uniform domestic violence reporting form. It should include an investigative checklist for use in all domestic violence incidents or responses.
- *Continue to educate.* Create informational brochures on domestic violence and sexual assault that include safety plans and a list of referral services, for distribution in all courthouses, police stations, and prosecutors offices and in nonlegal settings such as grocery stores, libraries, laundromats, schools, and health centers.
- *Provide clear guidance on responding to domestic violence.* Write new or adapt existing protocol policies for police, courts, and prosecutors regarding domestic violence and sexual assault incidents and train all employees to follow them. Policies should specify that domestic violence and sexual assault cases must be treated with the highest priority, regardless of the severity of the offense charged or injuries inflicted.
- *Ensure that law enforcement is well informed.* Designate at least one staff member to serve as your agency's domestic violence and sexual assault contact, with responsibility for keeping current on legal developments, training resources, availability of services and grant funds. Wherever possible, create a unit of employees with special expertise to handle domestic violence and sexual assault cases in prosecutor's offices, police departments, and probation/parole agencies and ensure that these employees are well trained regarding their responsibilities.
- *Reach out to front lines.* Identify and meet with staff and residents from local battered women's shelters and rape crisis centers to discuss their perceptions of current needs from the law enforcement community. Solicit suggestions for improving the law enforcement response to these crimes.
- *Improve enforcement by implementing a registry of restraining orders and a uniform order for protection.* Implement a statewide registry of restraining orders designed to provide accurate, up-to-date, and easily accessible information on current and prior restraining orders for use by law enforcement and judicial personnel. Develop a uniform statewide protection order for more effective and efficient enforcement.
- *Support and pursue legislative initiatives.* Develop and support legislative initiatives to address issues regarding domestic violence and sexual assault including a) stalking; b) death review teams; c) sentencing guidelines; d) indefinite restraining orders; and e) batterers intervention programs.

- *Conduct training.* Conduct ongoing multidisciplinary domestic violence and sexual assault training for police, prosecutors, judges, advocates, defenders, service providers, child protection workers, educators, and others. Training should include the victim's perspective and an emphasis on safety planning.
- *Structure courts to respond to domestic violence/create specialized domestic violence courts.* Develop specialized courts that deal exclusively with domestic violence cases in a coordinated, comprehensive manner, where community and court resources can be utilized together to address domestic violence effectively. At a minimum, all court personnel involved with domestic violence cases, including judges, prosecutors, public defenders, probation officers, and corrections and parole officers should receive relevant and practical domestic violence training and have an understanding of the dynamics of domestic violence.

HEALTH CARE PROFESSIONALS

Health care professionals are in the critical position of providing services to victims of violence as the first contact point for many of these victims. It is crucial that health care professionals recognize their potential to intervene appropriately. Immediate recognition of the problem and the provision of medical care and referrals to appropriate resources within the community can make all the difference. Leaders in the field have identified the following strategies to make interventions by health care professionals more effective.

- *Incorporate training into curricula.* Support the incorporation of domestic violence and sexual assault training in medical, nursing, and allied health care professional education curricula.
- *Make resources available to patients.* Make resource materials available in waiting rooms and restrooms. Include the National Domestic Violence Hotline number 800-799-SAFE (7233) or 800-787-3224 (TDD).
- *Support incorporation of protocols into accreditation process.* Support efforts to ensure that domestic violence and sexual assault protocols are addressed through the National Commission for Quality Assurance and the Joint Commission on Accreditation of Hospitals.
- *Encourage continuing education on violence against women issues.* Encourage your state licensing boards and various specialty groups to encourage physicians and nurses to allocate Continuing Medical Education (CME) hours to violence against women related issues for re-licensure requirements.
- *Involve medical organizations and societies in increasing awareness.* Collaborate with health care professional organizations and societies in your area to increase medical school and health care professional involvement in addressing violence against women.
- *Feature violence against women on meeting agendas.* Arrange presentations and symposiums on violence against women at various health care specialty annual, regional, and local meetings.
- *Highlight commitment to violence against women issues.* Give awards, citations, and certificates to exceptional organizations and individuals for their continued commitment to addressing violence against women.
- *Develop a standard intake form.* Develop a standardized intake assessment form for health care professionals who interact with victims of domestic or sexual violence. This assessment form would ensure that certain information regarding these incidents is identified and proper resources are utilized.
- *Ensure Employee Assistance Programs are responsive to victims of domestic violence.* Determine whether your health care facility's employee assistance program (EAP) includes domestic violence services or referrals. If it does not, speak with your human resources director or the appropriate manager about the possibility of expanding the program to address the needs of employees facing violence in their homes. All EAP personnel should receive domestic violence training and have an understanding of the dynamics of domestic violence.
- *Volunteer.* Provide a health care series on a volunteer basis to community organizations that serve victims of domestic and sexual violence.

SPORTS

Today, more than ever, our sports players and organizations have an enormous capacity to influence the minds and behaviors of Americans, both young and old. The reason is simple. For many Americans, professional, college, and Olympic athletes are today's heroes. We must utilize this outlet to send a positive message to all Americans about preventing domestic violence and sexual assault. Following are a number of ways communities can work with the local sports industry to help stop the violence.

- *Bring sports leagues together in a common cause.* Encourage local sports teams to come together in a joint effort to combat violence against women through joint awareness campaigns and public appearances.
- *Create strict disciplinary policies.* Encourage the creation of disciplinary policies for players on domestic violence and violence against women similar to drug policies. These policies should include stiff sanctions and penalties for committing domestic violence and sexual assault.
- *Push for public service announcements (PSAs) during broadcast of sporting events.* Write or call sports leagues in support of PSAs about violence against women during the broadcast of major sporting events, including NCAA games.
- *Promote the distribution of educational materials.* Promote the distribution of educational materials from local shelters and programs to players by offering the materials to the teams.
- *Involve local sports heroes in community activities.* Involve local sports heroes in rallies and events which bring attention to the problem of violence against women.
- *Reach out to potential sponsors.* If there are businesses in the area that are known for making or selling sporting equipment or clothing, approach them for sponsorship of community awareness activities.

NEWS MEDIA

The media industry represents much more than television and film stars. It is the most influential source of information for millions of Americans. Before we can change people's attitudes about violence against women and prevent violent behavior, we must not only change the way violence is portrayed in the media, but also educate members of the media who report on domestic violence and sexual assault crime. Leaders in the media industry have identified ways in which communities can work with their local media to encourage responsible reporting of violence against women.

- *Use the power of communication.* Contact local television, radio, and newspapers urging thoughtful and accurate coverage of violence against women, and the provision of educational messages about the problem when possible.
- *Urge action through the local paper.* Through community organizations, distribute model op-ed pieces and letters to the editor and urge community action for placement of these pieces.
- *Link media with experts.* Provide media outlets with a list of well-known experts available for interviews and a packet of materials with information on a variety of related subject areas, such as local shelters and programs.
- *Organize public events.* Plan a public event, such as a community education forum on violence against women, and solicit local media coverage.
- *Encourage employee awareness.* Encourage the development of domestic violence awareness programs for employees of media outlets.
- *Build a bridge between media and law enforcement.* Urge police chiefs and commissioners to go on air locally to discuss domestic violence and violence against women.
- *Provide a forum for community leaders.* Encourage community leaders to speak to media about issues of violence against women.
- *Publicize local resources through reporting.* Encourage local media to include the National Domestic Violence Hotline number, 800-799-SAFE (7233) or 800-787-3224 (TDD), through reporting on incidents of domestic violence.

THE WORKPLACE

Men and women spend more and more of their daily lives in the workplace. Domestic violence is a workplace issue that affects the safety, health, and productivity of America's workers. Business and labor leaders have identified several strategies that can be used to create safer and more supportive workplaces.

- *Ensure Employee Assistance Programs are responsive to victims of domestic violence.* Determine whether your company's employee assistance program (EAP) includes domestic violence services or referrals. If it does not, speak with your human resources director or the appropriate manager about the possibility of expanding the program to address the needs of employees facing violence in their homes. All EAP personnel should receive domestic violence training and have an understanding of the dynamics of domestic violence.
- *Provide management with the tools to respond to domestic violence.* Establish a training program for all supervisors and managers at your workplace to give them guidance on how to respond when an employee is a victim or perpetrator of domestic violence.
- *Educate employees about domestic violence.* Sponsor a workshop or series of workshops at your workplace on domestic violence. Invite a domestic violence survivor to speak about her experiences and to discuss the impact of violence on her life and her work.
- *Share materials about domestic violence.* Distribute educational materials about domestic violence to all employees in your workplace and display posters and brochures in public places which explain the issue. Send the message that there is no excuse for domestic violence. Make victim safety information available in private places such as restrooms or in paycheck envelopes. All information should include the National Domestic Violence Hotline number, 800-799-SAFE (7233) or 800-787-3224 (TDD).
- *Increase safety at the workplace.* Find out whether security guards at your workplace have been trained to handle the special safety needs of battered women, who may be stalked at work. If they have not, speak with the appropriate manager to arrange training and help security personnel develop safety procedures.
- *Coordinate with local law enforcement.* Arrange a meeting between security personnel at your workplace and local law enforcement agencies to facilitate appropriate information sharing and the development of collaborative working relationships.
- *Join in local community efforts to combat domestic violence.* Conduct a drive in your workplace to collect items for local domestic violence shelters. Be sure to contact the programs first to find out what they want, but common needs for shelters are toys, clothing, furniture, office equipment, office supplies, and food. Alternatively, make a contribution of company products.
- *Donate time and resources.* Adopt a local domestic violence shelter by collecting money from coworkers for a joint donation or by getting a group of coworkers to make a commitment of volunteer hours. For example, raise money to pay for a new roof for a shelter; organize groups of volunteers to paint a shelter, do yard work around the shelter, assist with a special event, or provide other specialized skills (Advisory Council on Violence Against Women 1996).

CHECKLIST OF FEDERAL DOMESTIC VIOLENCE STATUTES/OFFENSES

- Domestic Violence Offenses.
 - Interstate travel to commit domestic violence – 18 U.S.C. §2261.
 - Interstate stalking – 18 U.S.C. §2261A.
 - Interstate travel to violate a Protection Order – 18 U.S.C. §2262.

- Firearms Offenses.
 - Possession of a firearm while subject to a Protection Order – 18 U.S.C. §922(g)(8).
 - Transfer of a firearm to a person subject to a Protection Order – 18 U.S.C. §922(d)(8).
 - Possession of a firearm after conviction of a misdemeanor crime of domestic violence – 18 U.S.C. §922(g)(9).
 - Transfer of a firearm to a person convicted of a misdemeanor crime of domestic violence – 18 U.S.C. §922(d)(9).
 - Official use exemption from firearms offenses (except §§922(d)(9) and 922(g)(9)) – 18 U.S.C. §925(a)(1).

- Other Relevant Statutes.
 - Full Faith and Credit – 18 U.S.C. §2265.
 - Brady statement – 18 U.S.C. §922(s).
 - Right of victim to be heard at bail hearing – 18 U.S.C. §2263.
 - Other victims' rights – 18 U.S.C. §10606(b).
 - Restitution – 18 U.S.C. §2264.
 - Self-Petitioning for battered immigrant women and children – 8 U.S.C. §1154.

ABSTRACT

Rape is the most underreported crime in America. Significant changes to improve the treatment of sexual assault victims have occurred in the last two decades. The impact of reforms, led by the women's movement, can be seen in the legal, medical, mental health, and victim services arenas. During the 1970s, the first rape crisis center was established. The treatment of victims in the criminal justice system was questioned, and hundreds of laws were passed to protect rape victims in the courts. Medical protocols have been developed and widely accepted. The mental health impact of rape is now well documented in the literature, and the practices of mental health professionals have improved. Although the treatment of rape victims today is vastly different from two decades ago, many victims still do not report the crime, and they do not receive the assistance and treatment they need.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- The definitions of rape and sexual assault.
- The major ways that rape incidence and prevalence are measured and the implications of these findings.
- Scope and key characteristics of rape cases.
- The mental and physical health consequences of rape and how these consequences affect need for reporting.
- Comprehensive approach to responding to rape victims.
- Roles and responsibilities of the criminal or juvenile justice system and other professionals in protecting the rights of rape victims and dealing with rape cases.
- The management of sex offenders in the community.
- Recent statutory changes and areas of protection that still need to be strengthened.
- Promising practices that address sexual assault and rape victims' needs.

STATISTICAL OVERVIEW

As noted elsewhere (Crowell and Burgess 1996, chap. 1; Kilpatrick 1983; Kilpatrick et al. 1998), obtaining an accurate measurement of rape and other types of sexual assault poses many challenges. The number of rapes and other types of sexual assault depends on how these

crimes are defined and how they are measured. These definitional and measurement issues will be discussed subsequently, but the important thing to consider in reviewing the following statistics is that they are derived from different sources and often measure different things using different methodologies.

- According to the Federal Bureau of Investigation's *Uniform Crime Reports*, an annual statistical compilation of crimes reported to law enforcement agencies across the nation, 93,103 forcible rapes were reported in 1998 (FBI 17 October 1999, 24).
- An estimated 67 of every 100,000 females in the country were reported rape victims in 1998, a decrease of 4% from the 1997 rate, and 13% from the 1994 rate (Ibid.).
- The 1997 National Crime Victimization Survey, which includes both reported and unreported crimes, found that despite a decline of 7% in the nation's crime rate in 1997, rates of rape and sexual assault did not decline (BJS 1998).
- The National Women's Study (NWS), a longitudinal survey of a national probability sample of adult women funded by the National Institute of Drug Abuse, found that approximately 13% of adult women had been victims of completed rape during their lifetime (Kilpatrick, Edmunds, and Seymour 1992; Resnick et al. 1993). In the one year period between the second and third interviews, 0.6% of adult women, or an estimated 683,000 women were victims of rape (Kilpatrick, Edmunds, and Seymour 1992). In the two years between the first and third interviews, 1.2% of the adult participants in the NWS were raped, producing an estimate that 1.1 million women were raped in the United States during this two year period (Kilpatrick et al. 1997).
- Using a definition of rape that includes forced vaginal, oral, and anal sex, the National Violence Against Women Survey found that one out of six U.S. women and one out of thirty-three U.S. men have experienced an attempted or completed rape as a child and/or adult. According to estimates, approximately 1.5 million women and 834,700 men are raped and/or physically assaulted by an intimate partner annually in the United States (Tjaden and Thoennes 1998, 2, 5).
- The National Crime Victimization Survey found that in 1996 more than two-thirds of rape/sexual assaults committed in the nation remained unreported (Ringel 1997, 3).
- The National Survey of Adolescents (NSA), a National Institute of Justice-funded study of a national household probability sample of 4,023 twelve- to seventeen-year-old adolescents, found that 8.1% of U.S. adolescents had been victims of at least one sexual assault (Kilpatrick and Saunders 1997; Kilpatrick et al. 2000). This indicates that an estimated 1.8 million 12- to 17-year-olds have been sexually assaulted.
- More than 52% of all rape/sexual assault victims were females younger than twenty-five (Perkins 1997, 1).
- Injury sustained by females during rapes and/or sexual assaults affected whether law enforcement was notified. Females who suffered physical injury in addition to the injury suffered from the rape or sexual assault reported 37% of those victimizations; while only 22% of rapes and sexual assault without an additional physical injury were reported (Craven 1994, 5).

INTRODUCTION

Although rape has occurred throughout history, the anti-rape movement in the United States did not begin until the early 1970s. In 1972, the first rape crisis centers were established in San Francisco, CA (Bay Area Women Against Rape) and Washington, DC (DC Rape Crisis Center), both of which are still in existence today. These grassroots centers were an outgrowth of the women's movement, which recognized that rape was an all too common part of women's lives and that it had a devastating impact on women's health and freedom. The explicit goals of rape crisis centers were to educate society about the problem of rape, to change society in ways that could help prevent rape, and to improve the treatment of rape victims.

In the nearly three decades since its birth, the anti-rape movement has accomplished many of its goals. Major accomplishments include widespread reform of rape statutes and other related legislation, improvements in the criminal and juvenile justice system's treatment of rape victims, greater understanding of the scope and impact of rape, improved medical and mental health services for rape victims, and better funding for rape crisis centers and others who provide services and advocacy for rape victims. Despite this progress, much remains to be done. Most rapes still go unreported (Kilpatrick, Edmunds, and Seymour 1992; Crowell and Burgess 1996; Ringel 1997), resulting in cases that can never be detected, investigated, or prosecuted. Although vast improvements in forensic, law enforcement, and prosecution protocols have been made, further improvements are needed. Too few victims who sustain rape-related mental or physical health problems obtain effective treatment. The fact that well over a million people of all ages are raped each year in the U.S. suggests that efforts to prevent rape have not been entirely successful.

This chapter will address the following questions: (1) How are rape and other forms of sexual assault defined? (2) What are the scope and mental health impact of rape? (3) What are victims' key concerns? and (4) How can we best address these concerns to improve victims' cooperation? One major focus of the chapter is to identify how the answers to these questions can be used to improve the treatment of rape victims by the criminal and juvenile justice systems as well as by victim assistance and allied professionals. A second focus is to identify ways that this information could be used to improve the investigation and prosecution of rape cases.

DEFINITIONS OF SEXUAL ASSAULT AND RAPE

EVOLUTION OF THE DEFINITION OF SEXUAL ASSAULT AND RAPE

Several authors (Estrich 1987; Koss 1993) have observed that many people still believe that rape occurs only when a total stranger attacks an adult woman using overwhelming force. Using this definition, boys or men cannot be raped; girls and adolescents cannot be raped; no one can be raped by someone they know well; and forced oral or anal sex does not constitute rape. Thus attempts to discuss the topic are often frustrating because many people define rape differently.

Before the 1960s, the legal definition of rape was generally a common law definition used throughout the United States that defined rape as “*carnal knowledge* of a woman not one’s wife by force or against her will.” In 1962, the United States Model Penal Code (MPC) was established, thus updating the definition of rape. The MPC defined rape as: “A man who has sexual intercourse with a female not his wife is guilty of rape if . . . he compels her to submit by force or threat of force or threat of imminent death, serious bodily injury, extreme pain, or kidnapping” (Epstein and Langenbahn 1994, 7). In addition to *limiting* the definition of rape to a crime against a *woman*, this code was also very narrow for the following reasons:

- It retained a marital-rape exemption (not acknowledging rape within marriage or co-habiting couples).
- It focused on the victim’s *consent*, rather than the perpetrator’s forcible conduct.
- Moreover, the MPC established a “grading system” for the crime of rape and rape offenses. For example, it stated that “rape by a voluntary social companion” was a less serious offense than “rape by a stranger.” In addition, it treated the rape of men as a lower felony offense than the rape of women.

In the 1970s and 1980s, extensive rape reform laws were enacted throughout the states, and the legal definition of rape changed dramatically. Michigan’s Criminal Sexual Conduct Statute, enacted in 1975, became the national model for an expanded definition of rape. Today, Illinois’ Criminal Sexual Assault Statute is considered the national model (Epstein and Langenbahn 1994, 8). Both statutes have the following characteristics that broadly define rape:

- Rape is defined as “gender neutral,” which broadens the earlier definitions of rape to include men as well as women.
- They include acts of sexual penetration other than vaginal penetration by a penis.
- They distinguish types of sexual abuse on the basis of the degree of force or threat of force used similar to the “aggravated” versus “simple” assault distinction with physical assaults.
- Threats as well as overt force are recognized as means to overpower the victim.
- In addition, a new category of rape victim, “taking advantage of an incapacitated victim,” is included. This category can include mental illness, victims under the influence of drugs, and alcohol intoxication. (Some states require that the perpetrator gave the victim the intoxicant in order to obtain sexual access.)

THE FEDERAL DEFINITION OF RAPE

In spite of these legislative changes, much of the current debate about what constitutes sexual assault and rape stems from how rape should be defined (Crowell and Burgess 1996).

For purposes of this chapter, rape and other forms of sexual assault are defined using the Federal Criminal Code (Title 18, Chapter 109A, Sections 2241-2243) as a guide. Although criminal statutes differ somewhat across states in their definitions, the Federal Code is national

in scope. For example, in addition to incorporating the reform provisions discussed above—gender neutrality and incorporation of a broad definition of acts of sexual abuse—the Federal Criminal Code definition includes the following points:

- Distinguishes between types of sexual abuse on the basis of the degree of force or threat of force used, similar to the aggravated versus simple assault distinction of physical assaults.
- Does not use the term “rape,” and does not require the victim to label the act as rape in order to meet the elements of a crime.

The 1986 federal statute defines two types of sexual assault:

- Aggravated sexual abuse.
- Sexual abuse.

Aggravated sexual abuse.

Aggravated sexual abuse by force or threat of force. When a person “knowingly causes another person to engage in a sexual act” . . . “or attempts to do so by using force against that person, or by threatening or placing that person in fear that the person will be subjected to death, serious bodily injury, or kidnapping.”

Aggravated sexual abuse by other means. When a person “knowingly renders another person unconscious and thereby engages in a sexual act with that other person; or administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby:

- Substantially impairs the ability of that person to appraise or control conduct; and
- Engages in a sexual act with that person.”

Aggravated sexual abuse with a child: When a person “knowingly engages in a sexual act with another person who has not attained the age of twelve years, or attempts to do so.”

Clearly the definition for aggravated sexual abuse by force or threat of force is analogous to what is usually called *forcible rape*. Aggravated sexual abuse of children is a serious form of what is generally called *statutory rape*. However, aggravated sexual abuse by other means is a type of nonforcible rape whose perpetrator “shall be fined . . . imprisoned for any term of years or life, or both.”

Sexual abuse. The Federal Criminal Code definition of sexual abuse includes two types of acts:

- Causing another person to engage in a sexual activity by threatening or placing that person in fear.

- Engaging in a sexual act if that person is incapable of declining participation in or communicating unwillingness to engage in that sexual act.

Abusive sexual contact is defined as when no sexual penetration actually occurred but when “the intentional touching . . . of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person” occurs.

Sexual abuse of a minor or ward is defined as knowingly engaging in a sexual act with a person between the ages of twelve and fifteen years. (For additional information on sexual crimes against children, see Chapter 11, *Child Victimization*.)

IMPLICATIONS OF DEFINITIONS

While great reforms have been made, these criminal code-based definitions of violent crimes addressing sexual assault, abuse, and rape imply the need to know the following information:

- The victim’s state of mind at the time of the crime (e.g., fear of death or serious bodily harm) and the victim’s crime-related physical and psychological injuries so as to assist in better classification of crimes.
- The proper measurement of rape and sexual abuse, which cannot be assessed without information about the types of unwanted sexual acts that are involved, the types of force or the coercion used by the perpetrator, and the ages of the victim and the perpetrator.

MEASURING RAPE AND OTHER TYPES OF SEXUAL ASSAULT

As a part of the Violence Against Women Act of 1994, the U.S. Congress directed the National Research Council to develop a research agenda on violence against women. The National Academy of Sciences convened a panel of experts to implement this directive; an important aspect of the panel’s charge was to evaluate the nature and scope of violence against women, including sexual violence. Chapter 2 of the panel’s report (Crowell and Burgess 1996) provides an overview of statistics regarding rape and sexual assault taken from official governmental and other data sources. This overview also describes numerous reasons why estimates of how many women are raped frequently differ.

Without getting too technical, estimates of the number of rapes and/or the number of women who have been raped differ because the sources that produce these estimates use different samples, different definitions of rape, different time frames of measurement, different ways of measuring whether a rape has happened, and different units of analysis in reporting statistics. Prior to briefly reviewing some of the major data sources, it is useful to consider a few key distinctions.

First, there is a difference between *rape cases* and *rape victims* because women can be raped more than once. Second, there is a difference between the *incidence* of rape and the

prevalence of rape. *Incidence* generally refers to the *number of cases* that occur in a given period of time (usually a year), and incidence statistics are often reported as rates (i.e., the number of rape cases occurring per 100,000 women in the population). In contrast, *prevalence* generally refers to the *percentage of women* who have been raped in a specified period of time (i.e., within the past year or throughout their lifetime). Third, there is clearly a difference between estimates based on reported versus nonreported rape cases. Fourth, estimates of rape are derived from two basic types of sources: official governmental sources and studies conducted by private researchers, which are often supported by grants from federal agencies.

With respect to official governmental sources, the Federal Bureau of Investigation *Uniform Crime Reports* (UCR) provides data on an annual basis about the number of rapes and attempted rapes that were reported to law enforcement agencies in the United States. Clearly, the UCR records only those rapes that were reported to law enforcement agencies and that the agencies in turn reported to the FBI. As noted by Crowell and Burgess (1996), another limitation of the UCR is that it still uses the narrow common law definition of rape (i.e., “carnal knowledge [penile-vaginal penetration only] of a female forcibly and against her will), meaning that other types of rapes as defined by federal law are not reported.

The Bureau of Justice Statistics conducts the National Crime Victimization Survey (NCVS) each year to measure unreported as well as reported crimes, including the crimes of rape and other sexual assaults. The NCVS interviews all residents twelve years or older in approximately 50,000 randomly selected households each six months about crimes that occurred since the last interview. In addition to data about the number of rape *cases* that occur each year and rape *rates* (i.e., number of cases per 10,000 women), the NCVS provides information about the percentage of rape cases that are reported to police as well as about case characteristics. Because the NCVS is primarily designed to measure the number of rapes per year among those ages twelve and older, it cannot measure rapes that occurred prior to the six-month reference period or to children younger than age twelve. The NCVS as well as most other studies cannot measure rapes experienced by women who are homeless.

There are three major nongovernmental studies that provide additional data about the scope, nature, and impact of rape.

- The National Women’s Study (NWS), a National Institute of Drug Abuse-funded longitudinal survey of a national probability household sample of 4,008 adult women who were assessed at baseline and for incidence at one- and two-year follow-ups, generated the influential *Rape in America: A Report to the Nation* (Kilpatrick, Edmunds, and Seymour 1992) as well as a number of other peer reviewed scientific publications. The NWS measured rapes and other sexual assaults occurring throughout the victim’s lifetime and new cases occurring to adult women during the follow-up period.
- The National Violence Against Women Survey (NVAW), funded by the National Institute of Justice and the CDC, used similar methodology that was pioneered by the NWS and interviewed 8,000 adult women and 8,005 adult men (Tjaden and Thoennes 1998). Rape and sexual assault were measured using screening questions virtually identical to those used

in the NWS. Like the NWS, the NVAW measured the lifetime prevalence of rape as well as rapes that occurred during the year prior to the interview.

- The National Survey of Adolescents (NSA), conducted by the National Crime Victims Research and Treatment Center and funded by the National Institute of Justice, conducted interviews with a national household probability sample of twelve- to seventeen-year-old adolescents. These adolescents were interviewed about sexual assaults and other crimes that occurred throughout their lifetimes; information was also gathered about important characteristics of these sexual assault cases (Kilpatrick and Saunders 1997) and about the mental health impact of such experiences.

SCOPE AND KEY CHARACTERISTICS OF RAPE CASES

Providing effective services to rape victims, assisting in effective investigation, and facilitating effective prosecution of rape cases cannot occur without accurate information about who rape victims are, and what rape cases are really like. The best way to obtain such information is from the national victimization surveys that have just been described (i.e., the National Crime Victimization Survey, the National Violence Against Women Survey, and the National Survey of Adolescents). These surveys are ideal for this purpose because they include information about unreported, as well as reported, rape cases. Since only a small percentage of rape cases are ever reported to law enforcement, it is critically important that more is learned about the unreported cases and the victims who do not report them.

Prior to describing the scope and case characteristics data, it is important to consider the following general points:

- Any attempts to address the problem of sexual assault must deal with the reality that most sexual assaults are never reported to law enforcement, and that unreported sexual assault cases can never be solved by law enforcement or successfully prosecuted. Encouraging victims to report these unreported cases to law enforcement is critically important because most rapists are recidivists who will continue to rape women and children until they are apprehended, prosecuted, and incarcerated.
- It is extremely important to understand the scope and nature of America's sexual assault problem. Without knowledge of how pervasive sexual assault is, the importance of addressing it may be lost.
- Different types of sexual assault cases require different investigatory and prosecutorial strategies to enhance the prospects of successful prosecution.
- There is considerable variability in the size, funding, and staffing of law enforcement agencies in the United States. Therefore, there is no such thing as a "one size fits all" sexual assault protocol that is equally applicable across all jurisdictions.
- National research indicates that the vast majority of sexual assault cases are never reported to police. The best data on the extent to which crimes are not reported come from victimization surveys. Such surveys conduct interviews with representative samples of

adults and/or adolescents, asking them if they have been victims of crime and if they reported those crimes to police. Some victimization surveys also ask why victims did not report these crimes to police.

- At the national level, two major victimization surveys suggest that most sexual assaults go unreported. The National Crime Victimization Survey, conducted each year by the U.S. Department of Justice, found that only 32% of sexual assault cases were reported to police in 1994. The *Rape in America* survey conducted as a part of the National Women's Study found that only 16% of rape cases were reported to police or other authorities (Kilpatrick, Edmunds and Seymour 1992). Data from the National Survey of Adolescents indicated that only 14.3% of sexual assault cases had been reported. Thus, these national studies indicate that only between 14% and 32% of all sexual assaults or rapes are ever reported to police.
- Analysis of national studies suggests that victims are reluctant to label their experience rape when the perpetrator is a spouse, boyfriend, or acquaintance (Acierno, Resnick, and Kilpatrick 1997). If the victim does not see the act as a crime, she will not report it to the police.
- Victims with disabilities are even less likely to report sexual assaults (Cole 1991). They are frequently more socially isolated than their nondisabled peers and may not be viewed as credible should a report be made. The assailant is often a family member or caretaker, so the victim may fear abandonment should he/she report.
- When a woman or girl does not report a rape, the stakes are high. Not only does she not get justice in her case, but the rapist also remains free to rape others. *Rape in America* (Kilpatrick, Edmunds, and Seymour 1992) described why nonreporting is a major public safety problem. A study of unincarcerated sex offenders conducted by Dr. Gene Abel and his colleagues found that 126 men admitted that they had committed rape. *These 126 rapists had committed a total of 907 rapes involving 882 different victims. The average number of different victims per rapist was seven* (Abel et al. 1987). Clearly, any attempt to address America's sexual assault problem must first address this nonreporting problem, which constitutes a serious public safety problem for the citizens of the United States.
- When a victim does report a rape, the stakes are also high. Victims often fear retaliation from the offender, his family, and/or peers. They may also fear the response of the criminal justice system given the circumstances of the rape. Victims are most likely to receive sensitive treatment when they are "good victims," meaning that they were raped by a stranger who used a weapon and were sober at the time of the assault (Campbell 1998). Analysis of the data obtained by the National Crime Victimization Surveys suggest that female victims are hesitant to report rapes that do not fit the classic scenario—stranger rape with injuries. Male victims are likely to report only if they sustained severe bodily injury (Pino and Meier 1999).

THE SCOPE OF THE RAPE AND SEXUAL ASSAULT PROBLEM

As was previously described in the Statistical Overview section, the National Violence Against Women (NVAW) survey produced an estimate that 14.8% of adult women in the U.S. had

been raped sometime during their lives and that another 2.8% had been victims of an attempted rape (Tjaden and Thoennes 1998). For adult men, comparable lifetime prevalence estimates for rape and attempted rape were 2.1% and 0.9% respectively. The National Women's Study (NWS) found that 12.7% of adult women had been victims of completed rape and 14.3% had been victims of other types of sexual assault. The National Survey of Adolescents (NSA) estimated that 13.0% of female adolescents and 3.4% of male adolescents had been victims of a sexual assault at some point during their short lives (Kilpatrick and Saunders 1997). All of these studies confirm that the lifetime prevalence of rape is such that millions of adolescents and adults in the U.S. have been raped. Women are at greater risk than men for such assaults.

Data from the NWS and NSA also indicate that revictimization is an important problem for many women and adolescents. Thirty-nine percent of rape victims in the NWS were raped more than once, and 41.7 percent of the adolescent sexual assault victims in the NSA said that they were sexually assaulted more than once.

NATIONAL RESEARCH ON RAPE

Due to the many myths, misconceptions, and social attitudes about rape and sexual assault, the National Center for Victims of Crime, in partnership with the National Crime Victims Research and Treatment Center at the Medical University of South Carolina, published *Rape in America: A Report to the Nation* in 1992 (Kirkpatrick, Edmunds, and Seymour). The report was based on The National Women's Study—funded by the National Institute of Drug Abuse—a three-year longitudinal study of a national probability sample of 4,008 adult women, (age eighteen or older), 2,008 of whom represented a cross-section of all adult women and 2,000 of whom were a sample of younger women between the ages of eighteen and thirty-four.

Providing the first national empirical data about forcible rape of women in America, the study found:

- Seven-tenths of 1% of all women surveyed had experienced a completed forcible rape in the past year. This equates to an estimated 683,000 adult American women who were raped during a twelve-month period.
- 13% of women had been victims of at least one completed rape in their lifetimes.
- Based on U.S. Census estimates of the number of adult women in American, one out of every eight adult women, or at least, 12.1 million American women, had been the victim of forcible rape sometime in her lifetime.
- While 56%, or an estimated 6.8 million women experienced only one rape, 39%, or an estimated 4.7 million women were raped more than once, and 5% were unsure as to the number of times they were raped (Kilpatrick, Edmunds, and Seymour 1992).

Prior to this study, national information about rape was limited to data on reported rapes from the *FBI Uniform Crime Reports* or data from the Bureau of Justice Statistics National Crime Survey (NCS) on reported and nonreported rapes occurring in the past year. The number of

rapes per year in *Rape in America* were approximately five times higher than either the Uniform Crime Reports or the NCS. Recently, the NCS has been redesigned due to concerns that it failed to detect a substantial proportion of rape cases.

AGE OF RAPE VICTIMS

The National Women's Study (NWS) found that "rape in America is a tragedy of youth," with the majority of rape cases occurring during childhood and adolescence:

- 29% of all forcible rapes occurred when the victim was less than eleven years old.
- 32% occurred when the victim was between the ages of eleven and seventeen.
- 22% occurred between the ages of eighteen and twenty-four.
- 7% occurred between the ages of twenty-five and twenty-nine.
- 6% occurred when the victim was older than twenty-nine years old.

The National Violence Against Women Survey (NVAW) found that "rape is primarily a crime against youth" (Tjaden and Thoennes 1998, 6):

- 21.6% of first or only rape cases experienced by women occurred before age twelve.
- 32.4% occurred between the ages of twelve and seventeen.
- 29.4% occurred between the ages of eighteen and twenty-four.
- 16.6% occurred at age twenty-five or greater.

Note: The NWS data represent a breakdown of victims' ages at the time of *all* rape cases whereas the NVAW data are a breakdown of age at the time of the first rape only.

The National Study of Adolescents (NSA) also provided information about 462 cases at the time the sexual assault was experienced by twelve- to seventeen-year-old adolescents (Kilpatrick November 1996):

- 29.9% had been assaulted before age eleven.
- 16.3% between the ages of eleven and twelve.
- 20.8% between the ages of thirteen and fourteen.
- 20.8% between the ages of fifteen and sixteen.
- 1.7% at age seventeen.

Note: In the remaining 8.7% of cases, victims were not sure or refused to provide age data.

RELATIONSHIP OF THE VICTIM TO THE OFFENDER

The National Women's Study (NWS) dispelled the common myth that most women are raped by strangers:

- Only 22% of rape victims were assaulted by someone they had never seen before or did not know well.
- 9% of victims were raped by husbands or ex-husbands.
- 11% were raped by their fathers or stepfathers.
- 10% were raped by boyfriends or ex-boyfriends.
- 16% were raped by other relatives.
- 29% were raped by nonrelatives, such as friends and neighbors.

In addition to the data just presented, the NWS also gathered information about new cases of rape that happened to adult women during the two year follow-up period. Thus, these data on the forty-one such cases provide excellent information about the breakdown for new rapes that are experienced by adult women (Kilpatrick et al. 1998).

- 24.4% of offenders were strangers.
- 21.9% were husbands.
- 19.5% were boyfriends.
- 9.8% were other relatives.
- 9.8% were friends.
- 14.6% were other nonrelatives.

The National Violence Against Women (NVAW) survey used different categories for victim-perpetrator relationships but reported similar findings with respect to the types of perpetrators that are most prevalent in rape cases occurring after the age of eighteen.

- 76% of perpetrators in rape cases were intimate partners (i.e, current and former spouses, cohabiting partners, dates, and boyfriends/girlfriends).
- 16.8% were acquaintances.
- 14.1% were strangers.
- 8.6% were relatives other than spouses.

In summary, only a small percentage of cases involved perpetrators who were strangers; most were intimate partners.

The National Survey of Adolescents (NSA) provides a different perspective because it provides data on cases during childhood and adolescence (Kilpatrick 1996).

- 32.5% of perpetrators were identified as friends.
- 23.2% were strangers.
- 22.1% were relatives (fathers, stepfathers, brothers, sisters, grandparents, etc.).
- 18.1% were other nonrelatives known well by the victim.

DEGREE OF PHYSICAL INJURY

Another common misconception about rape is that most victims sustain serious physical injuries. The statistics show the following:

- 70% of rape victims reported no physical injuries.
- 4% sustained serious physical injuries.
- 24% received minor physical injuries.
- Of considerable importance is the fact that many victims who did not sustain physical injuries nonetheless feared being seriously injured or killed during the rape. Almost half of all rape victims (49%) described being fearful of serious injury or death during the rape.

Not surprisingly, the percentage of new rape cases resulting in physical injuries ($N=41$) experienced by adult women in the NWS was somewhat higher than cases that included childhood and adolescent rapes (Kilpatrick et al. 1998).

- 9.8% of victims reported serious physical injuries.
- 46.3% sustained minor injuries.
- 43.9% sustained no physical injuries.
- 58.5% said that they were fearful of serious injury or death.

The NVAW survey data provide a detailed breakdown of physical injuries sustained and medical treatment received in the recent cases of rapes women experienced since the age of 18.

- 31.5% of women sustained some physical injuries.
- Only 35.6% of victims with injuries received medical treatment.

In the NSA, 85.5% of child and adolescent cases resulted in *no* physical injuries. Only 1.3% of victims reported serious injuries, and 11% reported minor injuries (Kilpatrick 1996).

IMPLICATIONS REGARDING THE SCOPE AND CHARACTERISTICS OF RAPE FOR THE INVESTIGATION AND PROSECUTION OF RAPE CASES

There are three major implications of the aforementioned findings. First, information from all of these sources provides compelling evidence that most rapes are not committed by strangers,

but by individuals well-known to their victims. This finding has profound implications for how rape cases should be investigated and prosecuted. If most victims know the identity of their perpetrators, then the key investigative issue is not finding out “who did it” by collecting evidence that permits the investigator to identify the perpetrator. Instead, most cases are likely to require evidence that permits refutation of claims by the alleged perpetrator that the sexual activity was consensual and did not constitute sexual battery. Known perpetrators are unlikely to use “misidentification” defenses because forensic examinations can conclusively link the perpetrator to the assault.

Second, Susan Estrich (1987) notes that successful prosecution of rape cases often requires victims to produce evidence of physical injuries to prove that they did not consent.

The fact that the vast majority of rape victims do not sustain major physical injuries also has clear implications for investigation and prosecution of rape cases. The first implication is that most victims will not exhibit overt physical injuries that most people think are characteristic of violent sexual attacks. Therefore, many people are likely to conclude that the victim consented unless physical injuries are present. The second implication is that forensic examinations must focus on detecting evidence of physical injuries that are not consistent with consensual sexual activity. A third implication is that law enforcement, prosecutors, judges, jurors and paroling authorities need to be informed about these physical injury data.

Third, all of these data indicate that most rapes other than sexual assaults involve relatively young victims—not adult women as most people believe. This suggests that separate investigative protocols should be established for adult and child victims.

IMPLICATIONS FOR SEXUAL ASSAULT FORENSIC MEDICAL EXAMINATIONS

In sexual assault cases, the victim’s body is the primary “crime scene,” and the forensic medical examination is an extremely important part of evidence collection. Based on the victim’s report of what types of sexual acts were involved, the forensic exam collects evidence from the victim’s body that can be used to establish that sexual activity occurred, identify who committed the sexual act, and establish whether the sexual act produced physical injuries consistent with forced sex.

As was previously noted, the typical rape involves a perpetrator who is known by the victim and whose attack does not produce major physical injuries. In these cases, the key issue in the forensic exam is *not* establishing the alleged perpetrator’s identity because that is already known. The exam needs to collect evidence documenting that a sex act occurred to counter the possible defense that a suspect never had sex with the victim. The exam also needs to collect DNA or other evidence that can be used to prove that the sexual act occurred and that the defendant was responsible for it. The only remaining defense a suspect can use if the “nothing happened” and “misidentity” defenses are refuted by forensic evidence is a “consent” defense. Thus, the forensic examination must collect evidence that speaks to the issue of whether the sexual activity was consensual or not. Evidence that physical injuries occurred to the victim’s vulva, vagina, or anus that are inconsistent with consensual activity would be a powerful tool to refute a consent defense. Therefore, it is extremely important that the forensic medical

exam be conducted in such a way that such physical injuries can be detected because such forensic evidence is one of the few ways that a consent defense can be refuted.

Most sexual assault protocols for adult victims do not include state-of-the-art procedures for detecting physical injuries to the victim's vulva, vagina, or anus. Fortunately, new technology exists that has the potential to dramatically increase detection of physical injuries. The colposcope is a standard tool used by gynecologists for the evaluation of microscopic cervical, vaginal, or vulvar disease. Using a colposcope, the vulva, vagina, cervix, and/or anus can be examined at magnifications over thirty times the actual size. This permits detection of small or microscopic tears, bruises, or abrasions that are not visible to the naked eye. Colposcopic examination provides a much more objective and sensitive way of seeing and documenting genital, anal, and other injuries in sexual assault victims.

The ideal acute sexual assault examination protocol has two components. The first part is similar to the existing sexual assault exam protocol, which is conducted within seventy-two hours after the assault. However, the protocol is changed to include a colposcopic exam. The second part of the forensic exam protocol also includes a colposcopic exam and is conducted four to six weeks after the assault. The purpose of this second part of the forensic exam is to collect evidence of the victim's recovery from the physical injuries detected during the first exam. This evidence of recovery can only be documented if the two exams are conducted, and provides a strong basis for an expert examiner to testify about recovery from injuries that are not consistent with consensual sex.

A final advantage of the colposcope is that technology exists to take photographs or make videotapes of what is visualized. Thus, it is possible to have a documentation in the form of color photographs and/or videotapes of the physical injuries detected. This visual documentation of injuries sustained by sexual assault victims has been described as having a powerful impact on jurors and on defendants, many of whom have entered guilty pleas when confronted with this evidence that "consensual sex" produced physical injuries consistent with the victim's statement.

Sexual Assault Nurse Examiner (SANE) programs (discussed more fully herein at page 25) have developed in recent years in many jurisdictions throughout the country in response to the need for victim-sensitive treatment in gathering crucial medical/evidentiary information in forensic medical examinations of rape victims.

NEED FOR MULTIDISCIPLINARY MEDICAL CARE PROGRAMS ADDRESSING THE NEEDS OF RECENT RAPE VICTIMS

Initial medical examination immediately post-rape is recommended for sexually transmitted diseases and for provision of prophylactic treatment available to treat specific sexually transmitted diseases. Such examinations also include counseling and provision of emergency contraception in relevant cases (CDC 1998). It is also recommended that rape victims be seen for follow-up medical examination to assess new infections that may be related to assault and counsel victims about STDs and hepatitis B as well as to treat existing diseases. CDC guidelines recommend offering follow-up care at two weeks post-assault for repeat STD testing

and additional blood testing for syphilis and HIV that can be repeated at six, twelve and twenty-four weeks post-assault. While these guidelines for initial and medical care follow-up have been recommended (Young et al. 1992), the reality is that in most states provision of initial post-rape medical care is financially supported by the state or by third party payment from sources like Crime Victims Compensation in cases in which a formal report of rape has been made to police within a set number of hours post-assault (*Crime Victims Compensation Quarterly*, 1995).

Since the vast majority of rape victims do not report the assault to police (Kilpatrick, Edmunds, and Seymour 1992), this means that they would be ineligible for subsidized medical treatment of acute injuries. For those rape victims who do report a rape to police, the emphasis has been on provision of immediate medical follow-up. For most states there are no specific provisions for medical follow-up of women in the weeks following the assault.

Currently there are some model programs that include follow-up medical care for victims (Young et al. 1992; Holmes, Resnick, and Frampton 1998). Holmes provides a description of the Sexual Assault Follow-up Evaluation (SAFE) clinic program developed at the Medical University of South Carolina. This program provides medical care to women regardless of whether or not they have reported an assault to police. In addition, follow-up care is provided at six weeks and six months post-assault. Such care includes re-assessment and treatment of sexually transmitted diseases and long term follow-up blood testing for HIV and hepatitis B. In a sample of over 300 women and adolescents Holmes et al. noted that the follow-up clinic provided an opportunity to also address women's mental health and social service needs as well as to counsel them about medical and other concerns post-rape. Such education about health risk behaviors and normalization of physical arousal symptoms might help to prevent later health problems and inappropriate use of medical care (i.e., emergency room visits). The SAFE clinic includes a multidisciplinary team of OB-GYN professionals, staff from the National Crime Victims Research and Treatment Center, and staff from the local rape crisis center, People Against Rape (PAR). The team provides for easy referral for mental health treatment and for PAR follow-up of additional referral or counseling needs.

Another multidisciplinary aspect of the program at the Medical University of South Carolina is the development and evaluation of a brief video-based intervention to help prepare women for the acute postrape medical exam and to provide education and instruction designed to reduce postrape symptoms of PTSD, substance abuse, panic, and depression. Psychologist Dr. Heidi Resnick and colleagues at the National Crime Victims Research and Treatment Center have implemented this program in coordination with the local rape crisis center (People Against Rape), Dr. Melisa Holmes of the MUSC Obstetrics and Gynecology Department, medical personnel at the MUSC Trauma Center, and the MUSC General Clinical Research Center (GCRC).

Major ideas that led to this project included the fact that all women who report a rape are seen for medical care within hours of their assault. Thus, this medical care setting provides an opportunity to provide early intervention that could prevent some of the negative mental health consequences of rape. In addition, for some women it may be the only opportunity to provide such an intervention since many women may not seek out needed services or may do so only

many years later. A second factor that led to the project development was that rather than reducing anxiety the medical exam contains many cues that might actually increase rape victims' distress. Previous data indicated that women's initial post-rape distress is a strong predictor of longer term distress. Therefore, an intervention that could reduce distress at the time of the medical exam might help women in their longer term recovery. Evidence for the usefulness of brief education plus instructional approaches in an emergency room setting also influenced the content of the intervention as well as the need to address a range of mental health problems that rape victims are at increased risk of developing in the aftermath of assault.

To address these concerns, an acute time-frame hospital-based video intervention was developed to: (1) minimize anxiety during forensic rape exams, and (2) prevent post-rape posttraumatic stress disorder (PTSD), depression, and substance abuse. This video-based intervention has been implemented at a sexual assault outpatient exam room located at a central hospital serving rape victims.

Victims are first seen in the emergency room of the hospital to determine whether they require additional treatment of physical injuries. All study participants complete informed consent at the time of the emergency room exam which takes place within 72 hours post-rape. Participation in the study is completely voluntary and does not affect receipt of medical care in any way. Participating women are randomly assigned either to a video or standard treatment as usual condition at the time of the exam. Pre- and post-medical exam measures of anxiety are administered at the time of the emergency room exam. In addition, women are reinterviewed at six weeks and six months post-rape to determine mental health status at those time points. Preliminary data (Resnick et al. 1999) indicate that women participating in the video intervention condition were significantly less distressed following the medical examination than women in the standard condition group, after controlling for pre-exam levels of distress/anxiety. Data also indicate that distress following the medical exam is significantly correlated with all measures of mental health functioning at six weeks post-rape. Preliminary data also support the efficacy of providing an intervention at the acute post-rape medical exam that may reduce anxiety in the medical setting and that may be related to reduction of some long-term mental health problems among rape victims.

REASONS FOR NONREPORTING AND HOW TO INCREASE REPORTING

The fact that most rape cases are never reported to police means that most rapists are never detected, arrested, or successfully prosecuted. *Rape in America* (Kilpatrick, Edmunds, and Seymour 1992) included information on rape victims' concerns that are relevant to why most victims are reluctant to report. Major concerns identified by victims were being blamed by others, their families finding out about the rape, other people finding out, and their names being made public by the news media. A rape victim with these concerns would likely have substantial reservations about reporting the rape to police. However, it is reasonable to assume that addressing these concerns might encourage victims to report.

The report also described the results of a national survey of 522 organizations that provided crisis counseling services to victims of rape, at least some of whom did not report to police. Representatives from these agencies provided a list of actions and activities that would be effective in increasing women's willingness to report rapes to police:

- Educate the public about acquaintance rape (99%).
- Pass laws protecting confidentiality and disclosure of victims' names (97%).
- Expand counseling and advocacy services (97%).
- Provide mandatory HIV testing for indicted defendants (80%).
- Provide free pregnancy counseling and abortions (77%).
- Provide confidential, free testing for HIV and STDs (57%).

Sexual assaults of men are "silent crimes" that are even less likely to be reported than rapes of women. Heterosexual men often fear that if they report being raped by a man, it may be thought that they are gay, and they may feel emasculated by the assault (TCLEOSE 2000). Men are likely to report a sexual assault only if they sustain severe bodily harm suggesting that they attempted to thwart the attack (Pino and Meier 1990).

Efforts to increase the reporting of rape cases must be as big a priority as the effective processing of cases that are reported. This effort will require a great deal of public education about rape in general and about acquaintance rape in particular. It will also require making sure that rape victims know that they can get the supportive services they need and that their privacy will be protected to every extent that is legally possible. It also requires a public education campaign that stresses the importance of reporting all rape cases.

THE MENTAL HEALTH IMPACT OF RAPE

The National Women's Study produced dramatic confirmation of the mental health impact of rape by determining comparative rates of several mental health problems among rape victims and women who had never been victims of rape. The study ascertained whether rape victims were more likely to experience these devastating mental health problems than women who had never been crime victims (Kilpatrick, Edmunds, and Seymour 1992).

POSTTRAUMATIC STRESS DISORDER

The first mental health problem examined was posttraumatic stress disorder (PTSD), an extremely debilitating mental health disorder occurring after a highly disturbing traumatic event, such as military combat or violent crime.

- Almost one-third (31%) of all rape victims developed PTSD sometime during their lifetimes and more than one in ten rape victims (11%) still had PTSD at the time of assessment.

- Rape victims were 6.2 times more likely to develop PTSD than women who had never been victims of crime (31% vs. 56%).
- Rape victims were also 5.5 times more likely to have current PTSD than their counterparts who had never been victims of crime (11% vs. 2%).

OTHER MENTAL HEALTH PROBLEMS

Major depression is a mental health problem affecting many women, not just rape victims. The National Women's Study (NWS) found that 30 percent of rape victims had experienced at least one major depressive episode in their lifetimes and 11 percent of all rape victims were experiencing a major depressive episode at the time of assessment. In contrast, only 10 percent of women never victimized by violent crime had ever had a major depressive episode and only 6 percent had a major depressive episode when assessed (Ibid.).

Thus, rape victims were three times more likely than nonvictims of crime to have ever had a major depressive episode (30% vs. 10%) and were 3.5 times more likely to be currently experiencing a major depressive episode (21% vs. 6%).

Some mental health problems are life-threatening in nature. When asked if they ever thought seriously about committing suicide, rape victims' answers reflected the following findings: 33 percent of the rape victims and 8 percent of the nonvictims of crime stated that they had seriously considered suicide.

Thus, rape victims were 4.1 times more likely than noncrime victims to have contemplated suicide. Rape victims were also 13 times more likely than noncrime victims to have actually made a suicide attempt (13% vs. 1%). The fact that 13 percent of all rape victims had actually attempted suicide confirms the devastating and potentially life-threatening mental health impact of rape.

Finally, there was substantial evidence that rape victims had higher rates of drug and alcohol consumption and a greater likelihood of having drug and alcohol-related problems than nonvictims. Compared to women who had never been crime victims, rape victims with rape-related PTSD (RR-PTSD) showed the following results:—

- 13.4 times more likely to have two or more major alcohol problems (20.1% vs. 1.5%).
- 26 times more likely to have two or more major serious drug abuse problems (7.8% vs. 0.3%).

The NWS findings on increased suicide risk provide compelling evidence about the extent to which rape poses a danger to American women's mental health—and even their continued survival (Ibid.). Rape is a problem for America's mental health and public health systems as well as for the criminal and juvenile justice systems.

Rape victims should not be further traumatized by being given an unnecessary mental health label. However, it is imperative that victim advocates be aware of the symptoms of depression

and be able to differentiate these symptoms from “normal” PTSD. It is the role of the victim advocate to make referrals for treatment when needed. Advocates should become concerned when victims report depressed moods most of the day, no interest in activities that used to give them pleasure, significant weight loss or gain that was not intended, insomnia or oversleeping nearly every day, fatigue, excessive feelings of worthlessness or guilt, lack of concentration, or recurrent thoughts of death, as they are symptoms of severe depression (DSM-IV). When victims express clear suicidal ideation, advocates should take steps to ensure victim safety such as recommending a mental health consultation to determine referral options, including the possible need for hospitalization. Advocates should be aware of which community mental health professionals are competent to deal with victimization issues and make referrals for longer-term interventions appropriately.

CONCERNS OF RAPE VICTIMS

In order to effectively respond to rape victims, service providers and criminal and juvenile justice officials need to understand the major concerns of rape victims. Without accurate information about victims’ concerns after rape, it is difficult to create and implement policies and programs to meet their most critical needs.

The National Women’s Study (NWS) identified several critical concerns of rape victims (Ibid.). In order to determine if rape victims’ concerns have changed over time, the study divided these concerns into those of *all* rape victims, and those of victims that had been raped within the past five years (1987-91). The following results highlight which concerns do and do not change:

- *Her family knowing she was sexually assaulted.* This concern has not changed dramatically. Seventy-one percent of *all* victims and 66 percent of victims within the past five years are concerned about their families finding out about the rape.
- *People thinking it was her fault or that she was responsible.* Rape victims are still very concerned about being blamed for the rape, with 69 percent of *all* victims and 66 percent of recent rape victims saying they are concerned about this.
- *People outside her family knowing she was sexually assaulted.* Again, there is no significant difference. Sixty-eight percent of *all* victims and 61 percent of rape victims within the past five years are concerned about this.
- *Her name publicized by the news media.* Women who have been raped within the last five years are more likely to be concerned about the possibility of their names being made public than all rape victims (60% vs. 50%).
- *Becoming pregnant.* Sixty-one percent of recent rape victims, as opposed to 34 percent of all rape victims, are concerned about getting pregnant.
- *Contracting a sexually transmitted disease (not including HIV/AIDS).* More than twice as many recent rape victims were concerned about the development of sexually transmitted diseases than *all* rape victims (43% vs. 19%).

- *Getting HIV/AIDS*. Recent rape victims were four times more likely to be concerned about getting HIV/AIDS as a result of the rape than *all* rape victims, regardless of the recency of the rape (40% vs. 10%).

The stigma still associated with rape is reflected in the high percentage of rape victims being concerned about people, such as family members and friends, finding out. Thus, from a victim service provider perspective, maintaining confidentiality and respecting the privacy needs of rape victims are important goals of service and assistance.

THE NEED FOR A COMPREHENSIVE RESPONSE PROTOCOL FOR RAPE AND SEXUAL ASSAULT VICTIMS

Rape victims have many needs, and improving the investigation and prosecution of rape cases cannot be accomplished by any single agency. In 1992, the Office for Victims of Crime provided support for a national-scope project to evaluate the system of multidisciplinary services that have been developed at the community level. *Looking Back, Moving Forward: A Guidebook for Communities Responding to Sexual Assault* (NCVC 1993) developed a “victim-centered” model for responding to rape victims. The report identified a number of agencies that should play a key role after a sexual assault occurs:

- Victim services.
- Medical.
- Mental health.
- Law enforcement.
- Prosecution.
- Courts.
- Institutional and community corrections.

The combined functions that each of these agencies provides to rape victims would create a model response to rape victims that accomplishes the following:

- Recognizes and supports the need of sexual assault victims to assume control over their own lives.
- Addresses the immediate short- and long-term mental health impact of the trauma.
- Provides accompaniment/transportation to emergency medical treatment and pays for all forensic rape examinations.
- Investigates vigorously all cases.
- Apprehends offenders and aggressively prosecutes cases in a timely fashion.
- Informs victims at each stage of the proceedings.

- Vertically prosecutes cases within prosecutors' offices.
- Gives victims the opportunity to express a preference for what they would like to see happen to the offender.

Victims who report rapes to law enforcement will likely have contact with medical, victim service, and law enforcement professionals. If an arrest is made, prosecutors become involved. If there is a conviction, then institutional or community corrections becomes involved. The NCVC report strongly advocates establishment of community sexual assault interagency councils with representation of all these professionals and agencies. The report also argues that these interagency councils should negotiate a multiagency/multidisciplinary protocol specifying how sexual assault cases should be handled.

Clearly, no agency can do the job alone. Although establishment of a community sexual assault interagency council is difficult and may be impractical in some communities, the importance of cooperation and teamwork cannot be overemphasized. Law enforcement is critically important, but law enforcement cannot succeed without the assistance and support of other agencies.

The United States has numerous police and prosecutorial jurisdictions. No one protocol can be developed that fits the needs of all these jurisdictions. It might be feasible to develop special sex crimes investigation units in large law enforcement agencies or in large metropolitan areas, but in small jurisdictions, this may not be feasible. Likewise, large metropolitan areas have many law enforcement agencies as well as major medical centers, rape crisis centers, and other victim service agencies. Small law enforcement agencies are often located in towns or rural jurisdictions that lack ready access to medical centers and to victim services. Large agencies often have victim advocates, but small agencies rarely do.

Thus, the major issues in developing a protocol in large metropolitan areas or in large law enforcement agencies are likely to be quite different than those in rural areas and in small agencies. Although victims' needs are the same and the elements of effective investigation and prosecution are the same irrespective of the jurisdiction, the protocol itself should reflect the circumstances within different jurisdictions.

SPECIFIC RIGHTS AND SERVICES FOR VICTIMS FROM THE CRIMINAL AND JUVENILE JUSTICE CONTINUUM AND ALLIED AGENCIES

The system for services and support for victims of rape and sexual assault should include emergency or crisis services, support throughout the criminal or juvenile justice system, and medical, mental health, financial, legal, or other types of support as needed.

In many communities across America, a system of responses takes place for rape victims who choose to report the crime to law enforcement. Rather than looking at the response to rape victims in the traditional way (i.e., what each agency and/or individual should do for a rape

victim), the “victim-centered” approach looks at the needs of the victim at each stage and recommends various agencies that could provide the needed service or support.

ROLE OF THE FIRST RESPONDER TO RAPE VICTIMS

The first responder can be a hotline operator, a rape crisis center advocate, a police officer—all of whom must be trained in victim sensitivity and crisis response techniques, with a special focus on telephone communication skills. The basic victim assistance needs at this initial stage include the following:

- Determining if the victim needs any emergency medical care.
- Responding to the safety and security needs of rape victims—determining if the alleged assailant is still nearby and if the victim needs protection.
- Assisting with or providing transportation for the victim to the hospital.
- Advising the victim of the need to preserve evidence (by not bathing, showering, washing garments, etc.).
- Providing crisis intervention counseling, in person or over a hotline.
- If the victim requests a supportive person, obtaining a personal friend or professional to immediately join the victim.
- If the victim requests, staying on the phone or at the physical location with her.

The *First Response to Victims of Crime* handbook developed by the Office for Victims of Crime (January 2000) suggests that first responders be prepared for any type of emotional response by victims. First responders are cautioned to avoid interpreting a victim’s calmness or composure as evidence that a sexual assault did not occur. The desire to forget details of a horrific crime is normal and should not be interpreted as resistance to giving a statement. First responders are instructed to be supportive without appearing overprotective or patronizing.

Medical care following rape. Emergency medical care, especially the collection of evidence through a forensic examination, is critical for both the victim and the protection of evidence for prosecution. Medical care providers must fulfill two sometimes conflicting roles: they must meet the rape victim’s medical and emotional needs, and they must collect evidence to be used in a legal proceeding. Comprehensive medical protocol in the aftermath of rape includes the following components:

- Collecting forensic evidence (rape exam) in a sensitive manner. As of July 1995, all states now pay for the cost of the exam. This exam includes an internal examination, pubic hair combings, nail scrapings, saliva samples, swabs for foreign materials on the victims’ body, and an overall examination for bruises and lacerations and other physical trauma. It is one of the greatest sources for “secondary injury” in the aftermath of rape. It is very important to provide rape victims with a supportive person, a trained social worker at the hospital or a rape crisis intervenor from a local rape crisis program to accompany the victim during this

exam. It is also important to let the victim know that it is her choice whether or not to have the advocate present.

- Obtaining the victim's complete medical history, including the date of her last period, contraceptive use, sexually-transmitted disease (STD) information. etc.
- Treating the immediate physical injuries of the victim.
- Diagnosing and treating sexually transmitted diseases.
- Conducting pregnancy tests, providing counseling, and providing drugs for terminating a potential pregnancy, if the patient wishes.
- Obtaining blood and urine samples for drug screening if medically appropriate (Speck 1999).
- Providing information about HIV/AIDS. A baseline HIV test immediately after the assault should be conducted, followed by repeated tests every three months for up to two years.
- Providing information about victim compensation.

Many hospitals across the country have established protocols on treating sexual assault and rape victims. However, The National Women's Study asked victims if they had a medical examination following the assault. The study found the following:

- Only 17% of all rape victims were examined medically.
- 60% (of these 17%) rape victims were examined within twenty-four hours of the assault, and 40% were examined more than twenty-four hours after the assault.
- Two-thirds of rape victims told their doctors that they had been sexually assaulted; the remaining one-third did not.

In addition, many recommended practices and protocols did not occur in all rape examinations:

- 60% of rape victims were *not* advised about pregnancy testing or how to prevent pregnancy.
- 73% were *not* given information about testing for exposure to HIV/AIDS.
- 39% were *not* given information about testing for exposure to sexually transmitted diseases.

Despite some improvements in the dissemination of information about testing for pregnancy, HIV/AIDS, and sexually transmitted diseases to rape victims, the following conditions remain:

- The rate of nonprovision of information about pregnancy prevention to recent rape victims was similar to that reported overall (55% vs. 60%).
- 33% of recent rape victims were not given information about testing for exposure to sexually transmitted diseases as opposed to 40% of all rape victims.

- 50% of recent rape victims were not given information about testing for HIV/AIDS, despite the fact that rape clearly constitutes an unprotected exposure to bodily fluids of assailants with unknown HIV/AIDS status.

Sexual Assault Nurse Examiner (SANE) programs offer an innovative approach to handling the medical/evidentiary aspects of sexual assault and child abuse cases through the use of technology, nurse examiners, and specialized settings. Instead of having doctors handle these cases in busy emergency rooms, SANE programs create a special environment for victims and use trained nurse examiners to conduct the evidentiary medical examination and present the forensic evidence at trial. According to the Tulsa Police Department, the nationally recognized Tulsa SANE program has substantially improved the quality of forensic evidence in sexual assault cases.

The Sexual Assault Resource Service (SARS) of Minneapolis developed a guidebook entitled *SANE Development and Operations Guide* to be used by jurisdictions interested in developing SANE programs (Ledray 1999). This guidebook (available online for downloading at < www.sane-sart.com >) stresses the need for a community approach when developing the program. Some programs such as the Memphis Sexual Assault Resource Center have a free-standing location where only sexual assault victims are seen. This center has nurses and advocates on call 24 hours a day and a counseling program on site. Whether co-located in a single facility or, more commonly, located throughout the community, the collaboration of law enforcement, medical professionals, justice system and rape crisis programs is essential to meet the needs of rape victims.

Rohypnol and other drugs used in rape. Rohypnol (roofies), Gamma Hydroxybutrate (GHB) and Ketamin have been termed “acquaintance rape drugs.” These drugs have been used to incapacitate potential sexual assault victims (Hindermarch and Brinkman 1999). Rohypnol, the best known of these drugs, is not approved for medical use in the United States. It is a benzodiazepine that was developed for use as a treatment for insomnia and as a pre-medication for anesthesia. Rohypnol has physiological effects similar to Valium although Rohypnol is approximately ten times more potent (DEA 1999).

Rohypnol has a hypnotic effect and sedation begins twenty to thirty minutes after ingestion. The effects peak at one to two hours and may persist for six to eight hours. The drug causes anterograde amnesia which means that the user remembers little about the time during which he or she is sedated. Another widely reported effect of Rohypnol is disinhibition (Smith, Wesson, and Calhoun n.d.). The combination of Rohypnol with alcohol increases its sedative and amnesic effects, making it the “drug of choice” for some rapists who use this drug on unsuspecting victims.

LAW ENFORCEMENT

Innovations in law enforcement-based victim assistance. The past two decades have been marked by two significant advances in law enforcement’s response to rape cases:

1. The creation of specialized sex crime units to enhance the agency's efficiency and send a message to the community that the department is deeply committed to solving sex crimes.
2. The development of in-house victim/witness assistance units that review all reports, sort out the felonies, and contact each victim of a felony crime, usually by phone. Law enforcement-based victim assistance professionals make referrals to rape crisis centers, contact victims who have delayed reporting, and provide community education in rape awareness and prevention.

Reporting rapes to law enforcement. New methods for reporting rape and for guarding victims' privacy have been developed over the last two decades in an attempt to increase victims' willingness to report crimes and to cooperate throughout the investigation.

In deciding whether to report the assault, a victim has the following options:

- Immediately file a report of the rape with law enforcement.
- Report the rape to hospital emergency room personnel (who may or may not be required by law to report the incident to law enforcement).
- Defer filing a report while further considering the issue.
- Tell a friend, relative, therapist, or rape crisis center counselor, requesting that the person not report the assault.
- Not report the crime to anyone (Epstein and Langenbahn 1994, 17-25).

Interviewing rape victims. Victims are now interviewed at different stages and with new techniques. In *The Criminal Justice and Community Response to Rape*, a checklist for law enforcement officers who are conducting initial interviews with rape victims, developed by the King County (Washington) Prosecuting Attorney's Office, is offered (Ibid.):

- Approach the victim in a gentle, supportive manner, bearing in mind the physical and psychological damage s/he has endured. Be patient and nonjudgmental.
- Assure the victim that s/he is safe now, and that you are there to help him/her.
- Avoid any forceful or aggressive behavior [that] might be threatening to the victim.
- Minimize unwarranted attention and publicity. Protect the victim's anonymity.
- Protect the victim from unnecessary questioning by other police officers and afford him/her whatever privacy is available.
- Request that the victim . . . not wash or douche and explain the rationale for this instruction (it may destroy physical evidence).
- Avoid in-depth questioning of the victim unless you will be assigned to conduct the entire investigation. However, do obtain a physical description [of the suspect], clothing . . . vehicle, if any, direction of flight, and type of weapon if the suspect is armed.

- Transmit a radio alarm for the suspect based on this description.
- Include in the supplement to the initial report a specific description of the victim's physical and emotional condition, any injuries, damage to clothing, and any information [that] will be of value in establishing proof of . . . [force].
- Accompany the victim to [a] hospital or personal doctor of her or his choice. Explain procedures in order to demystify the medical procedures and put her or him more at ease.
- If necessary, inform hospital emergency personnel or doctors of the importance of an internal and external examination and of what police evidentiary needs are: semen slide from site of penetration as proof of penetration, and documentation of any bruises or injuries and overall physical and emotional condition as proof of forcible copulation.
- Ensure that the victim is treated for possible pregnancy and venereal disease.
- If the victim has visible scars, marks, or bruises, take photos. If marks or bruises are in [the] genital area, have them taken by [a] nurse or female police officer (if the victim is female).
- Obtain a rape kit from [the] doctor and deliver to [the] lab for analysis.
- Take the victim's garments and other stained or torn objects for [a] semen and blood analysis, and as proof of force and penetration. Make sure all the garments worn during and after the assault are accounted for. If the assault occurred on a bed, take the bedclothes. Place garments and other items in clean paper sacks to avoid contamination during transport and storage.
- If [an] arrest is made soon after the crime, examine the defendant's clothing and underwear for rips [and] blood or semen stains and note his general condition. Take pictures of him, if possible.
- Carefully note any statements or admissions by [the] defendant.
- Advise the victim of available counseling groups and other victim services. Make sure a victim/witness advocate has been contacted.
- Remember that the actions of the first officer on the scene may have a vital impact on the future psychological well-being of the victim. Every effort should be made to relieve feelings of shame or guilt, and to treat the victim with a sense of dignity and professionalism [that] will aid her or him on the road to recovery and . . . help her or him to regain self-esteem.

In addition, extensive experience of victim advocacy from the law enforcement perspective points out the need to:

- Begin the interview and investigation with a general statement which clarifies that while some of the questions may *appear* to be judgmental or blaming, they are not intended to be so; they are simply necessary to conduct the most thorough investigation possible.
- Advise victims of the state compensation program, and provide forms for completion (as well as referrals to advocates who can assist with securing compensation).

- Implement a strong policy that protects the identities of rape victims from the media, coordinating such privacy protection efforts with the police public information department, rape advocacy organizations, and the news media.
- Coordinate rape victim support efforts with rape crisis centers, ensuring that the victim is advised of the availability of immediate support and advocacy and, upon request, contacting a rape counselor or advocate to go the crime scene or hospital.
- Coordinate the prompt return of property that is used as evidence with the prosecutor's office.

For example, a rape victim who was sexually assaulted in her bedroom wanted to know when she could get her bedspread back from the police. Both the law enforcement agency and victim advocate in the case wrongfully made the assumption that she would not be interested in ever seeing the quilt again. However, since the bedspread matched the decor of her room that she had taken great pride in decorating, the victim was eager to have this evidence returned.

- Provide information about victim compensation and referrals to agencies or professionals who can help process the application.

The information obtained by law enforcement in its initial and ongoing investigation is critical to the district attorney's decision whether or not to prosecute. As such, the collection and monitoring of law enforcement information should be closely coordinated with prosecutors' offices.

PROSECUTION

Many district attorneys utilize a vertical prosecution approach to rape cases, with prosecutors who are specially trained in sexual assault case management. The same prosecutor handles a case from the investigation through the decision to prosecute to the verdict and sentencing, when applicable. In many jurisdictions, specialized units—which include investigators, prosecutors, and victim advocates—serve to further streamline the prosecutorial process, and ease the trauma of the victim in rape cases.

Roles and responsibilities of prosecutors relevant to rape victims. Upon initial contact with a rape victim, prosecutors should explain their specific roles and responsibilities in the criminal or juvenile justice continuum. These include the following:

- Prosecutors should ensure that victims have received information about victim compensation and assistance in completing and processing the forms.
- Prosecutors should coordinate with law enforcement and medical professionals to limit the number of times a rape victim must be interviewed for a case.
- Victims should be notified of all relevant criminal or juvenile justice proceedings and, when allowable under law, be allowed to attend such proceedings.

- The availability of “no-contact” orders should be explained to victims and, upon request, prosecutors should help victims who want such protection to secure protective orders from law enforcement and/or the court.
- Prior to any plea agreements, prosecutors should receive input from the victim.
- In cases of plea agreements, victim impact statements are particularly important. If a defendant pleads to a lesser assault charge, it is very important for the court to know the extent of the physical, psychological, and financial damages the victim endured, regardless of the plea bargain.
- Prosecutors should always request that court cases involving rape be closed to media coverage and that appropriate protective measures are taken to protect the victim’s identity from the media and the public.
- Prosecutors should request that the court allow a supportive person—such as a relative, friend, or victim advocate—to accompany the victim to all court proceedings upon request or as needed.
- Rape shield laws available in all fifty states and at the federal level—which prevent the defense from delving into the past personal and/or sexual history of the victim—should be enforced at all costs. Any motion to admit such evidence must be vigorously opposed by prosecutors.
- Prosecutors can seek expert testimony of medical professionals to explain physical trauma and mental health professionals to explain rape trauma syndrome, posttraumatic stress disorder (PTSD), and rape-related PTSD to the court.
- In cases of trials (or adjudication hearings in juvenile court), rape victims should have the opportunity to submit victim impact statements to the court prior to sentencing, either by addressing the court in person (allocution) or in writing, by audio tape, or by video tape. Victim service providers, prosecutors, and often probation officers are the key professionals in coordinating the use of the victim impact statement.
- Any special conditions of sentencing requested by the victim—such as protective orders, restitution, testing for HIV (with the results provided to victims in states that allow this by statute), and sex offender treatment—should be presented to the court at sentencing.
- In cases that result in prison or youth detention sentences, or “findings,” prosecutors should provide victims with information about how to register to be notified of an offender’s status, potential release, or release from state institutional corrections or parole agencies.
- In cases in which the prosecution does not have enough evidence to indict the offender, it is important to carefully explain this decision to the victim. Victims may interpret the lack of prosecution as a justice system failure. If the prosecutor believes that the victim was assaulted, but cannot proceed because of evidentiary or other legal reasons, this should be explained to the victim in an effort to minimize the “secondary victimization” at the hand of the legal system. Support persons of the victim’s choosing, such as a family member, friend or victim advocate, should be able to attend these and any other conferences with the prosecutor.

VICTIM SERVICES

One of the goals of providing assistance to rape victims is helping them to gain a sense of empowerment. It is important that advocates and mental health professionals encourage victims to regain a sense of control in their post-rape lives. Since victims frequently blame themselves for the assault, it is important for victim advocates to remind victims that, even if there were choices within their control that could have contributed to greater personal safety, they are *in no way* responsible for the fact that they were sexually assaulted.

On the other hand, victims may have limited control of the aftermath of a reported rape. Advocates can assist victims by explaining the justice system processes. Frequently an arrest is not made or is made more slowly than a victim would prefer. Sometimes cases are not prosecuted due to insufficient evidence. Advocates can help victims overcome these hurdles by giving them accurate information and coordinating meetings with law enforcement, prosecutors, and correction officials. Knowing they have been heard by the “system” is essential for victims, as it often allows them the comfort of knowing that they did everything possible to promote their desired outcome.

Sexual assault advocates may be paid professionals or trained volunteers who are committed to working with victims. They share the common goal of assisting victims as they navigate through the horrific aftermath of an assault. Sexual assault advocates:

- Maintain a victim-centered approach to the delivery of assistance.
- Provide the victim with information needed to make informed choices.
- Make appropriate referral for counseling and other community services, such as HIV/STD testing.
- Provide information and support from the time of report, through adjudication, and post sentencing.
- Provide counseling for the victim, family members and/or significant others or make referrals to appropriate resources.
- Work with allied professionals to protect the privacy of the victim in the news media.

The specific duties of victim advocates differ depending on the setting. Advocates at a rape crisis center may—

- Answer hotline calls from victims.
- Give victims information about how to report an assault to police.
- Assist the victim in determining whether or not she or he wishes to report.
- Make referrals for crisis or long-term counseling.
- Meet victims at an emergency room or hospital and offer to be present during the medical/forensic exam.

- Provide information regarding victim compensation.
- Serve as a liaison for the victim with law enforcement and the criminal or juvenile justice system.

Advocates who work within a law enforcement agency may—

- Accompany the victim for a rape exam.
- Attempt to contact victims who have not followed through with a report.
- Ensure that victims are interviewed in a private setting.
- Work to ensure the victim's anonymity.
- Coordinate services with a rape crisis center if there is one in the area.
- Make referrals to meet victims' social service needs.
- Make referrals to counselors trained to work with victims.

Advocates who work for the prosecutor may—

- Notify victims of upcoming court dates and let them know when and if they can attend.
- Let the victim know that he/she can be accompanied to court by a support person or by the advocate if desired.
- Assist the victim in developing a victim impact statement.
- Ensure that victims have a private waiting area prior to testimony.
- Ensure that the victim's wishes regarding interaction with the news media are respected.

Advocates who assist victims, post-conviction/adjudication, may—

- Interface with probation/parole officers if asked to do so by the victim.
- Articulate the victim's wishes regarding implementation of core rights, including notification, restitution, and protection.
- Ensure that the victim receives notification of the status change of the offender, if desired.
- Assist victims with developing a letter or statement regarding victim impact to be sent to the parole board.
- Offer to accompany victims to parole hearings to offer support.

The needs and desires of the victim should always be the advocate's primary concern. Advocates must be aware of confidentiality issues regarding victim interviews and statements and should make sure that the victims they serve are also aware of these limits.

When interviewing victims of sexual assault, it is critical to clearly define terms when discussing rape or sexual assault. The victim's culture will influence what acts he/she considers to be beyond the cultural norm, thus to be labeled as an assault. Key words become even more important when interviewing non-English speaking victims. Words that translate the same into English may have different connotations depending on the victim's experience or country of origin. For instance, *rapto* and *violacion sexual* are words that mean *rape* in Spanish. Their idiomatic meanings differ dramatically and can alter the meaning of an interview question depending on the victim's understanding of the phrase (Lira, Koss, and Russo August 1999).

Advocates who are not mental health professionals should develop relationships with mental health practitioners in the community to facilitate referrals. An advocate's ability to network within the law enforcement and social service communities can provide victims with timely, appropriate services to meet needs that might not otherwise be addressed.

JUDICIARY

In the past decade, substantial progress has been made to provide judges with training and resources that can help them handle rape cases in the most sensitive manner possible. Through efforts sponsored by the Office for Victims of Crime, Violence Against Women Office, National Coalition Against Sexual Assault, The National Judicial College, and others, many curricula have been developed and taught to the judiciary to heighten their awareness of the special needs of rape victims.

Roles and responsibilities of judges relevant to rape victims.

- Upon request, judges should issue "no-contact" orders or other measures of protection requested by the victim.
- In *voir dire*, judges must take extreme caution and allow prosecutors to assess any attitudes among potential jurors that might tend to "blame the victim," or contribute to misunderstandings about the nature and extent of sexual assault crimes.
- Judges should close all court proceedings involving rape cases to the media and the general public.
- Persons supportive of the victim should be allowed to be present with him or her in the courtroom.
- Expert witnesses called by the prosecution can be utilized to better explain psychological and physical traumas experienced by rape victims.
- Victim impact information should always be solicited in cases involving diversion, plea agreements, or jury/judge verdicts. The use of victim impact statements can be enhanced by close coordination among prosecutors, probation, and the judiciary. Any victim impact information should be included in the offender's file (in a confidential section that prevents access by the offender and/or his or her counsel) that is forwarded to probation, corrections, and/or parole.

- Any special conditions of sentencing requested by the victim—such as HIV testing, restitution, protective orders, or specific offender treatment—should be given serious consideration by judges.
- The imposition of restitution and fines should be mandatory in all rape cases, with judges considering the long-term financial impact of the crime on victims who may have future expenses related to medical needs, counseling, relocation, time lost from work, etc.

PROBATION

Cases involving plea bargains or court sentences to probation or diversion are handled by probation departments. Victim sensitivity on the part of probation officials and consideration of victims' rights and needs are essential components of probation-based victim services.

Roles and responsibilities of probation relevant to rape victims.

- Victim impact information should be incorporated as a component of presentence investigative reports (PSIs) in all sentences that result in probation.
- Any special conditions requested by the victim should be considered and implemented in accordance with law. These might include protective orders; sex offender treatment; alcohol or other drug abuse treatment; and HIV testing or testing for sexually transmittable diseases (with the results provided to victims in jurisdictions where this is a statutory right).
- Restitution to rape victims should be given priority over other fines levied against probationers. Probation officials should assess the long-term financial losses that victims might incur, make appropriate recommendations, and coordinate operational systems with the court that collect and disburse restitution payments to rape victims.
- If victims request to be notified of probation violations, they should be contacted when/if such infractions occur. In jurisdictions that allow victim input at violation hearings, victims should be notified of this right, and be allowed to testify if they wish.
- If victims express a desire to participate in victim/offender programming (such as mediation or victim impact panels), their wishes should be fulfilled.

CORRECTIONS

Over the period from 1985 to 1993, there has been only slight variation in the average sentence received for rape and sexual assault by those entering state prisons. Entering prisoners convicted of rape have received sentences averaging between twelve and thirteen years, while those convicted of sexual assault have been admitted to prison with sentences averaging between eight and nine years. There is no evidence from national data on those admitted to state prisons that the average sentence for either category of crime has been lengthened.

National data on sex offenders discharged from state prisons between 1985 and 1993 reveal two distinct trends: an increase in the average length of stay; and an increase in the percentage of the sentence served in confinement prior to release (Greenfeld 1996, 19).

Nearly all of America's state correctional agencies and the Federal Bureau of Prisons have victim service programs that provide information, notification, and referrals to victims and witnesses. Victim service providers should be aware of the specific rights and services that are mandated by law and/or by correctional agency policy to be able to best inform and serve victims of rape.

Roles and responsibilities of corrections relevant to rape victims.

- In classifying offenders (to determine their location, level of security, and program assignments), corrections should review all victim impact information contained in the offender's file.
- All victim information in offender's files should be confidential, with "flags" for privacy on paper files, and security screens in automated databases.
- In cases where HIV testing of convicted offenders is a component of the court order, corrections agencies should coordinate the testing and release of test results (where allowable by law) to victims.
- Although sex offender treatment programs are available on a very limited basis, they should be mandatory to the extent possible for convicted rapists.
- Restitution orders from the court should be enforced with payments provided to rape victims in accordance with state law and/or agency policy.
- Correctional agencies that collect restitution from inmates should coordinate the prompt disbursement of monies to rape victims.
- Upon request, victims should be notified about changes in the offender's status, such as movement to a lower-level security institution, pending release, release, escape, or death.
- In instances where correctional employees are sexually assaulted by inmates, Departments of Corrections should have protocols, policies, and programs in place that provide for immediate and long-term support and services for the victim.

PAROLE

Sensitivity to rape victims' needs—from both paroling authorities, parole boards, and parole agents—is essential to avoid compounding victim trauma. The potential release of a rapist is a terrifying prospect to most victims. Paroling authorities and personnel should be knowledgeable about the long-term effects of rape, especially responses that might be "triggered" by parole or parole release hearings (such as rape-related PTSD). It is interesting to note that in several states, a rape victim serves as a member of the parole board.

Roles and responsibilities of parole relevant to rape victims.

- When allowed by statute, victims should be notified of parole hearings and of any rights they have relevant to such hearings (such as participation, attendance, and providing victim

impact information). Support persons including family members, friends, and victim advocates should be allowed to accompany victims to hearings.

- Victim impact information from sentencing should be included in offenders' files that are reviewed by paroling authorities.
- Victim impact statements at parole should be allowed in five forms: allocution, written, audiotape, videotape, or teleconferencing. Victim impact statements provided at the time of any parole or release hearings should be compared to the initial victim impact statement provided at the time of sentencing. When permitted by law and upon request from the victim, the delivery of impact information should be confidential.
- Parole boards should consider any reasonable requests from rape victims relevant to the offender's release or supervision, including but not limited to: protective orders; commitment to a geographical area that is not in the victim's community; when allowed by statute, HIV testing (with the results provided to victims upon request); sex offender treatment; abstinence from alcohol and/or other drugs; special monitoring (such as electronic monitoring); and restitution.
- Upon request, rape victims should be notified if the offender in any way violates the conditions of parole and should be allowed to submit victim impact information at parole revocation hearings.
- Contact information for the convicted rapist's parole agent should be provided to the victim, including how someone in the paroling authority can be reached twenty-four hours a day.

Clearly, the criminal or juvenile justice continuum for rape victims requires concerted, ongoing, multidisciplinary efforts that focus on reducing the amount of trauma a victim will have to endure throughout the system. Education for all system professionals about the psychological, physical, and financial effects of rape—as well as how these effects can be compounded by participation in the criminal justice process—should be incorporated into orientation and continuing education programs for all professionals. Involvement with and reliance on the many valuable services offered by victim service providers are essential to guaranteeing a continuum that is sensitive.

THE MANAGEMENT OF SEX OFFENDERS IN THE COMMUNITY

On any given day, there are approximately 234,000 offenders convicted of rape or sexual assault under the care, custody, or control of corrections agencies; nearly 60 percent of these sex offenders are under conditional supervision in the community (Greenfeld 1996). A relatively recent public policy phenomenon in the United States has focused national and community attention on managing sex offenders in the community, with an emphasis on public protection and reduction in recidivism. Two significant initiatives have emerged as a result: the implementation of sex offender community notification laws, and sex offender monitoring by community corrections agencies that recognizes the rights and needs of communities and the victims. Both initiatives merit the attention and involvement of victim advocates.

SEX OFFENDER COMMUNITY NOTIFICATION LAWS

In 1996, federal legislation mandated that all states establish a community notification program or lose ten percent of their federal law enforcement funding under the Byrne Memorial State and Local Law Enforcement Assistance Funding program. As of October 1997, forty-seven states had passed “community notification” laws that require law enforcement agencies to inform local communities that convicted sex offenders are residing in their neighborhoods or allow public access to this information.

Community notification laws allow or mandate that law enforcement, criminal justice, or corrections agencies give citizens access to relevant information about certain convicted sex offenders living in their communities. These laws are distinct from sex offender registration laws, which require convicted sex offenders who are living in the community to notify police officials of where they are living. They are also distinct from victim notification laws, which mandate that crime victims who wish to receive information about the criminal justice processing or release status of the person(s) who victimized them are provided with it.

Provisions of community notification laws vary state to state. States differ in their methods of informing the public of a sex offender’s presence in their community and the extent of the information they provide. Some states proactively inform the community, while others make information available to citizens upon request. Those states using community notification laws have essentially established four notification categories:

- *Broad community notification* (18 states) releases information about sex offenders to any person or organization who requests it.
- *Organizational notification* (14 states) informs organizations that are especially vulnerable to particular offenders such as day care centers and schools.
- *Individual notification* (13 states) informs victims and classes of victims of the presence of specific offenders in the community.
- *Police notification* (14 states) allows persons or organizations to obtain sex offender registry information from local law enforcement.

Typically, individuals and organizations get offenders’ names, photos, crime descriptions, and age(s) of their victim(s). Information is often provided on how offenders target their victims as well as their modus operandi. Some notifying agencies may also provide community members with information about the nature of sexual offending, the characteristics of sex offenders, methods of self- or community protection, and information about what can be done when one learns that a sex offender is living in their neighborhoods.

(The preceding material in this section is derived from “An Overview of Sex Offender Community Notification Practices: Policy Implications and Promising Approaches” published by the Center for Sex Offender Management (CSOM) in November 1997.)

The role of victim service providers in community notification efforts includes the following:

- Obtaining information about statutory mandates for community notification and the processes that are utilized in the state to fulfill such mandates for incorporation into their community outreach and victim assistance resource materials.
- Providing information to victims of rape and sexual assault about community notification laws, processes, and any specific rights relevant to victims.
- Collaborating with justice agencies (such as law enforcement and probation) that are responsible for community notification and offering assistance in developing public education, community protection, and information/referral resources.
- Participating in any community forums related to either community notification of a specific offender(s), or the issue of community notification in general.
- Utilizing community notification processes as an opportunity to publicize the availability of supportive services and assistance for reporting and nonreporting victims of sexual assault.

MONITORING/MANAGING SEX OFFENDERS IN THE COMMUNITY

With the majority of convicted sex offenders residing in communities, significant efforts in many jurisdictions have resulted in a “containment approach” that includes community protection and victim advocacy as well as the supervision, evaluation, and treatment of sex offenders under community supervision. Leadership from the Maryland-based Center for Sex Offender Management, with support from the U.S. Department of Justice, has provided extensive training and technical assistance that incorporates both input and involvement of victim service professionals.

Collaborative efforts among probation and parole agencies, law enforcement agencies, sex offender treatment professionals, and victim service providers are crucial to the containment approach to managing sex offenders in the community. The specific roles of victim advocates are best illustrated by a model program in Connecticut entitled S.A.F.E.-T. (supervision, advocacy, follow-up, and treatment). A sexual assault victim advocate participates in the S.A.F.E.-T. Intensive Sex Offender Unit, and provides for victim and community safety by facilitating increased input, involvement, and cooperation from victims, their families, and the community at large.

The victim representative on the team does the following:

- Educates victims and the community about the intensive probation unit.
- Establishes a communication link with the victim, when possible, to provide information/feedback from the victim to the unit, including valuable information about the offender’s behavior.
- Keeps the victim informed of the offender’s status.

- Provides direct services to victims and family members who are experiencing trauma when the offender is released into the community.
- Speaks to community groups to promote broad community involvement as part of the offender supervision network.
- Provides information about risk reduction and available community resources to community groups.
- Assists with the community notification process.
- Provides information and support to community members with concerns about the community notification process.
- Works with the intensive probation unit on home visits and field visits.
- Shares with the team information about any behavioral violation gathered by the community or the victim.
- Participates in offender treatment programs, including counseling groups and victim empathy segments.
- Provides information and training about victim issues.

Effectively managing sex offenders in the community with an emphasis on victim and community protection requires the commitment and collaboration of victim service providers. By making victims' rights and interests a top priority and providing information and assistance to victims and the community, victim service providers have a valuable and vital role in community-based sex offender management processes.

SIGNIFICANT STATE STATUTORY PROVISIONS

Many statutory changes have been enacted across the states to address all forms of sexual assault and rape. The following are two significant reform measures that pertain to victim service providers:

MARITAL RAPE

Prior to the passage of these laws, "rape" within a marriage or co-habituating relationship was not considered rape. In the 1980s, a California legislator shocked many citizens when he asked, "If you can't rape your wife, who can you rape?" Today, most states have reformed this exemption, making marital rape a specific offense, but exemptions still exist in some states.

PRIVILEGED COMMUNICATION FOR VICTIM COUNSELING

For many rape crisis advocates and interveners, the issue of confidential communications with rape victims has been one of their most frustrating and ongoing challenges. Without the protection of client/professional confidentiality granted to licensed mental health professionals

such as psychologists or social workers, some rape crisis workers have faced subpoenas and have even been jailed on contempt charges for refusing to divulge the substance of their conversations with rape victims.

As early as 1982, the President's Task Force on Victims of Crime selected privileged communication between rape and domestic violence advocates and victims as a top priority for legislative change.

It is important to note that rape crisis advocates working in criminal or juvenile justice-based agencies (law enforcement/prosecution) are *not* covered by this confidentiality protection due to discovery rules (their communications may contain information that is helpful to the defense). It is also important to note that OVC's *New Directions* reiterated the need for this legislation (OVC 1998).

SIGNIFICANT FEDERAL LAWS

Within the last decade, significant federal laws have been enacted that address rights for sexual assault victims, new classifications of sexual crimes, and funding and support for the criminal justice response to sexual assault.

THE HILLORY J. FARIAS AND SAMANTHA REID DATE-RAPE PROHIBITION ACT OF 1999

The Hillory J. Farias and Samantha Reid Date-Rape Prohibition Act of 1999 was signed into law on February 18, 2000 to modify the schedule of the Controlled Substances Act (CSA) to criminalize the manufacture, distribution, or possession of gamma butyrolactone (GBL), a "designer drug" associated with date rape and other forms of sexual assault among young adults. Public Law No. 106-172 directs the Attorney General to develop model protocols for taking victim statements in connection with investigations into and prosecutions of violations of the CSA, and other federal and state laws that result in rape or other crimes of violence. It directs the Secretary of Health and Human Services to submit annual reports to Congress that estimate the number of incidents of abuse of date-rape drugs, and requires them to develop a national campaign to educate young adults, law enforcement personnel, nurses, hospital emergency room personnel, and rape crisis counselors on the dangers of date-rape drugs, recognizing the symptoms in a victim and developing appropriate responses. (Public Law No: 106-172, The Hillory J. Farias and Samantha Reid Date-Rape Prohibition Act of 1999, February 18, 2000.)

THE HIGHER EDUCATION AMENDMENTS OF 1998

The Higher Education Amendments of 1998 to the Higher Education Act expands rights of victims of crime on campuses and increases the reporting responsibilities of institutions to include crimes committed on campus, off campus, on public property, and in residential facilities for students. There are specific provisions that pertain to perpetrators and victims of

sexual violence as well as grant funding to combat violence against women on campus and \$1 million to conduct a study on how colleges respond to complaints of sexual assault.

DRUG-INDUCED RAPE PREVENTION AND PUNISHMENT ACT OF 1996

This federal statute provides for penalties up to twenty years in prison for the intent to commit a crime of violence (including sexual assault) against an individual by distribution of a controlled substance to that individual without his or her knowledge.

THE VIOLENCE AGAINST WOMEN ACT OF 1994

The Violence Against Women Act (VAWA) offers an important source of new funding for programs that address the needs of sexual assault victims. While this law has been described in other chapters, it is important to point out that for victims of sexual assault, certain provisions of the act are pertinent:

- Under this Act, to qualify for the available funding, states have to pay for forensic rape exams.
- Federal funding is providing for coordination, investigation, and prosecution of crimes against women.

Appropriated and authorized funds to implement provisions of the Violence Against Women Act for domestic violence and rape prevention and intervention programs represent a significant increase in federal support. A key provision of the Violence Against Women Act allowing female victims to bring a civil action for damages against their attackers in federal court was narrowly struck down May 15, 2000 by the U.S. Supreme Court. The 5–4 ruling dismissed the case of Christy Brzonkala, a former Virginia Polytechnic Institute student, who was the first person to sue in federal court under the 1994 VAWA Act. The Court majority ruled that Congress, in enacting the civil remedies provision, had overstepped its authority to regulate interstate commerce and enforce the equal protection guarantee of the U.S. Constitution. In so doing, the justices rejected the argument that states are not doing enough to protect rape victims and that gender-based violence restricts women’s choices in jobs and travel. Writing for the minority, Justice David Souter cited “the mountain of data assembled by Congress, here showing the effects of violence against women on interstate commerce. . . . Violence against women may be found to affect interstate commerce and to affect it substantially” (< www.findlaw.com/casecode/supreme.html >).

THE CAMPUS CRIME SEXUAL ASSAULT BILL OF RIGHTS OF 1992

Because of a nationwide problem of sexual assault on college campuses—which was traditionally handled by campus security, rather than through outside law enforcement (and as a criminal justice matter)—and because very often there was pressure on the student-victim not to report to outside authorities, a Bill of Rights became necessary for college rape and sexual assault victims. In addition to requiring that campus authorities treat rape victims with respect, give them information about their criminal and civil justice options, and establish procedures for assisting victims, rape prevention education is required.

THE STUDENT RIGHT-TO-KNOW AND CAMPUS SECURITY ACT OF 1990

Due to a long tradition of handling crime on campus internally and not reporting crimes to local law enforcement, the extent of campus crime across the country was underreported for many years. Rape is among several on-campus crimes that now must report to local law enforcement under this law. Equally important, the law requires colleges and universities to provide information on safety-related procedures for the student.

THE HATE CRIME STATISTICS ACT OF 1990

This law requires the reporting of crimes that are motivated by prejudice, race, religion, sexual orientation, and ethnicity. Women are not considered a “protected class” under the law; however, information is collected about crimes against women within protected categories. For the first time on a nationwide basis, sexual assault and rape statistics covering many types of overlooked crimes are being collected. This information will help target services and funding for previously undocumented and often unrecognized crimes against women.

PROMISING PRACTICES

- The *Rape Treatment Center (RTC)* at Santa Monica–UCLA Medical Center is nationally recognized for its exemplary treatment, education, and prevention programs. Established in 1974, the RTC has provided care for over 24,000 sexual assault victims. In April 1999, the RTC created a new, state-of-the-art clinic to enhance the treatment of victims in the immediate aftermath of a sexual assault. Historically, rape victims have received emergency services in hospital ERs. In these facilities, victims are often subjected to long waits and a chaotic environment, and as a result, the victim’s trauma may be compounded and critical evidence deteriorates. The RTC’s new clinic was designed to remedy these problems. Located within the hospital in a safe, private, therapeutic environment, the clinic is a 24-hour facility dedicated exclusively to sexual assault victim care. It is staffed by advanced practice nurse practitioners and professional therapists. The clinic uses advanced forensic equipment and technologies. In addition to medical and evidentiary services, victims receive crisis intervention and other advocacy and support services. Special health-related educational materials are provided. All of the services are free. In the development of the clinic, and in its ongoing operations, the clinic has collaborated with law enforcement agencies, crime labs, and other victim service providers. Contact: Gail Abarbanel (310–319–4000) < www.911rape.org > .
- In Montgomery County, Maryland, rape counselors were unable to find a rape crisis videotape in Spanish, so they developed their own. The twelve-minute video, produced with a \$30,000 state grant and introduced publicly during 1999 National Crime Victims’ Rights Week, features Spanish-speaking people (a police officer, prosecutor, and rape counselor, among others) to explain what happens to the victim who reports a sexual assault.
- The *Anonymous and Confidential Internet Support Counseling Service* was initiated in March 1997 by the Brazos County Rape Crisis Center (BCRCC) in Bryan, Texas. It gives victims/survivors of sexual abuse or assault, their friends, and/or family members an

opportunity to seek anonymous support counseling that is provided by a trained support counselor at the BCRCC. Victims and/or survivors anywhere in the world can access this technology and service. This technology allows users to electronically “write” to the BCRCC at any time (twenty-four hours a day, seven days a week) to request information or to seek help. Through the secure server, the user’s identity and location are protected and are confidential. It allows users to tell or talk about their sexual abuse/assault without the fear of someone knowing who they are or from where they are calling.

1. Describe three major differences between the early legal definitions of sexual assault/rape and the reform definitions of the 1980s.
2. Describe two of the symptoms of rape-related posttraumatic stress disorder.
3. Select an agency within the criminal or juvenile justice continuum, and list five procedures and/or services that assist victims of rape.
4. Cite one of the most significant federal laws that has been passed to promote rape victims' rights and/or improve services.

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STATISTICAL OVERVIEW

- In 1998, the U.S. Department of Health and Human Services estimates that child protective service agencies received about 2,806,000 referrals of possible maltreatment. In the referrals investigated (66%), states found that there were an estimated 903,000 children who were victims of abuse or neglect (Shalala 10 April 2000).
- The 1998 national child abuse and neglect statistics reported by states show the total number of maltreated children in this country declined to just over 900,000 children. The incidence rate of children victimized by maltreatment also declined to 12.9 per 1,000 (Ibid.).
- Parents continue to be the main perpetrators of child maltreatment. In 1998, more than 80% of all reported victims were maltreated by one or both parents. Victims of physical abuse and sexual abuse, however, were more likely to be maltreated by a male parent acting alone. More than half of all reported victims (54%) suffered neglect; 23%, physical abuse; and 12%, sexual abuse. The number of reported child fatalities caused by maltreatment remained unchanged at about 1,000 (Ibid.).
- Since the National Center for Missing and Exploited Children began tracking newborn baby abductions from hospitals in 1983, 1999 marks the first year that not a single report of a newborn baby being kidnapped by a nonfamily member was made from a hospital nationwide (NCMEC March 2000).
- In 1997, child protective service agencies investigated 3 million reports of child abuse, of which just under 1 million cases were substantiated. In addition, 2,200 children are reported missing to law enforcement agencies every day (Connelly June 1999).
- The FBI's National Incident-Based Reporting System data indicate that between 1991 and 1996, persons under the age of twelve were the victims of 5.5% of all violent crime incidents reported to a law enforcement agency (Ibid., 29).

SIGNIFICANT FEDERAL LEGISLATION

The Child Protection and Sexual Predator Punishment Act of 1998 addresses protection for children from sexual predators and child pornography and prevention of sexual abuse. It prohibits the transfer of obscene material to minors, and increases penalties for offenses against children and for repeat offenders. Furthermore, the Act amends the Child Abuse Act of 1990 by requiring online service providers to report evidence of child pornography offenses to law enforcement agencies. (Public Law 105-314: The Child Protection and Sexual Predator Punishment Act of 1998, October 30, 1998.)

The Missing, Exploited, and Runaway Children Protection Act of 1999 amends the Runaway and Homeless Youth Act to include findings that it is the responsibility of the federal government to:

- Assist in the development of an accurate national reporting system on runaway and homeless youth; conduct a study of a representative sample of runaways to determine the percentage who leave home because of sexual abuse and report to Congress; and make grants to nonprofit private agencies to provide street-based services to runaway, homeless, and street youth, who have been subjected to, or are at risk of being subjected to, sexual abuse, prostitution, or sexual exploitation. (Public Law No. 106: The Missing, Exploited, and Runaway Children Protection Act, October 12, 1999.)

The Child Abuse Prevention and Enforcement Act and Jennifer's Law signed into law on March 10, 2000, modifies the parameters of certain federal grant programs to: increase funds available for improved enforcement of child abuse and neglect laws; promote programs for improved child abuse and neglect prevention; establish cooperative programs between law enforcement and media organizations to collect, record, retain, and disseminate information useful in the identification and apprehension of suspected criminal offenders; and authorize grant awards to enable states to improve the reporting of unidentified and missing persons. (Public Law No: 106-177: Child Abuse Prevention and Enforcement Act and Jennifer's Law, March 10, 2000.)

STATE LEGISLATION

"Cassie's Law," signed on April 3, 2000, in Idaho, amends existing domestic violence laws to include acts of violence in a dating relationship against a minor child by a person with whom the child is having a dating (social relationship of a romantic nature) relationship. The law specifies that a custodial or non-custodial parent or guardian of a minor child may file a petition for a dating violence restraining order to protect the minor child from the abuser. (SB# 1523aaH, State of Idaho, April 3, 2000.)

Some states are modifying laws to assist child witnesses of crime and awarding them crime victim compensation. For example, the California State Board of Control (SBOC) has recently expanded the definitions of victims of crime so that children who witness an act of domestic violence are now presumed to have sustained injury and are eligible for a higher level of Crime Victims Restitution. (Government Code #13960 (B) (3) Chapter 584 Statutes of 1999 (California Assembly Bill 606) January 1, 2000.)

SIGNIFICANT RESEARCH

CHILD VICTIMS AND POSTTRAUMATIC STRESS DISORDER (PTSD)

Child victims/witnesses of unexpected violent crime resulting in the possible injury of one person by another are likely to suffer PTSD. Current research suggests that the psychological

traumatic disability that can result from an actual or possible criminal assault can be seriously debilitating and may entitle the child victim to compensation and personal injury claims (Miller 1999).

Child victims are particularly vulnerable to PTSD. One recent study analyzed startle reflexes in school-age children suffering from PTSD after witnessing a shooting, and found that their physiological startle patterns regressed such that the responses of a ten-year-old child resembled those of a five-year-old. The affected children overreacted to environmental cues as if their “danger-detection system” were permanently engaged. Preliminary experimental data suggests that childhood traumatization impairs “normal neuron-to-neuron synaptic development in the cerebral cortex of the brain’s frontal lobe leading to deficits in attention, planning, reasoning, and behavior control” (Ibid.).

NEW VIOLENCE PREVENTION GUIDELINES IN ROUTINE PEDIATRIC PRACTICE

Following a two-year study of violence and children, the American Academy of Pediatrics (AAP) has recommended that pediatricians integrate violence prevention guidelines into routine clinical practice. AAP proposes that pediatricians take a role in preventing and managing violence in four areas:

- *Clinical Practice.* Identify risk factors within the family such as substance abuse, history of mental illness, and stresses that lead to violence and make appropriate referrals. Screening should begin during prenatal visits and continue through young adulthood.
- *Advocacy.* Become advocates for children by offering quality affordable child care, counseling against corporal punishment, and collaborating with other child advocacy disciplines to maximize efforts.
- *Education.* Call upon medical schools and pediatric residency programs to enhance their own knowledge and skills in the area of violence prevention and to develop and institute appropriate curricula on prevention and management of youth violence.
- *Research.* Contribute to research on youth violence prevention by participating in violence-related, practice-based research projects (AAP January 1999).

PROMISING PRACTICES

- *The Child Witness to Violence Project* is a counseling, advocacy, and outreach project at Boston City Hospital that addresses the needs of children who are bystanders to community and domestic violence. Services include assessment, counseling, parent guidance, advocacy, and coordination with legal and social service agencies. The project began in 1992 and currently counsels over 200 children and their families each year, in addition to implementing both national and state-focused training programs for health care professionals, law enforcement, educators, and many victim service professionals who confront issues of children witnessing violence. The Child Witness to Violence Project,

Boston City Hospital, Talbot 217, 818 Harrison Avenue, Boston MA 02118
(617-414-4244).

- *Families and Schools Together (FAST)* program is a nonprofit family counseling agency in Madison, WI that helps at-risk youth (ages three to fourteen) build relationships through a research- and family therapy-based, multifamily group approach to preventing juvenile delinquency. Originally a program that provided court-ordered therapy with drug and alcohol-involved violent youth, it is currently a collaboration between family services and elementary school teachers to identify school children about whom they have behavioral concerns. It provides structured opportunities in relationship-building interactions with parents and other caretakers, peers, and school and community representatives from which they can develop “social safety nets” for at-risk periods. The program seeks to strengthen parent-child relationships; empower parents to be primary prevention agents for their children; improve the child’s performance at school; empower the parents to be partners in the educational process; increase family affiliations with schools; educate the family about substance abuse and its impact on child development; link the families to treatment centers; develop ongoing support groups for parents of at-risk children; and build the self-esteem of the family members (McDonald and Frey November 1999).
- *Through My Eyes* is a nine-minute video tape produced by the Office for Victims of Crime and Video/Action Fund that tells the story of children who are exposed to violence and how such exposure affects their well-being and their emotional/psychological development. The videotape is intended for a wide audience, including those who work with children at risk, law enforcement, criminal justice professionals, child victim service providers, and policymakers. Available free from the Office for Victims of Crime Resource Center (800-627-6872), NCJ 178229.

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ABSTRACT

This chapter will provide an overview of child victimization, its effects, and the need for services and program strategies critical to help the child and his or her family cope with the trauma of victimization. It addresses the broad scope of child victimization and its effects; emotional and communicative levels of children based upon age; and appropriate responses for general support services. In addition, this chapter focuses on providing support and services to child victims and witnesses if they are required to participate in the criminal justice process.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- Federal initiatives for crimes dealing with child victimization.
- The types of child abuse and neglect most commonly reported.
- The short- and long- term emotional consequences of children who witness or experience victimization.
- A multi-disciplinary approach to administering victim services for child abuse.
- Child victims in the criminal justice process.
- Promising practices that improve services to child victims and witnesses and their families.

STATISTICAL OVERVIEW

Despite the lack of exact data, recent statistics on child victimization suggest it is a crisis of national importance. In 1996, 969,018 cases of substantiated abuse or neglect were reported from a total of forty-seven states (NCCAN 1998).

It is estimated that:

- 116,500 children were sexually abused (Ibid.).
- 232,560 children were physically abused (Ibid.).
- 58,150 children were emotionally abused (Ibid.).
- 29,070 children were medically neglected (Ibid.).
- 155,050 children endured some other form of maltreatment (Ibid.)

- 52% of child abuse and neglect victims were girls and 48% of child abuse and neglect victims were boys (Ibid).
- An estimated two thousand children died in 1995 as a result of abuse or neglect (NCCAN 1997).
- Children under the age of three account for 75% of the annual deaths as a result of abuse or neglect (NCCAN 1998).
- Almost 50% of the children who die from maltreatment in the United States are already known to child protection (NRCCSA 1996).

In 1998, there were an estimated 749,100 missing juveniles reported to the police and entered into the FBI's National Crime Information Center (NCIC 1999, 1).

The circumstances under which juveniles were missing follows:

- 97,200 juveniles were missing in the company of another person under circumstances indicating that his or her safety was in danger (NCMEC 1999).
- 28,745 juveniles were missing under circumstances indicating that the disappearance was not voluntary (Ibid.).

Based upon research released in 1997, 43 percent of male adolescents and 35 percent of female adolescents have witnessed violent crimes such as seeing someone shot with a gun, knifed, sexually assaulted, mugged, robbed, or threatened with a weapon. The study excluded the 30% of adolescents who had directly observed someone being beaten up or badly hurt which, had it been included, the prevalence of witnessing violence would have risen to 72% (Kilpatrick and Saunders 1997).

INTRODUCTION

So long as little children are allowed to suffer, there is no true love in the world. — Isadora Duncan

Every day children in America are beaten, sexually abused, and murdered—frequently by members of their own family or family friends. Children not targeted for physical acts of victimization may have to endure emotional abuse and neglect or suffer the trauma that the experience of domestic violence inflicts on their lives. Forced to deal with pain, humiliation, anger, and fears that even adults would find hard to face, abused children are not only robbed of their childhood happiness, innocence, and trust in the good intentions of their kindred relations, but many also go forward in life as severely dysfunctional human beings. Devastating long-term effects of child abuse may wreak havoc in their adult lives, particularly in their abilities to maintain healthy relationships with others.

Convincing evidence has accumulated throughout the 1990s that many abused children, without therapeutic intervention, will grow up to become abusers or candidates for serious revictimization. Surveys of battered women, sexual assault victims, and incarcerated felons all

demonstrate surprisingly high rates of child abuse among the participants along with ineffective or self-destructive coping strategies in dealing with adult challenges.

Critical to the eventual well-being of victimized children is not only the prompt identification of their abuse and appropriate measures taken to ensure their safety but also sensitive assessments of their physical and mental health, and emotional and psychological support when and if they must negotiate the criminal justice system.

Victim service professionals must arm themselves with a thorough understanding of the problem of child victimization; be knowledgeable about the “cutting-edge” programs and strategies that have been developed to assist child abuse victims; understand and utilize the resources that have been designed to meet the emerging needs of child victims and their families; and work in collaboration with allied professionals on child abuse prevention and intervention initiatives.

HISTORICAL OVERVIEW OF CHILD VICTIMIZATION

Maltreatment of children is deeply entwined with the defining and redefining of historical values. Regarded as the property of their parents for much of history, children were abandoned, abused, maimed, sold in bondage, or killed by their parents with no legal consequences. Young children assumed adult roles at an early age and infanticide was an accepted means of ridding the mother or the family of an unwanted burden. While modern society has slowly evolved from viewing children as property to recognizing that children have rights of their own, reforms for child protection have been slow to emerge (Tower 1993).

Substantive child care reforms appeared in America at the end of the 1800s with the opening of settlement houses ensuring food and shelter for children, the enactment of tentative labor laws protecting children, and the emergence of social service agencies.

Through the efforts of the Society for the Prevention of Cruelty to Children (SPCC) formed in 1875, issues surrounding children and their right to protection began to take hold. In 1912, the White House formed the Children’s Bureau to oversee the welfare of the nation’s children; in 1915 the Children’s Welfare League was established; and in 1930, the Social Security Act was amended to mandate child welfare and protective services.

During the late 1950s and early 1960s, the controversial issue of child physical abuse first surfaced publicly. Until this time, it was generally accepted that a parent had the right to discipline a child as he or she saw fit. The establishment of the National Center for the Prevention of Child Abuse in 1972 helped to focus the federal government’s attention on the issue of child protection and prompted Congress, in 1974, to enact The Child Abuse Prevention and Treatment Act to provide government funding for the National Center on Child Abuse and Neglect and to federally assist, for the first time, the study of the problem of child abuse and neglect.

Oversight for the Center was placed with the Department of Health, Education and Welfare. Since the Act's passage, all states have enacted numerous legislative initiatives to assist in the detection, reporting, and treatment of child abuse. As a result of the Children's Justice Act Amendments of 1986 to the Victims of Crime Act, funding has become more readily available for the continued study of and the development of interventions in child abuse and neglect. Many national, state, and local organizations now exist to aid in the education of protective services professionals and the detection and delivery of services to America's child victims.

FEDERAL LEGISLATION AND NATIONAL PROGRAMS

A review of the legislative initiatives and national programs of the past three decades shows that the recommendations of the 1992 President's Task Force on Victims of Crime, four of which specifically address increasing rights and protections for children, have been met and exceeded.

- In 1974, the Child Abuse Prevention and Treatment Act established the National Center on Child Abuse and Neglect within the Department of Health and Human Services to assist professionals who work with children who have been physically or sexually abused or neglected. The Center supports the National Clearinghouse on Child Abuse and Neglect Information and a national data archive.
- In 1978, the American Bar Association launched the ABA Center on Children and the Law to improve children's rights, the response of court systems, and the quality of legal work in child protection cases. Among its programs, the Center operates a National Child Welfare Resource Center on Legal and Court Issues supported by the U.S. Department of Health and Human Services.
- In 1984, the Missing Children's Assistance Act established a clearinghouse and national resource center dedicated to helping exploited children. Since its creation, the National Center for Missing and Exploited Children has handled more than one million calls to its twenty-four-hour hotline, distributed millions of publications, and provided advice and technical assistance to thousands of parents, prosecutors, law enforcement officers, and child services professionals (Widom 1992).
- In 1985, the National District Attorney's Association established the National Center for Prosecution of Child Abuse. The Center has improved the investigation and prosecution of child abuse crimes nationwide through training and technical assistance to prosecutors and allied professionals.
- In 1986, the Children's Justice Act gave states funds for interdisciplinary training programs, interagency protocols for referrals and joint interviews, and the creation of children's advocacy centers or similar programs encouraging partnerships among agencies for joint investigations. The Act has since been amended to allow funding for the improvement of civil and criminal court responses to child abuse and for the establishment of interagency child fatality review teams.

- In 1990, the Victims of Child Abuse Act established rights and services for child victims of federal offenders. The Act added a new section to the Federal Rules of Criminal Procedure codifying innovative child witness reforms. They included alternatives to in-court appearances through closed-circuit television testimony or videotaped depositions; a presumption of child witness competency; privacy protections; courtroom closure provisions; authority for appointments of guardians ad litem; provisions for a supportive person to accompany the child during court appearances; speedy trial provisions; authority for judges to permit child witnesses' use of anatomical dolls; and consultation with multidisciplinary teams. The Act was amended in 1993 to provide funding to support local children's advocacy centers and to establish regional training centers to help communities establish interagency teams to respond to child abuse cases.
- In 1993, the National Child Protection Act provided authority for conducting criminal background checks for child care providers nationwide and required states to report child abuse crime information to the FBI's criminal record system.
- In 1994, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act provided financial incentives for states to enact sex offender registration requirements. Following passage of the Act, a number of states required offenders convicted of state crimes against children to maintain a current address with state law enforcement authorities for ten years after release from prison, parole, or community supervision.
- In 1999, the International Center for Missing and Exploited Children was created to address cases involving child abduction and exploitation that cross national borders.

FEDERAL INITIATIVES

In 1994, The Violent Crime Control and Law Enforcement Act created several new federal initiatives for crimes dealing with children. These provisions address the following areas: registration of sexually violent offenders; local, state, and federal coordination; repeat sex offenders; and child sex tourism. In addition, federal law now provides for community notification of the release of predatory sex offenders.

Registration of sexually violent offenders. The Attorney General of the United States is directed under the Act to establish guidelines for state programs that require persons convicted of certain crimes against children—kidnapping and sexual misconduct—to register their addresses with an appropriate state law enforcement agency upon their release from prison. This registration requirement continues for ten years after the offender is released from imprisonment or placed on probation.

In cases where the crime committed was “sexually violent,” the registration requirement applies to persons committing an offense against an adult or a child. In such cases, “sexually violent” predators must remain registered until a court determines that they no longer suffer from a mental abnormality that would make a predatory sexually violent offense likely.

Local, state, and federal coordination. The Act also requires local, state, and federal law enforcement agencies to share information. For example, the Act requires that state law enforcement agencies must transmit a copy of the conviction data and fingerprints to the Federal Bureau of Investigation. In addition, the Act establishes that the failure of a state to implement the registration program subjects the state to a 10 percent reduction in funds allocated under the Department of Justice's Byrne Grant program.

Repeat sexual offenders. The 1994 Act doubled the maximum prison term applicable to repeat sexual offenders. Specifically, if an offender commits a sexual abuse or sexual contact offense under federal law after one or more prior convictions for a federal or state sexual abuse or sexual contact offense, the maximum term of imprisonment is doubled.

Child sex tourism. A new "child sex tourism" offense was created under the 1994 Violent Crime Control and Law Enforcement Act that makes it illegal for a U.S. citizen or permanent resident to travel in interstate or foreign commerce with the intent to engage in sexual acts with a minor that are prohibited under federal law in the United States. This provision applies even if these acts are legal in the destination country.

In 1996, the Child Pornography Prevention Act included as a form of child pornography any computer-generated, or "morphed" depiction of a child engaged in sexually explicit conduct. The new statute considers the motives of the producers and the intended audience, as well as the presumed harm to the victim, as justification for prohibiting this form of pornography.

In 1996, the federal Megan's Law amended the Jacob Wetterling Act to provide for the notification of a community regarding the presence of a registered sex offender. The law was passed to better protect children from known sex offenders. Many state laws patterned after New Jersey's "Megan's Law" will allow parents to better protect their children from *known* sex offenders.

STATE LAWS PROTECTING VICTIMS

Numerous state laws now exist to protect children from physical and sexual abuse and to provide an array of rights and services for child victims who participate in the criminal justice process. Reforms on behalf of children have taken place at every step of the criminal justice process, from the initial reporting of abuse through the investigation, prosecution, and disposition of convicted offenders. Many of these reforms expedite the adjudication of child abuse cases, limit the number of investigative interviews with child victims, and provide advocacy for child victims in criminal courts. These reforms were considered radical a decade ago but are now common practice in many communities. More can be done, however, to protect the rights and improve the treatment of all child victims. As a first step, special protections for child victims participating in the criminal justice system must be made consistent nationwide (OVC 1998, 385-6).

TYPES OF CHILD VICTIMIZATION

Child abuse has been classified into five groups. Frequently, although not necessarily always, types of abuse occur in combination:

- Physical abuse.
- Emotional abuse.
- Sexual abuse.
- Neglect.
- Missing and exploited children.

Abuse of children can be characterized neither by race or religion nor by standard of living or level of education. Family members, community leaders, acquaintances, coaches, teachers, and total strangers commit child abuse in every kind of environment, urban, suburban, or rural. It is important to point out that the law defines physical abuse, neglect, and emotional maltreatment as acts committed by parents or other caregivers. A stranger or an acquaintance is not subject to charges of physical abuse or neglect of a child. However, sexual abuse can be committed by parents, caregivers, friends, and strangers—anyone who gains access to the child.

(Portions of the following five sections concerning forms of child abuse are excerpted from *For Kids Sake: A Child Abuse Prevention and Reporting Kit*, Oklahoma State Department of Health, Office of Child Abuse Prevention, Guidance Services.)

PHYSICAL ABUSE

Most often classified as a nonaccidental injury to a child under the age of eighteen by a parent or caregiver, *physical abuse* occurs when a parent or caregiver willfully injures, causes injury, or allows a child to be injured, tortured, or maimed out of cruelty or excessive punishment. Statutes in many states permit the prosecution of a parent who has knowledge of but fails to protect his or her child from physical abuse from others, such as grandparents, boyfriends, and spouses. Nonaccidental injuries may include beatings, shaking, burning, immersion in scathing water, broken bones, internal injuries, human bites, cuts, and bruising, or other injuries inflicted on children. Rarely a singular incident, the abuse of a child is generally an action repeated over time that can result in permanent disability, scarring, or death. Some children who only know family interactions through violence or physical abuse may equate it with love from an adult role model. At the same time, an abusing parent will often cast blame for the abuse on the child who, in turn, may feel that he or she deserves it.

EMOTIONAL ABUSE

Mental health professionals recognize *emotional abuse* and *emotional neglect* as two forms of child emotional maltreatment. The former consists of a chronic pattern of behavior in which the child typically is belittled, denied love to promote specific behavior, marginalized from the siblings, or subjected to extreme and inappropriate punishments. The latter is characterized by

the failure to provide a child with appropriate support, attention, and affection. Occurring alone and coupled with other forms of abuses, emotional maltreatment can impair the psychological growth and the emotional development of the child. Indicators for emotional abuse unfortunately mimic many medical and psychological conditions and complicate its diagnosis.

SEXUAL ABUSE

Child sexual abuse is the exploitation of a child or adolescent for another person's sexual and control gratification. Family members, trusted friends, acquaintances, child-related community program personnel, day care workers, and other paid caregivers as well as strangers are known perpetrators. Child sexual abuse ranges from acts such as oral and genital stimulation and penetration to voyeurism and the involvement of a child in prostitution or the production of pornography. Children tend not to disclose abuse when it first happens and may allow it to continue, sometimes for many years before an incident or confrontation provokes them to reveal crimes of sexual abuse.

Fabrication of sexual abuse. Fabricated reports of sexual abuse do occur and the highly publicized cases that have resulted in acquittals have raised doubts about the credibility of child reporting. It is estimated that knowingly false reports occur in less than ten percent of reported cases (Besharov 1988). Most children do not fabricate tales of sexual abuse, and the child protective service professional should not allow the possibility of a false allegation or false memory to prevent a thorough investigation of the report.

Intrafamilial sexual abuse. Sexual abuse is committed most often by individuals known to the child. Whether the abuser is a blood relative who is part of the nuclear family or a surrogate parent such as a live-in companion, stepparent, or older sibling, family members are frequently responsible for child sexual abuse. The family will likely be dysfunctional in other areas. It may have been de-stabilized by alcohol and substance abuse or severe spousal discord with a history of physical violence.

Acquaintance perpetrators. Acquaintance perpetrators such as family friends, neighbors, teachers, coaches, religious leaders, and peers normally will win the confidence of the child through his or her affiliation with the family or community. They tend to prey on children whom they know are experiencing home, school, or personal problems, children with low self-esteem, and children who are unsupervised. Perpetrators who command positions of respect due to positions in community affairs such as church, civic, and business affiliations are more likely to intimidate or threaten the child once sexual abuse has occurred. There has been a marked increase in the number of juvenile perpetrators committing sexual abuse.

Stranger sexual abuse. "Stranger" sexual abuse, frequently referred to as pedophilia (although the term describes any individual who has a sexual preference for children), is by far the most publicized form of child sexual abuse but comprises only 10 percent of all reported cases. There is no evidence that perpetrators choose child victims based on race, but there is a

correlation to increased victimization of children of lower socioeconomic groups. Some pedophiles specifically marry women with children so that the risks of sex with children are minimized and protected under the veil of “normalcy;” therefore, cases of incest may include factors of pedophilia (Tower, 1993).

On-line sexual predators. A new breed of child abuser is developing as a result of children’s increased and often unsupervised recreational use of the Internet. Investigations of computer sex offenders demonstrate that on-line sexual predators roam chat rooms and post sexually explicit material on the Internet to make contact with young children and teenagers. Victimization may be indirect and limited to showing a child pornographic sites to initiating sexually overt conversations in a chat room, by e-mail or instant messages.

More aggressive predators will spend time developing relationships with vulnerable children. Eventually, they may introduce them to photographs of children engaging in “normal” sex with adults, send them gifts, and contact them by telephone. Typically they will try to gain their trust, alienate them from their family, and eventually try to set up a meeting. Some on-line sex offenders have gone so far as to send plane tickets to children to fly across the country to meet them.

Powerful concerns over access to potentially dangerous sites on the Internet have surfaced in response to the recent tragedy at Columbine High School in Littleton, Colorado, and prompted TIME/CNN to conduct a telephone poll of 409 American teenagers from ages thirteen to seventeen on April 27–29, 1999, to discuss their Internet experiences (Yankelvitch 1999). Answers to the following questions offer some indication as to the type of negative encounters they may have on-line:

- Have you ever encountered people online whom you suspect are pretending to be someone they are not?
 - 72% of the girls replied yes.
 - 57% of the boys replied yes.
- Have you ever encountered people online who say offensive things?
 - 66% of the girls replied yes.
 - 54% of the boys replied yes.
- Have you ever encountered people online who want personal information like your address or phone number?
 - 58 percent of the girls replied yes.
 - 39 percent of the boys replied yes.

Debate over the control of Internet pornography and on-line solicitations of sex continues in the high courts of the country. In June 1997 in the case of Janet Reno, Attorney General of the United States et al. Appellant v. American Civil Liberties Union et al. on appeal from the United States District Court for the Eastern District of Pennsylvania, Justice Stevens delivered the most recent opinion of the Court:

At issue is the constitutionality of the two statutory provisions enacted to protect minors from “indecent” and “patently offensive” communications on the Internet. Notwithstanding the legitimacy and importance of the congressional goal of protecting children from harmful materials, we agree with the three judge District Court that the statutes abridge “ the freedom of speech” protected by the First Amendment. [n. 1]

(Portions of the material in the preceding section have been excerpted from *A Parent’s Guide to Internet Safety*, National Center for Missing and Exploited Children.)

Child trauma reactions to sexual abuse. Children who are hiding their sexual abuse inevitably have feelings of shame or guilt; they fear the loss of affection of family and friends; and they experience low self-esteem and frustration about the loss of control over their lives in not being able to stop the abuse. They also may fear that disclosure will harm other family members, often based upon real threats made by the perpetrator to harm the child’s loved ones, or the child himself or herself. Once a disclosure is made, children may retreat from family members and friends. Depending on how they process their anger, they may become deeply depressed and even consider suicide. Abused children may become angry with those whom they blame for failing to protect them. Older children may reenact sexual abuse by abusing other children, by becoming sexually precocious, and/or using vulgar language.

CHILD NEGLECT

Neglect is defined as the chronic failure of a parent or caretaker to provide a child under the age of eighteen with basic needs such as food, clothing, shelter, medical care, educational opportunity, protection, and supervision. The incidence of child neglect in the United States is estimated to be as much as five times greater than that of physical abuse. Reasons for neglect, in addition to the most obvious of a determined, willful act on the part of a parent or caregiver, can include poverty, lack of education, cultural beliefs and customs, mental or emotional illness, and/or a lack of socialization skills on the part of the parent.

MISSING AND EXPLOITED CHILDREN

Each year thousands of children run away from home to escape physical or sexual abuse or neglect while others are forced out of the home by their parents. Unfortunately, many end up on the streets. Without legitimate means of support and a safe place to stay, they are often victimized again through pornography, sexual exploitation, and drugs (NCMEC 1992b).

Abduction by a parent is considered a crime against the child when he or she is kidnapped from custodial parents. Although some parents claim they are taking the child to protect him or her from further abuse, many abduct their children out of anger over a custodial arrangement ordered by the court. These children may be placed at great risk both physically and emotionally. Frequently, a lack of finances to support the child and a constant change in living conditions leave the child emotionally scarred. Abduction by strangers is less common, but when it occurs, the child’s chance for survival is significantly lowered.

(Portions of the preceding section excerpted from a National Center for Victims of Crime grant project, funded by the Office for Juvenile Justice Delinquency and Prevention Programs, 1992-1994.)

In 1998, there were an estimated 749,100 missing juveniles reported to the police and entered into the FBI's National Crime Information Center (NCIC 1999, 1).

The link between missing and sexually exploited children is a strong one. For example, from July 1980 through February 1984, the police/social work team of the Louisville/Jefferson County Exploited and Missing Child Unit (EMCU) in Kentucky investigated approximately 1,400 cases of children suspected of being victims of sexual exploitation. A full 54 percent (756) of the children were found to be victims and an additional 31 percent (434) of the children were considered probable victims (NCMEC 1992a).

Sexual victimization of these homeless children occurs in every state. Outreach workers in New York City estimate that children as young as eight years old are forced to prostitute themselves for money, affection, and drugs. Some children are held in virtual bondage. They have multiple sex partners on a daily basis and are bought and sold by exploiters (NCMEC 1992b).

Sexual exploitation has been defined in a number of ways, but in this chapter, the term means the use of a minor under the age of eighteen for sexual purposes by an older person in any or all of three ways:

- Child pornography.
- Child prostitution.
- Computer solicitation (EDC 1995).

Child sexual exploitation cases raise unique issues that are not anticipated in existing child sexual abuse protocols. These cases tend to feature the additional complexities of concurrent federal and state jurisdiction, and many (especially cases of child prostitution) involve a particularly challenging group of victims.

The investigation and prosecution of cases involving sexual exploitation of children and youth can raise complex problems for criminal justice agencies:

- These cases often require a coordinated, proactive investigation.
- They sometimes involve victims who are also offenders.
- They often cross jurisdictional boundaries, potentially involving federal, state, and local authorities (Ibid. 1995).

Criminal justice agencies and victim service providers must recognize and attend to the needs of sexually exploited children and youth. These victims are subject to serious short- and long-term consequences that can impair their physical and mental health and inhibit them from cooperating in the investigation. Many exploited youth suffer from having been manipulated rather than explicitly coerced into these activities. As a result, they may feel responsible for, or at least complicit in, the sexual behaviors. Young victims of pornography have lost control

over images of themselves in print, on film, or in computer memories. These images may surface to haunt them at any time in their lives (EDC 1995).

Each state and the federal government criminalize some aspect of child prostitution. The federal government's primary law criminalizing child prostitution is the "Mann Act," which proscribes the transportation of individuals under the age of eighteen in interstate or foreign commerce with the intent that the individual engage in prostitution or any sexual activity for which any person can be charged with a criminal offense. State laws are generally broader and focus on persons who advance, promote, or induce prostitution. They rarely penalize patrons of child prostitutes. It may, however, be possible to prosecute patrons of child prostitutes under child sexual abuse or statutory rape laws (EDC 1995).

It is important to remember that these laws apply equally to situations involving very young children and to cases involving older teenagers. They are, for example, just as relevant to a parent who offers a seven-year-old for sexual activities as they are to a pimp who controls several teenaged girls (EDC 1995).

THE EFFECTS OF ABUSE

Longitudinal research has identified a significant link between childhood abuse and both future delinquency and adult criminal behavior:

- In one of the most detailed studies of the issue to date, research sponsored by the National Institute of Justice found that childhood abuse increased the odds of future delinquency and adult criminality overall by 40 percent. Being abused or neglected as a child increased the likelihood of arrest as a juvenile by 53 percent, as an adult by 38 percent, and for a violent crime by 38 percent (Widom, 1992).
- People who were sexually victimized during childhood are at higher risk of arrest for committing crimes as adults, including sex crimes, than are people who did not suffer sexual or physical abuse or neglect during childhood. However, the risk of arrest for childhood sexual abuse victims is no higher than for victims of other types of childhood abuse and neglect (Widom 1995).
- The vast majority of childhood sexual abuse victims are not arrested for sex crimes or any other crimes as adults (Ibid.).
- Compared to victims of childhood physical abuse and neglect, victims of childhood sexual abuse are at greater risk of being arrested for one type of sex crime: prostitution. (Ibid).
- For the specific crimes of rape and sodomy, victims of physical abuse tended to be at greater risk for committing those crimes than were sexual abuse victims and people who had not been victimized. (Ibid).

In April 1997, the National Institute of Justice released a summary of research, "Prevalence and Consequences of Child Victimization," conducted by Dean Kilpatrick and Benjamin Saunders of the Crime Victims Research and Treatment Center at the Medical University of South Carolina. The report's preliminary findings on the mental health impact of child victimization are highlighted below:

- A significant number of the youthful population have been victims of sexual and physical abuse and have personally witnessed incidents of violence.
- Of the nation's 22.3 million adolescents ages twelve to seventeen, approximately 1.8 million have been victims of a serious sexual assault, 3.9 million have been victims of a serious physical assault, and almost 9 million have witnessed serious violence. Nearly 2 million appear to have suffered (and more than 1 million still suffer) from posttraumatic stress disorder (PTSD) a long-term mental health condition often characterized by depression, anxiety, flashbacks, nightmares, and other behavioral and physiological symptoms. About 3.4 million adolescents have been drug or alcohol abusers as well.
- Among adolescents who have been physically assaulted, 23.4% developed PTSD and 14.8% still suffer from it, compared to 10.8% and 4.5% respectively, among nonvictims.
- More female than male adolescents had been sexually assaulted: 13% of females versus 3.4% of males. Sexual assault was defined in the study as "unwanted but actual sexual contact." The researchers noted that this did not include unsuccessful attempts at contact or noncontact victimization such as exhibition.
- Respondents indicated that young males had significantly higher rates of being physically assaulted than females: 21.3% v. 13.4%. Behavior that the study considered to be a physical assault included being attacked or threatened with a weapon; being badly hurt from a beating; or being attacked without a weapon but with the intent to kill or seriously injure.

The researchers note that the confirmation of the study's hypothesis that there is a correlation between victimization experiences, PTSD, and delinquency awaits completion of data analysis. However, preliminary findings indicate the significance of child victimization as a risk factor for adolescents to develop major mental health problems and to abuse alcohol as a means of coping with PTSD. These problems are often a precursor of delinquent behavior (OVC 1998).

A 1997 survey, recently published by the Bureau of Justice Statistics that specifically investigated child abuse histories among prison and jail inmates, determined that a high percentage of inmates had experienced physical or sexual abuse before their incarceration and that much of the abuse occurred while they were children (BJS 1998, as reported by Walsh in *The Washington Post*).

Long-term mental health problems as the result of child victimization are difficult to gauge. A study conducted at the University of South Alabama and published in the January 1999 *Journal of Interpersonal Violence* suggests that adult women with previous histories of child abuse and who have experienced recent sexual assaults, demonstrate poor coping strategies and a greater vulnerability to revictimization. Out of 119 undergraduate women who identified themselves as having experienced a recent sexual victimization, 42 percent also reported a history of child

sexual abuse. Those who suffered child abuse revealed predominately negative coping strategies that included self and societal blame: blaming themselves for being a “victim” type, for being a bad person, for not being able to take care of themselves; and blaming society for being dangerous, for its failure to protect women, and for the emotionally disturbed people who commit sexual assault. Their coping strategy, furthermore, tended to be reinforced by avoidance behavior, overeating, and taking prescription drugs (Arata 1999).

Results of the survey furthermore suggested that the coping strategies used to deal with their adult victimization were likely similar to those they had used to deal with original childhood abuse. The author of the report highlighted the need for additional research on the links between childhood victimization and adult revictimization, and stressed the importance of identifying rape victims who have suffered child sexual abuse and are at increased risk of ongoing trauma-related symptoms (Ibid.).

REPORTING REQUIREMENTS FOR CHILD ABUSE AND NEGLECT

Physical abuse, neglect, and emotional maltreatment are all defined by law to be acts committed by parents or caregivers. A stranger or acquaintance is not subject to charges of physical abuse or neglect of a child. Sexual abuse and exploitation, however, can be committed by parents, caregivers, friends, strangers—anyone who gains access to the child.

Most states and the federal government have enacted laws and specified professionals who are mandated to report child abuse and neglect. These *mandated reporters* are individuals who, in their professional relationship with the child and family, may encounter child maltreatment. Some states are more specific in delineating those mandated to report abuse, but most states do include physicians, other medical professionals, counselors, social workers, and school personnel. In addition to delineating who must report, most states provide language that addresses the following:

- *To whom the report should be made:* Departments of social services, child welfare, family service or agencies of public welfare are usually designated to receive such reports. Some states indicate a report to a law enforcement agency is necessary as well.
- *Under what conditions a mandated reporter must report:* States normally mandate the reporting of child abuse or neglect when there is a suspicion of, reasonable cause to believe, or reasonable cause to suspect abuse or neglect.
- *Time period in which the report must be investigated by social services or another designated agency:* States vary in their time requirements to investigate suspected cases, but time periods normally range from two hours to thirty days.
- *Type of action to be taken if mandated reporters fail to report:* All states, with the exception of one, penalize the nonreporting of suspected cases of child abuse or neglect. Such disciplinary actions may include a fine and/or imprisonment or the reporter can be charged with a misdemeanor. These penalties do not include agency or licensing sanctions, which are determined on a state-by-state basis.

- *Type of immunity provided mandated reporters who make a report:* All states allow for immunity from civil or criminal actions for good faith efforts.

Not all cases of abuse or neglect are detected by those mandated to report them. In fact, the largest numbers of reporting come from private citizens who witness, hear, or suspect abuse or neglect. These interested parties may include other family members, neighbors, parents of childhood friends, and other concerned citizens. However, several factors may curtail the reporting of abuse or neglect by private citizens:

- Lack of knowledge of whom to call.
- Lack of knowledge of confidentiality laws that protect anonymous reporters.
- A desire to not become involved in the “personal matters” of others.

Accepting an anonymous report of abuse entails risks. The report may be false, and implicit in anonymity is the refusal to serve as a witness if the case is proven to be criminal in nature. Consequently, the lack of full disclosure might put the alleged abused child at greater risk. Although most agencies take such reports seriously and investigate them, many agencies and most states do not have specific mandates or policies regarding the investigation of child abuse/neglect reports through an anonymous tip (Tower 1993, 234).

In working with child victims, either as victims or witnesses, it is important to remember the following:

- Children experience emotional reactions just the same as adults do and can experience posttraumatic stress disorder.
- Children are often more traumatized than adults when a casual acquaintance is victimized.
- Trauma in children can take years to manifest.
- Children’s traumatic reactions cannot be prevented but can be minimized when assistance is provided as soon as possible.

Delay should not occur because the caregiver, service provider, or support person feels the child is “too young” to understand.

CREATING A MULTIDISCIPLINARY APPROACH TO CHILD ABUSE AND NEGLECT

Because many child abuse and neglect cases involve simultaneous responses by child protection, law enforcement, victim assistance, and social service agencies, professionals have come to recognize the benefits to be gained not only by the investigating agencies but also by the child victims when their investigations are better coordinated. Hundreds of communities have developed multidisciplinary teams (based in hospitals, police departments, prosecutors’ offices, and child protection and nonprofit agencies) to improve coordination and communication among the personnel involved in these cases. One of the most important

reforms brought about by multidisciplinary teams is the ability to conduct joint interviews of child victims, reducing the number of interviews and interviewers to which child victims are exposed in the course of an investigation (OVC 1998).

While the ultimate goal of each agency is to protect the child, each agency nevertheless operates with different policies, procedures, and goals. The civil child protection system and the criminal justice system are complex parallel systems and, while they collaborate in a multidisciplinary approach, the victim assistance professional must appreciate the distinct roles of the entities: the child protection workers, the court-appointed special advocates (CASAs), law enforcement, prosecution, victim/witness assistance, guardians ad litem, physicians and/or nurses, and mental health services. The potential for the duplication or overlapping of services and procedures is high. To reduce this possibility, many states have incorporated a multidisciplinary team approach to do the following:

- Share information, expertise, and experiences.
- Determine the need for intervention and to coordinate the best approach for action.
- Assess risk factors for the child.
- Determine service needs.
- Determine the child's ability to participate in justice processes.
- Ease the trauma of the child's participation in the process through the reduction of multiple interviews, exams, and the number of protective and criminal justice personnel interactions with the child and/or family members.
- Reduce replication of service to the child victim and family.

To determine if allegations of child abuse or neglect are "founded," the following formal procedures should be initiated in a multidisciplinary approach:

- Law enforcement and the child protective service agency, either jointly or individually, should conduct an investigation of the alleged offender that includes a record check for previous criminal offenses and previous child protective services reports that might involve charges or allegations of child, familial, or spousal abuse, substance abuse, or other behaviors that would increase the likelihood of child abuse and neglect. They should interview the alleged offender(s), and where appropriate, other family members, neighbors, medical personnel. In the case of juveniles, the parent or caregiver should be present. Concurrently, they should conduct a visit to the home of the victim who has alleged abuse to observe family dynamics, and to check for other conditions that might indicate abuse or neglect (such as poor sanitation and lack of heat or electricity).
- The victim who has alleged abuse and other children in the family should be *physically inspected by a medical professional* for additional evidence of abuse or neglect.
- The victim who has alleged abuse and other children in the family should be *assessed by a mental health professional* for evidence of emotional abuse or neglect.

- Appropriate victim assistance services should be provided, particularly in cases that result in criminal prosecution or juvenile court adjudication.

While the information in this chapter most often deals with child abuse and neglect perpetrated by family members, other individuals can and do commit these same acts against children. These individuals may include teachers, clergy, institutional or paid caregivers, etc. They are not the focus of this chapter, however, but are mentioned to alert the reader that cases such as these exist. Because specific laws have been enacted to address maltreatment of children by professionals such as these, they will often be charged with criminal or civil violations, in which case the primary investigator will be a law enforcement agency and not a child protective service agency.

CHILDREN'S ADVOCACY CENTERS

Perhaps the best examples of the team approach to handling child victim cases are children's advocacy centers. More than 350 communities have established or are developing children's advocacy center programs, which allow law enforcement officers, prosecutors, child protection workers, victim advocates, and therapists to interview children and provide services in a single, "child-friendly" location rather than in several intimidating environments. Children's advocacy centers provide holistic multidisciplinary case responses to children during various stages of treatment and criminal justice intervention. Some centers have facilities for medical examinations, many are equipped with one-way mirrors and videotaping capacity, and all are designed and furnished with young children in mind. The U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) provides funds to communities seeking to establish or strengthen children's advocacy centers. The funds are administered by the National Children's Alliance (formerly National Network of Children's Advocacy Centers) (OVC 1998, 390).

CHILD DEATH REVIEW TEAMS

"When an infant dies of an injury, murder is the most common cause," reports the first large-scale study of injury deaths in the first year of life. According to researchers at the National Institute of Child Health and Human Development, 23 percent of the 10, 370 injury-related infant deaths reported between 1983 and 1991 were murders. Infants were more likely to die of injuries, including murder, if their mothers were young, unmarried and had little education (*USA Today* 1999).

Until recently, the death of a child as a result of chronic abuse was not recognized under most state laws as an intentional homicide nor prosecuted as first-degree murder. Today more than twenty-three states have adopted child "homicide by abuse" laws that do not require proof of specific intent to kill when a child's death results from abuse, thus allowing stiffer sentences, sanctions, and penalties. (NCPA 1993) Child death review teams now exist in all fifty states and are charged with examining the circumstances surrounding certain fatalities known or suspected to be the result of child abuse or neglect. (U.S. Advisory Board on Child Abuse and Neglect, 1991). The goal is to identify indicators or risk factors to signal earlier intervention in hopes of preventing future deaths (OVC 1998, 390).

In November 1996, the Interagency Council on Child Abuse and Neglect (ICAN) launched the National Center on Child Fatality Review. With support from the Times Mirror Foundation, the U.S. Department of Justice, OJJDP, and others, the Center works to—

- Act as a source of information exchange and develop services to provide accountability for the deaths of innocent children.
- Develop services for survivors of victims of fatal child abuse.

The Center's repository of information from case reviews provides a valuable resource to prevent future child fatalities, serious abuse and neglect, and accidental injuries and death (ICAN 1997).

COURT-APPOINTED SPECIAL ADVOCATES

For children who are the subject of protection proceedings, typically in a juvenile or family court, the Child Abuse Prevention and Treatment Act requires states to provide them with independent representation. Traditionally, children were represented in such cases by an attorney appointed to act as guardian ad litem. Courts in hundreds of communities, however, are also utilizing volunteer court-appointed special advocates (CASAs) who perform independent investigations of the children's circumstances and file their own reports. A national organization, the National Court-Appointed Special Advocate Association, is funded by OJJDP to help courts establish a volunteer program and to standardize training for volunteer advocates who provide support for children who choose to speak at sentencing hearings (OVC 1998, 391).

LEGAL ADVOCACY

The American Bar Association has developed standards and practices for lawyers representing children in abuse and neglect cases. In addition, numerous victim assistance programs have expanded their roles to include specific support mechanisms or special programs for child victims. The most extensive programs offer education for children about the criminal or juvenile justice system and their role as witnesses; tours of the courtroom and introductions to judges, bailiffs, and attorneys; and role-playing opportunities to practice answering questions in a courtroom setting. Some programs even teach children stress reduction techniques. Victim advocates also work with children to prepare victim impact statements that are commensurate with their age and cognitive development and offer support for children who choose to speak at sentencing hearings (OVC 1998, 391).

METHODS OF WORKING WITH FOUNDED CASES OF NEGLECT AND ABUSE

When a reported case of abuse and neglect does not have concrete evidence, its disposition can be relegated to one of two categories. When reported cases of child abuse and neglect are determined to be unfounded, the files are closed and no other action is taken. If an investigation does not find concrete evidence of abuse, but a suspicion of abuse lingers, the case is "pending" for an additional followup and if, within a specified time, no other reports are filed, the case is closed.

Founded cases of abuse or neglect are handled either by a child protection agency or a representative of the criminal justice system. Not all cases of child abuse or neglect are criminal in nature, nor do all founded cases of abuse or neglect require the removal of the child from the home. While financially strapped parents and caretakers may be capable of loving and nurturing their children, they may be unable to provide adequate food or shelter for them. The same applies for many parents who are mentally, emotionally, or physically unable to meet all of their child's needs. Although these conditions of neglect are more understandable, they are not excuses to allow a child to remain at risk of harm.

Child protective services and family courts work to keep such families together by providing financial assistance for food, housing, and medical care, and the services of a paid child protective services "homemaker" to train parents on how to clean their homes and children's clothes, to cook healthy meals, and to practice good physical hygiene. "Homemakers" may provide transportation for children and/or other family members to and from medical or mental health appointments.

In cases of willful abuse, where the child is not in immediate danger, child protective agencies will work with family members to resolve problems and reduce stress that might have precipitated the abuse or neglect. Agencies frequently incorporate the use of "contracts" between the agency and the abuser(s), which specify strict requirements that the parent or caretaker must meet if he, she, or they wish to retain custody of the child. Conditions contained in "contracts" might include the following:

- Anger management classes.
- Substance abuse treatment programs.
- Mental health counseling.
- Employment or employment training.

Parents may also be required to attend parenting classes to learn the proper care of the child and to identify and learn to manage the stress-causing factors that may have led to the child's physical abuse or neglect.

Follow-up home and office visits are conducted for a specified length of time to ensure that the conditions of the contract are met. The contract will normally outline specific policies and procedures if conditions are not met or if another report of abuse or neglect is filed:

- The removal of the child.
- The extension of time during which the parent(s) may be monitored by an agency.
- Increases in conditions.

FOSTER CARE PLACEMENT

The removal of a child from his or her home may result in a significant emotional toll on the child. Historically, it has been the accepted philosophy of the court system, child protective service agencies, and mental health professionals that a child should remain in the home unless his or her life is threatened, and that services should be focused on reuniting the family. In some jurisdictions, however, this philosophy is changing to err on the side of caution and to remove children who appear to be at-risk for further abuse or neglect. When the temporary or permanent removal of the child from his or her home is required, placement can be either in foster care or in another family member's care. The parent(s) or the caregiver must meet certain conditions prior to the child being returned home.

The intervention of the family or juvenile court is required to remove a child from the home and place him or her in foster care. Only in cases where an emergency removal of the child is warranted can child protective officers act without the direct permission of a judge in removing the child. Even then, the court must be notified and must hold what is referred to as a "shelter care" hearing within seventy-two hours to determine the child's placement. Most states recognize a seventy-two-hour deadline but policies can vary from state to state.

Children who are removed from their home may experience a range of emotions and reactions, including:

- Acting out in physically threatening ways, hoping they will be removed from the foster setting and returned home.
- Withdrawing from the foster caretaker and refusing to participate in planned activities.
- Crying excessively.
- Feeling betrayed by either the abuser or the reporter of the abuse.

When an abused child's ability to "trust" the system designed to protect him or her has been compromised, they may not report future abuse. Abused children have been known to recant prior statements concerning the abuse so they can return home. Children placed in foster care should receive mental health counseling and should have access to other family members or caring professionals with whom they can share their emotions. They should be kept apprised of future plans for their housing to aid them in accepting their current (and hopefully) temporary situation.

FACTORS THAT MAY INFLUENCE CHILDREN TO NOT REPORT VICTIMIZATION

- Age and developmental skills may preclude an ability to do so.
- Lack of knowledge of whom to or how to report abuse.
- Fear of retaliation from the offender or other family members.
- Fear of not being believed.
- Unaware that the situation is not "normal."

- Shame or blame for abuse.
- Fear that the offender will act on threats made against the child and/or other family members.
- Perhaps most importantly, feels love for the abuser.

When the findings of the child abuse or neglect investigation uncover acts that are criminal in nature, criminal charges are often filed against the offender. These acts normally include severe or life-threatening cases of child physical abuse and cases of child sexual abuse (Tower 1993; Besharov 1988; Finkelhor 1994).

CHILDREN AS VICTIMS AND CHILDREN AS WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

Children have participated in the judicial process throughout history—but seldom without controversy. Their age, lack of societal sophistication, and inability to follow abstract concepts led America’s judicial forebearers to believe that children were not competent to come before the court and repeat what they saw or heard or what had happened to them. They have been described by some as the most dangerous of all witnesses. “Concern over children’s capabilities as witnesses has intensified in recent years because more and more children—some only three or four years old—are testifying. Children often testify in civil courts such as family or probate courts, but because the criminal court ultimately decides whether persons who are accused of serious offenses must relinquish their liberty, the rules of procedure are more strict than in civil courts and the witness testimony, particularly that of children, is subject to greater scrutiny” (Whitcomb 1993).

Children are most likely to testify in criminal court when they are victims who allege sexual abuse:

- Every state in the country defines a wide range of sexual behaviors as criminal when they involve activity between an adult and a child.
- Growing awareness and outrage over sexual abuse—whether committed by parents, other relatives, acquaintances, or strangers—demand a greater emphasis on criminal prosecution of alleged offenders.
- Allegations of child sexual abuse are often contested, thereby increasing the likelihood that cases will go to court and that children will have to testify.

Physical abuse, although reported to child protection authorities far more frequently than sexual abuse, is less likely than sexual abuse to be prosecuted as a criminal offense:

- There is a lack of consensus in society at large about the “fine line” between acceptable discipline and criminal physical abuse.

- Physical abuse victims are often preverbal—even infants—who cannot identify their assailants, much less testify at trial.
- Unless the child suffers serious physical injuries (or death) as a result of the alleged abuse, it is generally felt that the resources of the child protection system—whose mandate is to protect children, rehabilitate offenders, and preserve families—are likely to be more effective in preventing future incidents of abuse.

During the 1970s, special programs were established in many communities to assist adult rape victims through the ordeal of repeating their stories to numerous investigators and ultimately revealing their victimization in a public forum with the defendant present. Before long, however, victim assistance professionals realized that a large portion of their clients were children and that child victims were treated no differently than adults in the criminal justice system. They were required to give statements to the police and testify under oath; and in court, they were subjected to full cross-examination in the presence of the defendant. Victim advocates quickly learned that:

- By definition, children are developmentally not on a par with adults.
- By definition, the adjudication process is far more cumbersome for children than adults.
- The dynamics of child sexual abuse are different than the dynamics of adult sexual assault.

In 1982, the President's Task Force on Victims of Crime addressed the need to treat child victims and witnesses differently than their adult counterparts. Simultaneous to the issuance of the *President's Task Force's Final Report* recommendations, the first comprehensive piece of crime victims' legislation was enacted on the federal level. For the first time, fair treatment standards for victims and witnesses were mandated, including child victims and witnesses, through the passage of The Federal Victim and Witness Protection Act of 1982. Since the enactment of this landmark Act, more than a decade of newly enacted federal and state legislation has followed. Most notably is the Victims of Child Abuse Act of 1990. With its passage, children in the federal justice process have been afforded rights never granted before. Specific to prosecution, the Act mandates the following:

- Consultation with multidisciplinary teams to receive information on medical evaluations; psychological and psychiatric diagnosis and evaluations; and expert medical, psychological, and related professional testimony.
- Allowing children to testify via two-way closed circuit television if: the child is unable to testify in open court due to fear; it is likely the child will suffer undue emotional trauma from testifying; the child has physical, mental or other infirmities; and conduct by the defense or the defendant causes the child to be unable to continue with his or her testimony.
- Limiting the competency examinations of children except when the court determines, on the record, compelling reasons for doing so.
- Ensuring privacy protection for child victims and witnesses and confidentiality of information concerning the child's identity.

- Allowing the child to be accompanied during the court process by a supportive adult.
- Mandating a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal justice process.

Today many states have adopted similar laws and enacted programs and services to meet the specific needs of child victims and witnesses. Many communities have established very detailed and extensive protocols, policies, procedures, and interagency agreements for implementing multidisciplinary approaches to child victimization. Some courts have lowered their competency requirements and some courts have begun to allow children to testify via two-way cameras, video cameras, and other electronic means. Training opportunities now exist nationwide for criminal justice and victim assistance personnel who work with children.

Children who report, witness, or endure crimes not only suffer emotional ramifications of the abuse in and of itself, but are often called upon to participate in an adversarial, formal, and adult-oriented system. Without properly trained criminal justice professionals such as law enforcement, victim advocates, prosecutors, probation officers, judges, and parole officials and without specialized programs and services for child victims and witnesses, children participating in the justice process can experience a secondary form of victimization. Services for child victims and witnesses should not be dictated on the strength of a criminal case; rather, the criminal process should be seen as only one element in the handling of child victims and witnesses. There is no doubt that prosecutions are improved with victim/witness support and assistance from criminal justice personnel to child victims and witnesses and their parents and guardians. Child victims and witnesses who possess an understanding of and degree of comfort with participating in the legal system are—

- More at ease with the role they are to assume in the prosecution of the defendant.
- More cooperative with the justice process.
- Better able to cope with the intimidating and often traumatic experience of testifying.

Parents and guardians of child victims and witnesses who are familiar with the justice process, their child's rights in the criminal justice system, and the role their child will have are better able to—

- Support their child's participation throughout the justice process.
- Identify and meet their child's emotional needs.
- Understand their own emotional needs and concerns.

(Portions of the preceding sections were excerpted from, "Child Victims as Witnesses: What the Research Says," Debra Whitcomb, EDC, 1993.)

CHILDREN AND THE COURT

Court preparation programs that include nonoffending families, guardians, and siblings are important to reduce the child victims' or witnesses' anxiety and their own concerns for the

child's emotional and physical safety. Sometimes parents or guardians and siblings feel more anxious than the child victim or witness about court participation. It is important to keep their needs in mind as well. If a parent or guardian is supportive of victim services, he or she is more likely to allow the child victim or witness to fully participate in all phases of the justice process.

The testimony of child victims and witnesses plays a substantial role in the successful prosecution of a criminal case. However, the involvement of children in the justice process brings many unique challenges to victim assistance personnel charged with supporting and aiding these children as they go through the process.

Children bring with them many preconceived notions about the court process that can induce intense fears and anxiety. Many children have watched television programs in which court trials have been portrayed in less than flattering ways. Although criminal justice professionals are aware that these portrayals do not accurately represent real court trials, children are not always aware of this. It is important that the child realizes that his or her version of court is not always correct or properly represented on television. This can be done by asking the child what he or she knows about court, and if he or she has watched any television shows depicting a trial, alleviating fears the child victim or witness may have.

Children who are required to testify against family members face additional burdens of guilt, shame, and confusion. Criminal justice professionals should make an extra effort to determine if the child has been subjected to any interfamilial pressure to change his or her testimony, or subjected to taunts and remarks about "destroying the family." Additionally, the criminal justice professional must never make the child feel that his or her testimony will be the deciding factor in establishing guilt. Rather, children must be reassured that their testimony is only a small part of a criminal case (See generally OJJDP 1994; Selkin 1991).

CHILD VICTIMS OF JUVENILE OFFENDERS: AN UNDERSERVED VICTIM POPULATION

In the growing wake of juvenile crime, the juvenile justice system is seeing increased numbers of child victims and child witnesses of these crimes. Few programs exist, however, to prepare these children for participation in juvenile court proceedings.

Historically, child witness preparation programs have been reserved for victims of sexual or extreme physical abuse when, in fact, child victims and witnesses of juvenile offenders can suffer the severest forms of intimidation, harassment, and reprisal from juvenile offenders or their representatives. Victim assistance personnel should provide support and referral services for these victims and witnesses just as they do for child sexual assault victims and families. Child victims, witnesses, and their families should be informed of the growing number of victims' rights and services available within the juvenile justice system. (see Juvenile Justice chapter for additional information on these topics).

DOMESTIC VIOLENCE AND ITS EFFECTS ON CHILDREN

Family violence researchers have begun to study the harmful consequences to children witnessing domestic violence. While it seems obvious that observing a mother's abuse would cause trauma to a child, some but not all children are affected. They experience the impact differently, making it difficult to address the complex policy issues facing family violence experts today. According to Carlson, the immediate negative effects to a child who witnesses violence against his or her mother appear to translate into low self-esteem, behavioral problems, reduced social competence, depression, and anxiety (Carlson 1990). One of the difficulties complicating the identification of the negative effects of parental violence on children is that many witnesses are also victims of physical abuse.

The first national survey on family violence forcefully confirmed the connection between violence in childhood and the later use of violence. "The sons of the most violent parents, for example, had a rate of wife beating 1,000 times greater than the sons of non-violent parents." (Stark and Flitcraft 1985). Among females, childhood domestic violence may manifest in an increased vulnerability to victimization, and specifically in the increased likelihood of spousal victimization as adults. Furthermore, both men and women who reported being hit by their parents were more likely to hit their own children (Cappell and Heiner 1990).

A revision of child abuse statutes to make domestic violence a reportable form of child abuse and make afflicted children more visible nevertheless poses serious problems. According to Schechter, Conte, and Frederick, Massachusetts Social Services launched Project Protect in 1989 to make spousal abuse a reportable form of child abuse with the unintended result that fewer abused women sought assistance from public agencies for fear of losing custody of their children.

In practice, new models will require many different interventions. Domestic violence will have to be taken seriously in child abuse case screening, investigation, assessment, service delivery plans, and custody determinations. Child protective services will have to go beyond the traditional interventions of respite care and parent education to include court and housing advocacy as well as other supportive services for mothers, sanctions against batterers, added protections and safety planning for child and adult victims, and family preservation efforts aimed at keeping women and their children together and safe.

(Portions of the preceding section have been excerpted from "Violence and Children: What Should the Courts Consider?" *Journal of Family Violence*, Susan Schechter, Jon Conte, and Lorreta Frederick, p. 10.)

CHILDREN WHO WITNESS OTHER TYPES OF VICTIMIZATION

Kilpatrick's and Saunders' research measured the lifetime experience of children who saw someone shot with a gun, knifed, sexually assaulted, mugged, robbed, or threatened with a weapon. The researchers did not include witnessing violence portrayed in the media—on television, in the movies, or in print. In measuring the lifetime experience of witnessing violence, as described above, they found the following:

- 43% of male adolescents and 35% of female adolescents had witnessed some form of violence firsthand.

Significantly, according to BJS, the study excluded approximately 30 percent of adolescents who had directly observed someone being beaten up or badly hurt. Had the researchers included these adolescents in their overall calculations, the prevalence of witnessing violence would have risen to 72 percent for the entire sample of respondents (Kilpatrick and Saunders 1997).

PROMISING PRACTICES

- *Court School for Children.* Today, many victim assistance programs across the nation utilize court schools and court orientation sessions to prepare children for their roles in court. Child-friendly activities allow children to learn about court and familiarize themselves with the courtroom and its personnel by using fun and nonthreatening activities. In states that still require competency exams for children, the court orientation program can serve as a preliminary evaluation of the child's ability to adapt and perform new surroundings during a stressful period (Alexander 1994).
- *Ident-A-Kid.* Based on recommendations from the FBI and current data from the National Center for Missing and Exploited Children, Ident-a-Kid is a proactive resource guide developed to assist parents in the creation of a collection of material that would easily identify their children were they to disappear.
- *Safe Kids/Safe Streets.* Safe Kids is an innovative, five-and-one-half-year demonstration project that improves community response to child and adolescent abuse and neglect. Five sites have been funded through Safe Kids: Huntsville, Alabama; the Sault Sainte Marie Tribe of Chippewa Indians in Michigan; Kansas City, Missouri; Toledo, Ohio; and Chittenden County, Vermont. The sites are working to—
 - Restructure and strengthen the criminal and juvenile justice systems to be more comprehensive and proactive in helping children and adolescents and their families who have been or are at risk of being abused and neglected.
 - Implement or strengthen coordinated management of abuse and neglect cases by improving policies and practices within the criminal and juvenile justice systems and the child welfare, family services, and related systems.
 - Develop other comprehensive community wide, cross-agency strategies to reduce child and adolescent abuse, neglect, and fatalities (OVC 1998, 392).
- *Megan's Law CD-ROM.* The California Department of Justice has developed a CD-ROM program containing photographs, criminal convictions, and detailed descriptive information on the more than 77,000 sex offenders in California. Since July 1997, the CD-ROMS have been distributed to more than 350 local, state, and federal law enforcement agencies. Since that time, more than 15,000 Californians have accessed the information contained in these CD-ROMS to better protect individuals at risk. The CD-ROMS will be updated and distributed to law enforcement on a quarterly basis. In addition to the development of the

CD-ROM, the California Department of Justice systems now capture information on disclosures made to the public pursuant to Megan's Law. It is information about these disclosures, such as a parent being advised of a serious sex offender who had befriended his or her child, that may be searched for investigative purposes (Seymour 1998, VIII-101).

- *Telemedicine Program for Providing Diagnostic Support Satellite.* The diagnosis of violence-related injuries most often depends on a visualization of the injuries. In response to the need for immediate visual consultations in cases of child abuse and neglect, the Los Angeles County and University of Southern California Center for the Vulnerable Child/Violence Intervention Program (CVC/VIP) developed a first-of-its-kind telemedicine program for providing immediate diagnostic support to programs including rural clinics and emerging Child Advocacy Centers and Multidisciplinary Teams.

The telemedicine program is in daily use by satellite programs (High Desert Hospital and Olive View Medical Center in California; Alaska; and various Indian reservations). It is currently being expanded throughout Los Angeles County for use as peer review and continuing medical education. This program is used by centers with sophisticated technology or by programs that simply rely on 35mm or digital photography (Seymour 1998).

- *The Center for the Vulnerable Child.* The Center for the Vulnerable Child at the Los Angeles County, University of Southern California Medical Center was founded in 1984 as one of the first hospital-based family violence advocacy centers in the nation. The "state-of-the-art" medical treatment and forensic documentation provided by the center is complemented by a multidisciplinary approach, including legal, social, and mental health services, to guarantee that all patients are treated with dignity. The center uses new interactive computer technology called telemedicine to consult with health providers in rural areas on conducting examinations of abused children. In addition, the center is using Office for Victims of Crime funding to develop a hospital-based emergency shelter for victims of spousal abuse and their children to serve as a laboratory and training site. The shelter will provide a safe environment and will assist victims of spousal assault by assessing the potential for repeated violence to parents and children in a safe environment (OVC 1998, 206).
- *The Center for Child Protection.* At Children's Hospital in San Diego, California, the Center for Child Protection (CCP) was established in 1976 to address the prevention, diagnosis, and treatment of child abuse and family violence. Its services include intensive home visiting, assessment, and case management; support for pregnant and parenting teenagers; assistance to women in identifying and assessing resources to break the cycle of family violence; and individual, group, and family therapy for victims of child abuse and their caretakers. The success of these programs led to numerous requests for training and technical assistance from other health care providers. In response, CCP started a clinical training program that offers accredited continuing education to physicians in conducting the medical evaluation of child sexual abuse and to interview specialists in conducting forensically defensible videotaped interviews of children. CCP's San Diego Conference on Responding to Child Maltreatment and Summer Seminars by the Sea provides "state-of-the-art" multidisciplinary education to 2,000 professionals from around the world each year (OVC 1998, 206).

- *Childhelp USA*, the sponsor of a national toll-free child abuse hotline (800-4-A-CHILD and TDD hotline 800-2-A-CHILD), provides a variety of important services to child abuse victims and their families, including:
 - Residential treatment facilities located in California, Virginia, and Tennessee.
 - Children's Advocacy Centers in Knoxville, Tennessee and Manhattan, New York.
 - A coalition of law enforcement agencies, prosecutors, social service agencies, medical professionals, victim service providers, and crisis counselors located in Phoenix, Arizona.
 - Foster care and group homes in Southern California and Virginia that provide nurturing refuge until foster or adoptive parents are found, or the child can safely return to his or her parent(s).
 - Educational, community outreach, and public awareness programs including: Head Start preschools for at-risk children; parenting education; child sexual abuse prevention programs in elementary schools; seminars and training programs relevant to child abuse; dissemination of informational materials; and public service announcements about child abuse prevention and treatment.
- *Model Courts*. A recent initiative of the National Council of Juvenile and Family Court Judges (NCJFCJ) is the Model Courts Initiative, recently renamed the Permanency Planning for Children Department (PPCD). PPCD's goal is to educate judges and other practitioners on the need to expeditiously secure safe permanent placements for all maltreated children, either by making it possible for them to safely stay with or return to their own families or by finding them safe adoptive homes. The Child Protection Division of the Cook County Circuit Court established a Model Court in 1996. At that time, more than 58,000 children were under its supervision. The court instituted a comprehensive approach that included coordination of effort among the court, related government agencies, legal community, and community-based child welfare and adoption advocacy group in the handling of abuse and neglect cases. As a result, court operations were streamlined, case backlogs were reduced, and the caseload dropped to 31,534 children as of the end of August, 1998.

The Hamilton County Juvenile Court in Cincinnati Ohio spearheaded a new adoption initiative that involves twenty-three counties in the three states of Indiana, Ohio and Kentucky. Court officials and related professionals from these counties have formed a coalition to identify and address local, state, and regional barriers to adoption. The court has developed an Internet site <www.hcadopt.org> that lists children awaiting adoption (OJJDP 1999).

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STATISTICAL OVERVIEW

- In 1998, the estimated number of persons murdered in the United States was 16,914. The 1998 figure was down 7% from 1997, and 28% from 1994 (FBI 17 October 1999, 14.)
- Down 7% from 1997, the national murder rate in 1998 was six per 100,000 inhabitants, the lowest since 1967. Five- and ten-year trends show the 1998 murder rate was 30% lower than in 1994, and 28% below the 1989 rate (Ibid.).
- Sixty-one enforcement officers were feloniously slain in the line of duty during 1998 (Ibid., 291).
- In 1998, 48% of murder victims were black, 50% were white, and the remaining 2% were other races. Seventy-six percent of murder victims were male and 44% were between the ages of 20 and 34 (Ibid., 14).
- Firearms were used in 55% of all murders committed in 1998. Knives were used in 13% of the cases; blunt objects in 5%; and personal weapons in 8% of all murders (Ibid., 282).
- A total of 16,019 murder offenders were also reported in 1998, of which 89% of those for whom sex and age were reported were male. Of those offenders for whom race was known, 49% were black and 49% were white (Ibid., 14-17).
- Males are over nine times more likely than females to commit murder, and male and female offenders are more likely to target males as victims (BJS January 1999).
- Of all persons murdered in 1997, 11%, or 2,100, were under the age of eighteen. Of these, 33% were under the age of six, 50% were ages fifteen through seventeen, 30% were female, 47% were black, 56% were killed with a firearm, 40% were killed by family members, 45% by acquaintances, and 15% by strangers (NCJJ September 1999, 17).
- In 1997, juvenile homicide rates were the lowest in the decade but still 21% above the average of the 1980s. In 27% of homicides by juveniles, the victim was also a juvenile (Ibid., 53 and 54).
- A firearm killed 70% of victims murdered by juveniles. Of all victims killed by juveniles, 14% were family members, 55% were acquaintances, and 31% were strangers (Ibid., 54).
- In 1997, an estimated 2,300 murders (approximately 12% of all murders) in the United States involved at least one juvenile offender. In 31% of homicides involving juvenile offenders, an adult offender was also involved (Ibid.).

PROMISING PRACTICES

- *Recover* is a collaboration between the District of Columbia's Chief Medical Examiner and the William Wendt Center to help survivors of sudden deaths through the process of grief. The *Recover* staff offer crisis response and follow-up grief counseling to survivors of all traumatic deaths, but the large majority are homicide co-victims.

In an endeavor to break the cycle of violence and pathology resulting from unresolved grief in relation to sudden and traumatic loss in an underserved population, *Recover* has placed a high priority on empowering grieving children to cope with their anger and distress following a traumatic death. *Recover* staff inquire if there are children who will be affected by the death, and offer to meet with the parents or caregivers to discuss how to best help children cope with the death of a loved one.

During the initial counseling process, staff assess the nature of the relationships with the deceased and the degree to which the death poses risks to the overall stability of the family. A *Recover* grief counselor/licensed therapist is on hand at the medical examiner's office daily to speak with families as they arrive to identify their lost loved ones. Free follow-up counseling is available at the *Recover* facility in the District. Since the debut of the program on November 1, 1999, staff have offered on-site and off-site counseling to families in connection with 850 traumatic deaths, including 145 homicides. *Recover: Support for Survivors of Sudden and Traumatic Deaths*, 730 11th Street NW, Washington DC 20001 (202-624-0010) (O'Brien 5 May 2000).

- The *Grief Assistance Program* (GAP) at the Philadelphia Office of the Medical Examiner grew out of the Widow and Widower's Bereavement Program at the Philadelphia Police Department. Licensed social workers, bereavement counselors, and peer victim counselors are available during working hours (and by beeper 24 hours a day) to provide crisis intervention for survivors of homicide, suicide, and other traumatic deaths. GAP's goal is to comfort the co-victims, offer them guidance about how to cope with their loss, assist them with death notifications to other family members, encourage them to return to the GAP offices for bi-weekly support groups for grief management and healing, and/or link them with other grief counseling programs in the city.

GAP also has developed a working relationship with certain funeral homes in Philadelphia through a program called *Jumpstart*, in which funeral homes create support groups for families who have suffered the loss of a loved one through a traumatic death. The Grief Assistance Program, Inc., Philadelphia Medical Examiner's, 321 University Avenue, Philadelphia, PA 19143 (215-685-7411) (Williams 6 May 2000).

- *Homicide Victims Memorial Wall*. The Texans for Equal Justice (TEJ) established the TEJ Crime Victim Memorial Wall to honor loved ones and friends who were victims of homicide. The Wall Project pays tribute to the deceased and serves as a reminder of the sanctity of human life and the high cost survivors pay when a life is cut short by violence. The Memorial Wall, which is housed in the Montgomery County Courthouse in Conroe, Texas, consists of 12-inch by 15-inch walnut plaques with brass plates on which the victim's name, date of birth, and date of death are engraved. A duplication of the plaques, along with short biographies of the victims, can be seen on the Memorial Wall Web page at

< <http://www.tej/lawandorder.com> > . Texans for Equal Justice, P.O. Box 241, Willis, TX 77378.

- *Lunch for Homicide Survivors on Trial Days.* The key to building community support for homicide survivors in Clark County in rural Arkansas has been to include the public in the process. While the Victim/Witness Coordinator in the District Attorney's office consults with the families of homicide victims during the charging phase of the criminal justice process, assists them in understanding what to expect at the trial, and accompanies them to court, the local churches and the Rotary Club expand support during the difficult trial phase by providing meals for homicide survivors, their extended families, and their local support group. On trial days, when most of the participants in the courtroom are lunching across the street from the courthouse in the community's only downtown restaurant, the survivors are hosted for lunch by church and Rotary members. The Victim/Witness Coordinator initiated the activity a few years ago, through her local church, prior to the prosecution of a high profile murder that drew unwanted attention to the surviving family and caused considerable discomfort. Victim/Witness Coordinator, Clark County District Attorney's Office, P.O. Box 579, Arkadelphia, AR (870-246-9868) (APRI January 2000).
- *Family Dinners for Homicide Survivors.* The District Attorney in Jefferson and Gilpin Counties, Colorado, and prosecutors assigned to cases meet with the survivors of all homicides to talk about the victims. They attempt to learn as much as possible about the victims through the families' eyes. Their goal is to represent in court as best they can who the homicide victims were and to honor them and their survivors. Victim/Witness Assistance Program, 1726 Cole Boulevard, Building 22, Suite 300, Golden CO 80401 (303-271-6800) (APRI January 2000).

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ABSTRACT

Death by homicide—the act of one individual willfully killing another—profoundly affects the mental and physical well being of family members and friends of the murdered victim. Its impact, however, quickly expands to include agents of the criminal and juvenile justice systems, allied professionals, victim service providers and caregivers, and the public-at large. This chapter will discuss homicide in the context of the relationship that develops between the murder victim, the victims' family members, and the murderer upon notification of the death to family members, addressing the manner in which they are informed and the types of trauma that can be anticipated. It will consider the specific ways in which homicide is perceived by society, adjudicated by the criminal and juvenile justice systems, and treated by the media; and it will explore research and clinical findings regarding homicide and bereavement. Finally, the chapter will offer promising practices for treatment and support of those most directly affected by homicide.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- The scope and circumstances of homicide, along with elements unique to the homicides of loved ones that negatively impact co-victims.
- The dynamics of death and spirituality.
- The impact of homicide upon co-victims and their response to it.
- Common problems of co-victims.
- The victim service providers' responses to homicide co-victims and promising practices for the treatment and support of homicide co-victims.

STATISTICAL OVERVIEW

- In 1997, the estimated number of persons murdered in the United States was 18,209. The 1997 figure was down 7% from 1996 and 26% from 1993 (FBI 1998).
- As compared to 1996 figures, reported murders in 1997 dropped 9% in the nation's cities, 7% in suburban counties, and 2% in rural counties. The greatest decrease, 13%, was registered in cities with populations of 250,000 to 499,999 (Ibid.).
- All four regions of the United States showed declines in the number of murders reported from 1996–1997. The greatest drops were in the Northeast and West, which experienced a

12% and 11% decrease in reported murders, respectively. Reported murders decreased in the South by 6% and in the Midwest by 3% in 1997 (Ibid.).

- Down 10% from 1996, the national murder rate in 1997 was 7 per 100,000 inhabitants, the lowest since 1985. Five- and ten-year trends show the 1997 murder rate was 28% lower than in 1993 and 19% below the 1988 rate (Ibid.).
- Based on supplemental data about 15,289 of the estimated 18,209 murders in 1997: 77% of the victims were males and 88% were persons eighteen years of age or older. Forty-four percent were ages twenty through thirty-four. The percentage of whites murdered was 48%; African-Americans, 49%; and other races accounted for the remainder (Ibid.).
- In 1997, according to supplemental data reported for 17,272 offenders, 90% of the offenders for whom sex, age, and race were reported were male, and 87% were persons eighteen and older. Seventy percent were ages seventeen to thirty-four. Of offenders for whom race was known, 53% were African-American, 45% were white, and the remainder were persons of other races (Ibid.).
- Data indicate that murder is most often intraracial among victims and offenders. In 1997, data based on incidents involving one victim and one offender show that 94% of the African-American murder victims were slain by African-American offenders, and 85% of white murder victims were killed by white offenders (Ibid.).
- Males were most often slain by males (88% in single victim/single offender situations). These same data show, however, that nine out of ten female victims were murdered by males (Ibid.).
- As in previous years, firearms were used in approximately seven out of every ten murders committed in the nation in 1997 (Ibid., 1).
- In 1997, over 48% of all murder victims knew their assailants: 13% were related and 35% were acquainted. Fourteen percent of the victims were murdered by strangers, while the relationships among victims and offenders were unknown for 38% of the murders (Ibid., 17).
- Sixty enforcement officers were feloniously slain in the line of duty during 1997, ten more than in 1996 (Ibid., 296).
- Most child murders in 1994 were at the hands of an acquaintance (38%) with family members accounting for 22%, strangers 7%, and unknown offenders 33% (Greenfield 1996).
- Since the mid-1980s, increases in murder among fifteen- to seventeen-year-olds, particularly African-Americans, have outpaced murder in all other age groups (Ibid.).
- About 25% of homicide offenders reported that they were severely intoxicated at the time of the offense. Estimates of their blood alcohol content were 0.22 for probationers, 0.26 for jail inmates, and 0.28 for state prisoners (BJS 1998).

THE SCOPE OF HOMICIDE

The toll murder takes in the United States is enormous. The magnitude of sorrow is incalculable.

— Mary White

Homicide is an outrage. It includes all deaths caused by willful murder and nonnegligent manslaughter. It stuns, terrifies, angers, pains, frustrates, and mystifies society, which is repelled by its cruel indignity yet drawn to it as a never-ending source of voyeuristic entertainment. Homicide universally embraces our strongest emotions, our sense of justice, and our concept of death. Most singularly, homicide devastates and unhinges the lives of family members, friends, neighbors, co-workers, and acquaintances of the murdered victim.

We have come to recognize that family members and individuals who had special ties of kinship with murdered victims experience a complex and complicated range of reactions to the deplorable act of homicide. While the term survivor describes the circumstances that family and friends enter following the homicidal death of a loved one, the term generally used to describe the level and intensity of their reactions is “co-victims” of homicide.

The term “co-victim” will be used to emphasize the depth of the homicide infliction. In the aftermath of the murder it is the co-victim who deals with the medical examiner, the criminal or juvenile justice system, and the media. The term co-victim may be expanded to any group or community that is touched by the murder: a classroom, a dormitory, a school, an office, or a neighborhood. Most of the individuals who make up these communities are wounded emotionally, spiritually, and psychologically by a murder, some more deeply than others.

A number of studies conducted on bereavement experienced after homicidal death indicate that co-victims of homicide experience vicarious trauma associated with the murder. On the psychological and mental levels, trauma refers to the wounding of one’s emotions, spirit, will to live, beliefs about self and the world, dignity, and sense of security (Matsakis 1996). Co-victims find that their normal ways of coping and handling stress in the past are no longer effective. Co-victims of homicide are initially confronted by the helplessness and finality of the unexpected, unwarranted, and undeserved death of a loved one. The ensuing collection of perceived or actual insensitivities, indignities, and intrusions imposed by police, prosecutors, media, family, and friends constitute an additional wounding. Secondary wounding also occurs when the people, institutions, caregivers, and others to whom the trauma co-victims turn for emotional, legal, financial, medical, or other assistance respond by discounting, denying, and disbelieving (Matsakis 1996).

No one is exempt from the complexities associated with homicide. For law enforcement, homicide presents the dual challenge of regard for and attention to the investigation of the murder events while, at the same time, recognizing and addressing the overriding needs of co-victims of homicide. Law enforcement must become more attentive to the needs of co-victims and more collaborative with victim service providers. To be more effective, victim service providers must be knowledgeable about reactions and needs of victims as well as the investigative and judicial processes involved in homicide cases.

Studies show that great numbers of people in America have experienced the death of an immediate family member, relative, or close friend to criminal homicide, including violent deaths caused by drunk driving. This does not include the multitudes of people traumatized by exposure to reports of killings in the press. Most people in the United States have experienced, in a vicarious or secondhand way, hundreds, perhaps thousands of violent or traumatic deaths. As each murder is served up in the media for information, evaluation, or sometimes just entertainment, there remains a population of grieving and often forgotten co-victims of homicide who may be consumed by rage and saddled with pain.

THE HOMICIDE DIFFERENTIAL: ELEMENTS UNIQUE TO THE HOMICIDE OF A LOVED ONE THAT NEGATIVELY IMPACT CO-VICTIMS

In order to understand the breadth and depth of homicide, it is necessary to recognize that (1) death by homicide differs from other types of death due to a number of specific reasons and (2) cultural attitudes toward death and spirituality influence societal perceptions of homicide. Just as there are unique physical, mental, emotional, social, and financial components to every sudden death, there are spiritual ramifications as well. Those who have never thought much about God before will often do so after a loved one has died under traumatic circumstances. Persons of faith who assume that what happens to them is God's will are forced to reshape their faith positions to incorporate the fact that bad things do indeed happen to good people (Lord 1996).

We have been conditioned throughout the ages to accept that each life is destined for the inevitability of death, which is as natural and predictable as birth. The normal repetitive circumstances of death are disease and old age. When death is due to the unnatural circumstance of homicide, it is sudden and without forewarning. It is now widely accepted that there are specific elements associated with homicidal deaths that distinguish the impact upon the surviving family members from other forms of dying. They include:

- *The intent to harm.* One of the most distinguishing factors between homicidal death and other forms of dying is the intent of the murderer to harm the victim. Co-victims must deal with the anger, rage, and violence that has been inflicted upon someone they love.
- *Stigmatization.* Because society sometimes places blame on murdered victims for their own death which translates into blame on the victim's family when it is believed that they should have controlled the behavior that led to the death, "co-victims of homicide often feel abandoned, ashamed, powerless, and vulnerable" (Redmond 1989).
- *Media and public view.* Regardless of public sympathies surrounding homicidal deaths, they almost never remain private. Co-victims are quickly thrust into public view and become fair game for public consumption. While some journalists exercise consideration and objectivity in their reporting of homicidal events, the degree of intrusion into the lives of co-victims of homicide constitutes a major homicide differential.

- *Criminal or juvenile justice system.* Unlike family members of individuals who die of natural deaths, co-victims of homicide are the most likely population of victims to be thrust into a complex system of legal players and jargon. Co-victims must quickly become acquainted with a world of crime scenes, evidence, and autopsies. Co-victims of homicide have much to learn about the investigative, prosecutorial, and judiciary branches of the criminal justice system in a very short time. They are often expected to quickly comprehend a system that may in some instances be insensitive and specifically designed to protect the rights of the accused (with little regard for the victim). In addition, co-victims may encounter many cognitive and environmental stimuli that remind them of the crime such as contact with the defendant and/or reviewing the traumatic details of the crime in the courtroom. This experience often results in the kind of avoidance behavior that leads co-victims to cancel or not show up for appointments with criminal justice system officers or victim advocates.
- *Bereavement.* As early as 1983, E. K. Rynearson, M.D., determined that bereavement after homicide is so prevalent that it deserved clinical attention. His clinical studies involving the family members of murder victims revealed that all of his subjects had previously experienced bereavement following the natural death of a relative; and the psychological processing of homicide was accompanied by cognitive reactions that differed from previously experienced forms of bereavement. Rynearson's research forms the basis for the shift from viewing the co-victims' grief issues separate and apart from the impact of trauma associated with the death of a family member. Traumatic grief over homicidal death distinctly differs from other forms of grief.

THE HOMICIDE CIRCUMSTANCE

Homicide begins as an act. It is committed under individual conditions, within certain parameters, and eventually classified into general categories. Each case has its own circumstances that vary as greatly as each single act. Victim service providers working with co-victims should be knowledgeable about some of the general types of homicides.

SPOUSAL HOMICIDE

The killing of a spouse, life partner, or other significant individual of the same or opposite sex with whom one has lived for some time and formed a stable relationship.

The FBI reported in 1997 that twenty-six percent of female homicide victims are slain by husbands or boyfriends, and three percent of male victims are slain by wives or girlfriends. Among legally married persons, regardless of geographic region in the U.S., African-American females were at greatest risk of being killed by African-American spouses or partners. Specifically: in the West, African-American males were eleven times more likely to be victims of spousal homicide than white males, almost seven times more likely than white females, and 1.4 times more likely than African-American females. (Segall and Wilson 1993).

In a study by Christine Rasche (1993) of 155 “mate” homicides in Jacksonville, Florida, between 1980 and 1986, the most salient motive for spouse murder was possessiveness (48.9%) that included the inability of the offender to accept the termination of the relationship and/or the sanctity or security of the relationship (jealousy, infidelity, and rivalry). Feelings arising out of arguments (20.7%) and self-defense (15.5%) were second and third principal motives respectively.

CHILD HOMICIDE

The killing of a person under the age of eighteen.

Sixty percent of child murders in 1994 were at the hands of family members (22%) or acquaintances (38%). During this year, 11 percent of all murder victims were under the age of eighteen (Greenfield 1996).

Based on forty-five states reporting in 1996, the National Center on Child Abuse and Neglect (1997) states that 996 children were known to have died as a result of abuse or neglect. The majority of these deaths were children three years of age or younger.

Pediatric deaths as a result of handgun violence have also risen as an issue of significant concern during the last few years. Between 1980 and 1994, pediatric (age zero to nineteen) firearm deaths in Chicago more than doubled from 116 to 247 (Chicago Department of Public Health 1995). The greatest increases were between 1987 and 1994. In 1994, 306 teens between the ages of fifteen and nineteen died in Chicago from all causes. Of these, 70.5 percent (216) were caused by firearms. African-Americans predominated the Chicago firearm deaths, both as perpetrators and victims. Of the 216 firearm deaths in this age group, 195 of the victims were African-American. Other large cities with gang problems report similar increases in pediatric firearm deaths.

SHAKEN BABY SYNDROME

The violent shaking of a young child that causes permanent brain injury or death.

Because shaken baby syndrome is still a relatively new classification of death or injury, it is difficult to say for certain how many children are victims of it each year. However, one source reports that 10 to 12 percent of all deaths due to abuse and neglect are attributable to the syndrome (National Information Support and Referral Service 1998). Perpetrators of shaken baby syndrome are about 80 percent male—37 percent biological fathers and 20.5 percent boyfriends. The remaining 17.3 percent were female babysitters, and 12.6 percent biological mothers. Sixty percent of the victims are male. Between 1,000 and 3,000 children are diagnosed with shaken baby syndrome every year, and about 100 to 120 of them die. Outcomes for victims who live include cerebral palsy, blindness, deafness, seizures, learning disabilities, and vegetative states (Shaken Baby Alliance 1998).

PARRICIDE

The killing of one's parent.

The Bureau of Justice Statistics reports in the study *Murder in Families* (Dawson and Langan 1994) that 1.97 percent of murder victims were killed by their children. This translates to about 300 cases per year. Relatively rare when compared to other forms of homicide, parricide has begun to attract the attention of family violence researchers.

In a review of ten studies that examined adolescents who had killed their parents, Kathleen Heide (1993) discusses three types of parricide offenders: the severely abused child, the severely mentally ill child, and the dangerously anti-social child. She points out that ascertaining the driving force behind a parricide is complex but factors in the family that often contribute to the homicides include a pattern of violence, easy access to guns, and alcoholism or heavy drinking. Adolescent offenders expressed helplessness in coping with stress in the home and feelings of isolation and suicidal ideation. They had failed in their attempts to get help with little (if any) adult intervention, and had failed in their efforts to escape, with a history of running away.

Heide (1993) acknowledges that adolescent parricide offenders do include the severely mentally ill and dangerously antisocial, but in smaller frequencies compared to severely abused children. Components of child maltreatment pervasive in some families that also may lead to parricide are physical, sexual, emotional, and verbal abuse, and physical, medical and emotional neglect.

Weisman and Sharma (1996) found in their more recent review that of sixty-eight parricide cases, 69 percent of the offenders had a prior inpatient psychiatric hospitalization with diagnoses of psychosis (usually schizophrenia or schizo affective disorder); 74 percent had known criminal convictions; and 64 percent had been convicted of a violent crime.

STRANGER HOMICIDE

The killing of a person or persons by an individual unknown to the victim.

In 1993, for the first time in history, Americans were more likely to be killed by a stranger or unknown killer (53% of cases) than by a family member or friend. By 1996, the trend had reversed slightly with 49 percent of homicide victims killed by strangers (FBI 1998).

MASS MURDERS

The murder of several victims within a few moments or hours of each other.

Currently in the United States, there is approximately one mass murder per week, including public homicidal events in shopping malls, government offices, schools and random street shootings as well as families annihilated by a troubled parent or sibling. Although researchers have only begun to collect data on mass murders, certain commonalities have begun to emerge (Hickey 1991). The offenders are primarily white, male, and span a wide age range; they use semiautomatic guns and rifles to kill swiftly; and their victims are often but not always intentionally selected by the killer.

Those who commit multiple homicides appear to do so in an irrational effort to regain, even for a brief moment, a degree of control over their lives. To the observer, the severe mental imbalance behind these horrible acts is clear. To the killer, however, his or her thoughts and actions may make perfect sense, given his or her psychological disorientation. Feelings of rejection, failure, and loss of autonomy create frustrations that inevitably become overwhelming, and the murderer cultivates a psycho-pathological need to strike back.

SERIAL KILLING

An offender who kills over time. They usually have at least three to four victims, and their killing is characterized by a pattern in the type of the victims selected or the method or motives used in the killings.

Serial killers include those who, on a repeated basis, kill within the confines of their own home, such as a woman who poisons several husbands, children, or elderly people in order to collect insurance. They may operate within the confines of a city or a state, or even travel through several states as they seek out victims. Some murderers select their victims because of their status within their immediate surroundings such as vagrants, prostitutes, migrant workers, homosexuals, missing children, and single and often elderly women.

Some argue that anyone who kills, especially serial killers, must be mentally ill. However, the vast majority of serial killers are not only judged sane by legal standards, but are indistinguishable from non-offenders as they move about and within our communities.

THE DEATH DYNAMIC

To better understand the homicide differential, the phenomenon of death in society should be examined. Definitions, descriptions, and interpretations of death have been around since the beginning of recorded time. There is no absolute explanation for death as each culture offers its own interpretation. Nevertheless, death is ingrained in an individual's beliefs, values, and thinking and determines how he or she experiences life. One's spiritual values of life are shaped by one's attitudes about death. Different views of death, as in different religions, influence the lives of those who hold those views. Attitudes about death are complex because death is so integral to human life that its finality without spirituality is difficult to accept.

Co-victims of homicide often express that they feel disconnected from the universe, explaining that all previous means of coping are no longer effective in light of the unfair death of a family member. Co-victims often relate instances of extreme anger and betrayal by God. For them, death due to homicide defies all that is meaningful in society. Responding to the special needs created by the death experience requires careful attention from caregivers.

THE IMPACT OF HOMICIDE

There are always two parties to a death; the person who dies and the survivors who are bereaved . . .

— Arnold Toynbee

In order to explore the impact of homicide on the lives of co-victims, the trauma, grief, bereavement, and their resultant impact on co-victims must be explored. Grief is a normal response to loss. The word “grief” signifies one’s reaction, both internally and externally, to the impact of the loss. The term arises from the grave or heavy weight that presses on bereaved co-victims (Simpson and Weiner 1989). One’s response to loss is not merely a matter of feelings, but a highly complex and deep-seated human response.

Grief can manifest itself in numerous ways (Worden 1991):

- *Feelings*: sadness, anger, guilt, self-reproach, numbness, and fatigue.
- *Physical Sensations*: hollowness in the stomach, tightness in the throat or chest, oversensitivity to noise, shortness of breath.
- *Cognitions*: disbelief, confusion, preoccupation, a sense of presence of the deceased.
- *Behaviors*: sleep or appetite disturbances, absentmindedness, social withdrawal, dreams of the deceased, crying, loss of interest in activities that previously were a source of satisfaction.
- *Spiritual*: searching for a sense of meaning, hostility toward God.

For those experiencing grief in the aftermath of criminal homicide (including deaths caused by drunk driving), the grief reactions are intensified because of the wounding or trauma inflicted by the death. Historically, the focus of caregivers has been on the co-victim’s grief issues, often without considering the impact of trauma issues that may also be present. Without recognition of the traumatic components of the experience, co-victims have been provided with services and treatment that primarily emanate from the grief model. This often causes co-victims to feel uncomfortable and anxious because their type of grief is not addressed by current models of treatment (Spungen 1998). Spungen suggests that treatment and support to co-victims of homicide must be an amalgam developed from the fields of both trauma and grief. She notes “the co-victim’s grief is different—not just complicated but different: a traumatic grief.”

E. K. Rynearson, M.D., Clinical Professor of Psychiatry at the University of Washington, conducted important and consistent work in recognizing that bereavement patterns experienced by individuals after having lost a loved one to homicide differed from those patterns experienced where the death was not sudden, violent, or transgressive. His observations have been consistent with some of the earlier work conducted by A. Adler and V. Frankl relative to bereavement and horrific death. His findings are also consistent with other current researchers such as Kilpatrick, Amick, and Resnick who identify the link between trauma and the experiences of the co-victim. Rynearson and Favell developed a clinical battery for screening patients for treatment based on separation and loss, which can be used by support group

leaders in working with co-victims of homicide. They observed that separation distress is associated with the loss of the relationship because of the finality of the death while trauma distress is associated with the unnatural manner of dying. Additionally, along the way, Rynearson discovered the following:

Any one whose family member has been killed by a homicide will be changed. Homicide is a “change” that is, to some extent, dialectic rather than homeostatic. The internalized trauma and reenactment imagery will diminish with time but it will not go away. It will change from a horrific and private chronicle into a bearable narrative that can be shared and revised—but it will always be. The family member may reprocess the homicide and try to connect this homicidal narrative with the narrative of the family member before they were killed and their own ongoing narrative as well. The task of somehow weaving this thread of homicide into a coherent and balanced pattern is as impossible as it is inevitable. When something within or without resonates or pulls at that homicidal thread it will kindle an inner awareness of being torn or uneven. The subjective and internalized flaw is private. It is difficult to express through a standardized measure—perhaps impossible. However, this inner confound remains and can have long term effects. Relationships, values, life purpose, hope, and confidence in the future, spiritual stability—all these idiosyncratic supports may be reassessed and challenged by the homicidal experience (Rynearson and McCreery 1993).

Victim service providers must be aware of the aspects of traumatic grief (the emotional experiences, cultural and gender influences, and mental health issues) resulting in new strategies for treating the co-victim of homicide (Spungen 1998). To overlook or discount the importance of bereavement following homicide is to fail to understand the major impact of the murder upon family members and friends. Victim service providers need to be aware of this tremendous impact and take precautions in providing appropriate services that will not be harmful or destructive to co-victims.

REACTIONS OF HOMICIDE CO-VICTIMS

Although many emotional responses are shared by family members when a loved one is murdered, each surviving family member will experience distinct emotional responses. In addition to the sudden, violent death of a loved one, co-victims may experience additional stress if the deceased was subjected to acts of torture, sexual assault, or other intrusive, heinous acts. They may have a constant need to be reassured that the death was quick and painless and that suffering was minimal. If the death was one of torture or of long duration, they may become emotionally fixated on what the victim must have felt and the terror experienced. They may fixate on the race of the offender to try to understand the motive behind the murder, and may develop a biased view of a certain race or culture based on the actions of the offender. If the offender was a family member or friend, co-victims may experience additional interfamilial discord as family members choose sides for support.

PLACEMENT IN THE FAMILY

Murder of a child. In the natural order of things, parents precede their child(ren) in death. The death of one’s child is one of the least expected experiences in life. Parents serve as protectors for their child(ren). This sense of protectiveness often promotes parental guilt and self-blame. The feelings even occur when the deceased child is an adult.

The killing of a child is particularly complex when there are other small children in the family whose needs must be met as well. It is not uncommon for a parent (or parents) to idealize the deceased child, attributing qualities that are idealistic, not real. This can cause siblings to conclude that the “wrong child died.”

Fathers often deal with their emotions by retreating into silence and denying the presence of intense emotions. This may be their way of remaining strong for the mother, and this motive may be misunderstood or interpreted as a lack of caring or concern. If the family structure incorporates stepparents, the roles and display of appropriate emotions may be even further complicated. The biological parent may feel that the stepparent could not possibly understand the type of pain he or she is feeling. This may lead to alienation of the stepparent in the grieving process.

Murder of a sibling. Younger brothers and sisters of murdered children are often unintentionally overlooked by parents who try to protect them from painful information and experiences. In addition to losing a sibling, they may also have lost their best friend. Parents simply do not have enough energy to deal with them. Initial community and extended family support usually focuses on helping the grieving parent, what *they* are feeling or what *they* need.

Siblings may worry about their own safety and possible death. They may become overly fearful of losing a parent or other sibling in the same manner. Many younger siblings have an extremely difficult time when they reach the age at which their sibling was murdered.

Adult siblings may worry that the stress of their sibling’s murder may hasten their parents’ deaths. They may also resent their parents’ pre-occupation with the victim and their idealization of the deceased.

Murder of a spouse. The feelings and emotional needs of a surviving spouse will depend on the nature of the marital relationship. If there was discord or dissension, co-victims may suffer intense guilt feelings. If it was a loving partnership, the feelings of loss may be overwhelming. The age of the spousal co-victim will also play an important factor in the emotions of the co-victim. Elderly co-victims and younger co-victims may not do as well as the middle-aged co-victim (Steele 1992). Steele’s study of sixty widows and widowers found that spouses between ages twenty and thirty-five faced significant financial stress and became exhausted with working, rearing grieving children, and attending to maintenance of the home and family. This anger is then followed by guilt. Murder of a young spouse also may leave the surviving spouse choosing never again to remarry because of the fear it will happen again. They may feel they have lost their future. Those sixty-six to eighty-five in the Steele study also experienced more stress than the middle-aged group. They may be displaced from their home because they are not able to care for themselves. They may have lost partners of many years and, with their lives so intertwined, feel that they are no longer needed or important.

Murder of a parent. Young surviving children naturally worry about who will care for them. Smaller children tend to experience the death as desertion since they have little ability to understand what has happened or to conceptualize death. They are angry because the parent was not the “superhuman” they envisioned. They wonder why the parent did not fight harder or run faster, and may blame the victim for his or her own death.

Traumatic death in the family is especially hurtful to children and youth. Bradach (1995) studied 181 young people aged seventeen to twenty-eight and found that those who had experienced a traumatic death in the family when they were children had greater depression, more global psychological stress, and lower individuation and separation from the family than those who had experienced more common losses. They also had more difficulty forming intimate relationships (Bradach and Jordan 1995).

For older or adult children, anger levels may increase because they feel their parent’s death was not the dignified one that they deserved or expected. If the family was experiencing discord, children may feel intensely guilty there was not enough time to rectify the familial problems.

COMMON PROBLEMS FACED BY CO-VICTIMS

Co-victims themselves provide the most accurate information regarding their experiences during this period. They become experts in explaining their problems and needs. In addition to personal trauma, Parents of Murdered Children, Inc. (1989) lists eight additional problem areas co-victims must endure.

1. *Financial considerations.* Expenses related to funeral, burial, medical treatment, psychiatric care for family members, and other costs are all part of the aftermath experienced by co-victims. These considerations are grave and contribute in a major way to the continuing distress experienced.
2. *The criminal or juvenile justice system.* Co-victims of homicide have a vested interest in participating in the criminal or juvenile justice system and understanding the complex issues of a cumbersome legal system.

When members of a homicide support group (Fairfax Peer Survivors Group) in Fairfax, Virginia, were polled about their needs during the legal process, the single most important issue for them was their ability to obtain information from the prosecutors, detectives, and other professionals. They—

- Wanted to know exactly how, when, and why their loved one was murdered and who committed the murder.
- Wanted to know if their loved one suffered.

- Wanted to know the truth about the events of the death and elements needed to support the charge.
- Expected to feel better if the case was successfully prosecuted.

Discounting the family's contribution to a case discounts the pain of their victimization. Co-victims feel devalued when they are not allowed input into plea decisions and when they are barred from criminal or juvenile justice proceedings. They are distraught when the imposition of a technical rule, e.g., a "gag order" which prevents them from attending the trial, may in turn eliminate their last opportunity to do something for their loved one (Sobieski 1994).

3. *Employment.* A co-victim's ability to function and perform on the job is diminished. Motivation is sometimes altered. They experience emotional bursts of crying or losing their tempers. They are impatient with trivia. Having to explain or apologize can create additional stress. Some co-victims use work as an escape to avoid working through their grief. They resist dealing directly with their pain by placing it on hold while at work.
4. *Marriages.* It is common for marital partners to have difficulty relating, and they may even separate after a death due to homicide. (Divorces, however, are not as common as once believed.) Each partner may grieve differently. They may blame each other for the loss, particularly in the case of the death of a child. They may each wish to turn away from the memories that the other partner evokes. They are sometimes unable to help each other because they cannot help themselves.
5. *Children.* Parents often fail to communicate with their children by either ignoring them when they are preoccupied with their own issues or hoping to protect them from unnecessary trauma. The children, in turn, fear adding to their parents' pain and simply withdraw. Children who witness the killing of someone they love experience profound emotional trauma, including posttraumatic stress disorder, and may not readily receive adequate intervention.

Furthermore, young people who report having to perform tasks associated with the fatal injury, such as telephoning for police or emergency medical services, or responding to the immediate needs of the injured person or the perpetrator, are often traumatized. When the issue of blame or accountability for the death is not resolved through police investigation, children may re-examine their behavior, believing that if they had done something differently, they could have prevented the death. Without support and an opportunity to explore the feasibility of such alternatives, children often continue to unnecessarily blame themselves.

6. *Religious faith.* Questions for, anger at, and challenges to God surface regarding the reason for the death. How could a loving God allow it to happen? Where is the loved one? Some conclude, at least for a while, that "if there were a God, then God would not have let this happen. Since it happened, there must not be a God." Faithful co-victims seeking to understand sometimes look for answers from unorthodox sources. Over-simplistic comments and "answers" by clergy and church members sometimes create problems for co-victims who take their spiritual pilgrimage seriously.

7. *The media.* Many homicide co-victims are subjected to the intrusion of what they perceive to be an insensitive media. The competitive quest for sensational, fast-breaking news items may override the need for privacy of anguishing families who may be experiencing prolonged scrutiny, inaccurate reporting, and gruesome reminders of the violence associated with the death.
8. *Professionals who do not understand.* Co-victims report that too many professionals (police, court personnel, hospital personnel, funeral directors, clergy, school personnel, psychologists, and psychiatrists) demonstrate by their comments and actions that they do not fully understand the impact of death by homicide upon the remaining family members.

Substance Abuse. Working with co-victims through the Separation and Loss Services, a program he founded in 1989 to address the special needs of co-victims of homicide, Dr. Ted Rynearson estimated that 30 percent of his clients had substance abuse problems (Rynearson and McCreery 1993).

VICTIM SERVICE RESPONSE

Professionals working with surviving members of homicide victims must be prepared for their personal intense reactions to the impact of homicide, which are often frightening. Such personal reactions can be more extreme than those experienced in working with other crime victims. Victim service providers must be aware that there is no fixed way or timetable for the victim's comfort and well-being to be achieved. Experiencing a wide range of responses that may continually resurface, co-victims of homicide sometimes feel that there is no recovery, closure, or healing from the ravages of homicide. While they develop the skills to cope with their pain, they live with an encompassing fear of strange, new reactions that control their behavior. Their grieving process can be interrupted and delayed by elements and events of the criminal or juvenile justice system. Co-victims sometimes put their grief on hold to focus on the arduous task of seeing that justice is served.

NOTIFICATION

The cornerstone of the recovery process is the initial death notification. — Deborah Spungen

Co-victims of homicide report that the way they were informed about the homicidal death of their loved one affected their relationships within the criminal or juvenile justice system and affected their lives in profound ways from that moment on. The role of the victim service provider in notifying families is one of challenge and demand but it is essential to the family that the process be based on protocol. Victim service providers are generally in proximity to the criminal or juvenile justice process where they can be most effective offering this service in conjunction with law enforcement. Victim service providers can work along with an officer in providing notification of the death that is timely and in keeping with a protocol of sensitivity, compassion, and delivery of correct information.

When life-altering information is delivered by inexperienced and untrained messengers, the results increase the distress experienced by co-victims. There are several models for death notification training. The following are core elements of the widely used and profession-specific program developed by Mothers Against Drunk Driving (MADD) (Lord 1997):

Background. Notification to family members of deaths that result from violent crime are among the most challenging. Survivors may attempt to harm themselves or others, physically act out, and/or express anger. Victim assistance professionals whose responsibility it is to make death notifications can greatly benefit from focused training on the delivery of a death notification, and assistance in learning how to manage their own emotional reactions to these highly stressful situations.

In 1995, the U.S. Department of Justice, Office for Victims of Crime supported Mothers Against Drunk Driving (MADD) in revising their death notification curriculum to state-of-the-art status and tested it in seven sites. Seminar teams presented the revised curriculum to participants between November 1995 and January 1998. Those who had previous experience in death notification expressed that their greatest unmet educational needs were:

- Specific details on how to deliver a notification.
- How to manage immediate reactions of the family.
- How to manage their own reactions.
- General aspects of death notification.

MADD has always believed that the “voice of the victim” is most instructive in developing programs to serve them. Thus, the personal experiences of hundreds of survivors formed the development of the *Practices for Death Notification*.

Selection of the notifier. Selection of the notifier is as crucial as the practice itself. Stressed individuals are not ideal deliverers of death notification because they are focused on themselves, experiencing the task as one more layer of stress. The best attitude for delivering a death notification is a positive, calm, confident one, believing that it is an opportunity to do a good job with an extremely difficult task.

Beliefs in developing death notification practices. Theoretical development of the Death Notification Practices is based on factors affecting stress reaction and general survivor needs during stress. Factors affecting stress reaction include (a) intensity of the event, (3) suddenness of the event, (c) ability to understand what is happening, and (d) stability at the time of the stressful event. Death notification is obviously a very stressful event because it is highly intense and the survivors had no time to psychologically prepare. Their cognitive ability to comprehend what has happened is diminished due to shock. The only differing variable is individual stability which varies due to survivor’s physical, mental, emotional, and spiritual health. General survivor needs include (a) opportunity for ventilation of emotion, (b) calm, reassuring authority, (c) restoration of control, and (4) preparation. These beliefs, along with survivor experiences and recommendations, served as the theoretical foundation for the following practices.

Death notification practices.

1. ***Be absolutely certain of the identity of the deceased.*** Notifiers should use more than one means of identification to assure correct identity. This becomes difficult when deaths occur in different jurisdictions and notifiers who were not at the scene must locate and notify. Notifiers must have the following information at a minimum before conducting the notification: how the victim was identified, where the death occurred, how the death occurred, where the body is now, and the name and phone number of an involved investigator who can answer questions.

2. *Obtain medical information on the family to be notified if possible.* Business cards, prescription bottles or other information on or around the body of the victim may help identify the name of a physician or other professional who can inform the notifier about the family. Law enforcement can often obtain the name of the primary care physician from local hospital records and contact the physician before conducting the notification. In some jurisdictions, emergency medical personnel are called to stand by when a notification is made in the event that a family member goes into a crisis condition.
3. *Go. Do not call.* Make every effort to deliver death notifications in person. Many people notified by phone have been alone and gone into a critical medical condition upon notification. If the family is outside the jurisdiction where the death occurred, call police in the family's jurisdiction to deliver the notification in person. Hospitals should make greater use of law enforcement or their advocates to notify in person or at least transport families to the hospital where the attending physician or nurse can notify in person. Notifiers should never inform a neighbor of the death before the family knows. Ask neighbors if they know where to locate the family because of a medical emergency. If the family member is at work, ask the supervisor for a private place to speak with the person. Only tell the supervisor if he or she insists on a reason.
4. *Notify in pairs.* The best notification team is probably an officer who was at the scene and a victim advocate or chaplain who can stay with the family until other support arrives. It is crucial that one of the team members was at the scene in order to answer questions of the family. More than one notifier assures proper support in the event one or more of the family members goes into crisis. If a large group is to be notified (for example, someone is killed on the way to a family gathering), more than two notifiers may be required, especially if children are among those to be notified. If there are multiple families involved (for example, a car crash involving several teenagers), notify each family at about the same time.
5. *Talk about personal reactions on the way to the notification.* It is impossible to not feel anxious on the way to deliver a death notification. It is healthy to own those feelings and ventilate them with the notification partner before arriving at the notification scene. This allows for more focus on the family and less attention to one's own fear and anxiety. During this discussion, plan who will handle various aspects of the notification.
6. *Present credentials (if not in uniform) and ask to come in.* Credentials are necessary now because few people allow strangers into their home. Never deliver a notification at the door. Don't be formal in your introduction. Memorized notification messages are uniformly resented.
7. *Sit down. Ask them to sit down. Be sure you have the next of kin.* Use the victim's name; for example, "Are you the parents of Johnny Smith?" This is one more step in preparing the family for a traumatic event. Your identity has raised their anxiety, as well as your asking to come in and be seated. That anxiety is uncomfortable but it begins psychological preparation as chemicals in the brain begin their numbing effect. Never notify a child and never use a child as a translator for a death notification. It is too much stress for them to handle and places on them the burden of notifying adults. Try not to notify siblings, even if they are adolescents, before notifying parents or spouses.
8. *Inform simply and directly with warmth and compassion.* Do not engage in small talk before notifying. They already know something is wrong and will be angry at attempts to distract from it. Do not use words like "expired" or "passed away." Use "dead" or "killed" to ensure lack of confusion. If the death was a suicide, use "took his own life" rather than "completed suicide" or "committed successful suicide." Say something like, "I am afraid I have come with bad news." (Your last effort to prepare) "Your son, Johnny (use name), has been involved in a very serious car crash, and he has died." (Pause for their ventilation of emotion.) "I'm so sorry." (A feeling reaction on your part is appreciated and sometime triggers emotional ventilation by a family member who has not yet done so.) "They did everything they could to save him." (If you know this to be true). As you talk further with the family, do not describe the death in professional jargon but use common language. Use the victim's name rather than

“body,” “corpse,” “remains,” or “the deceased.” At this time, do not blame the victim in any way for what happened, even though you may know he or she was partially or fully at fault.

9. *Don't discount feelings, theirs or yours.* Expect fight, flight or freeze reactions and understand that they are normal reactions to one of life's most abnormal experiences. Intense reactions are normal. Understand that people cry only because they need to cry. If a family member goes into shock, help them lie down, elevate their feet, keep them warm, and call for medical assistance.
10. *Join the survivors in grief without being overwhelmed by it.* Families do not resent genuine displays of emotion. In fact, they seem touched by them. On the other hand, it is not appropriate to become so upset that focus is diverted to the notifier. Avoid discounting or patronizing comments such as the following:

I know just how you feel. (You don't.) *Time heals all wounds.* (It doesn't.) *You'll be over this some day.* (They will be better, but full recovery should not be expected.) *She was in the wrong place at the wrong time.* (Trite) *You must go on with your life.* (They will, the best they can.) *He didn't know what hit him.* (Never use this unless you know for sure.) *You can't bring him back.* (Trite)

Avoid disempowering comments such as: *It's better if you don't see him and remember him the way he was.* (How do you know? The survivors know what they need.) *You don't need to know that.* (Perhaps they do.) *I can't tell you that.* (There may be aspects you cannot discuss because of the criminal case. If this is so, explain why you cannot discuss it.)

Avoid God-clichés such as *It must have been his time, Someday you'll understand why, It was actually a blessing because . . . God must have needed her more than you do, God never gives us more than we can handle, or Only the good die young.* If survivors utilize these beliefs themselves, it is fine. However, it is highly intrusive to attempt to impose one's own theological beliefs on someone who needs months or years to accommodate what has happened into their belief system.

Finally, avoid placing unhealthy expectations on family members such as *You must be strong for your wife/parents/children.* No one should be required to be strong in the face of a trauma such as death notification. Likewise, avoid *You've got to get hold of yourself.* They are doing the best they can.

What have survivors found helpful in terms of notifier comments? *I'm so sorry* is almost universally appreciated. It may be over-used, but it is simple, direct and validating. *They did everything they could to save her,* if you know it to be true, is very helpful for families. However, if this is not true, it will likely come out in court and the family will be deeply resentful if you lied to them. *Facing something like this is harder than most people think* normalizes their reaction and validates the difficulty they are having. After ventilation of emotion has resolved somewhat, it is helpful to ask *Is there anything else you would like to tell me or ask me?* Sometimes, there are none, but the family will appreciate your asking. They may have many more questions the following day. Therefore, when preparing to leave, tell the family that you will check back with them the next day. Leave your business card.

11. *Answer all questions honestly.* Many notifiers tell the family what they think they want to hear. This is universally resented. Families want to know the truth. Do not volunteer information, but when asked a question answer it to the best of your knowledge. If you do not know the answer, say so and tell them you will try to find out.
12. *Offer to make calls; arrange for child care; call pastor, relatives, employer.* Family members will need this kind of help and will appreciate your offer. If you do make calls for them, write down whom you called, when you called, and what you discussed. Family members will be in a daze by this time and may not remember whom they asked you to call. They may request additional personal notifications, such as grandparents or adults in other jurisdictions. Do what you can to accommodate these requests. When a child is killed and only one parent is at home,

tell that parent and then invite him or her to go with you to notify the other parent. It is crucial that both parents be personally notified in situations of separation or divorce.

13. *Talk with the media only after discussion with the family.* You represent the voice of the victim, so never speak to the media until you have first discussed with them what you are going to say. Families feel betrayed when they hear things on television of which they were neither informed nor involved. In high profile cases, warn them that television, radio, and newspaper coverage may be dramatic so they can avoid these media outlets if they choose.
14. *Do not leave the survivors alone.* Wait until personal support persons are notified and arrive.
15. *Give written information.* Depending on the emotional state of the most direct survivor(s), leave written information including autopsy information, how to obtain a copy of the crime report, the primary investigator's name and number, and the phone number of the prosecutor's office. It may be better to bring this information the following day.
16. *If identification of the body is required, transport the identifying family member.* Be sure this procedure is absolutely necessary. Often it is not because several means of identification have already been processed. Never expect someone to drive safely while on their way to identify their loved one's body. Transport them and tell them what to expect such as where the body is, what the room will look like, what their loved one's body may look like. Upon arrival, the notifier or transporter should look at the body first and then describe obvious injuries to the family member first. Instruct hospital or medical examiner personnel to clean the body as much as possible before family viewing. If in a hospital, some have advised leaving some of the medical equipment attached which may assure the family that every effort to revive was utilized. If you are unable to transport the family member back home, arrange for a cab or other transportation.
17. *Next day, call and ask to visit again.* The family is likely to have more questions the second day than they did at the initial notification. Call and offer to visit the family again. If they do not feel it is necessary, offer again to answer questions. This is a good time to try to correct misconceptions about the criminal justice system such as the right of the offender to bail. If they knew the offender and wish to attend the bail hearing, inform them that they have the right to do so. The second day is also a much better time than the time of notification to give the family personal possessions of the victim such as clothing or jewelry. Try not to deliver these things in a trash bag (apparently the mode of choice for most hospitals). It is appreciated if clothing is nicely folded and placed in a box. Do not launder clothing, but do inform the family of the condition of clothing and jewelry before presenting it. If some items have been retained as trial evidence, explain their absence. If there is anything at all positive about the death, such as "I was there at the moment of death and he did not struggle," tell the family at this visit. However, do not say anything untrue.
18. *Let the survivors know you care.* The most loved professionals and other first responders are those willing to share the pain of the loss. Attend the funeral if possible. After the trial, send the family a note, perhaps about how the death of their loved one affected you. Do not send such sentiments before the trial, because if you are required to testify they could be used as evidence of biased opinion about the case.
19. *In summary, remember: In time; In person; In simple language; and With Compassion.*

While the victim service provider may not be responsible for the actual delivery of the death notification, they need to be aware of who delivers death notifications and endeavor to see that they are adequately prepared for the task. Developing and delivering sensitive homicide notifications cannot be accomplished until there is greater recognition of the grief and traumatic response to homicide (Spungen 1998).

APPROACHES TO HELP CO-VICTIMS OF HOMICIDE

GENERAL

- Co-victims should be allowed to grieve in whatever manner they wish and for as long as they wish.
- Co-victims should be allowed to cry freely. It is a healthy expression of grief and releases tensions.
- Co-victims should be allowed to talk about and personalize the victim. Allow the co-victim to criticize the victim and to talk about the good times *and* the bad times.
- Allow co-victims to get angry at the criminal or juvenile justice system, the criminal or juvenile murderer, the victim, or simply the unfairness of life. Anger needs to be expressed.
- Let the co-victims know you remember, too, by remembering them at holiday times, on the anniversary date of the murder, and the victim's birthday.
- Allow the co-victims some occasional "time out" from day-to-day pressures. Encourage them to take a day off from work or a day out of the house, etc., and if possible, offer to help with the children.
- Reassure the co-victims that the murder was neither their fault nor the victim's fault.
- Tell co-victims that you are sorry the murder happened and it is horrible that someone they loved was killed.
- Support co-victims in their efforts to reconstruct their lives, even if it means a major change in lifestyle.
- Let co-victims know that you will remain their friend and they mean a great deal to you.

FOR VICTIM SUPPORT PROFESSIONALS

- Learn as much as possible about the case before speaking with the family. If the information is not flattering to the deceased but may affect the investigation of the case, alert the family to these facts as tactfully and sensitively as possible. Prepare them for media reporting of such information.
- Determine co-victims' needs for contact. Some will require constant contact, while others will want minimal intervention. Temper your need to help if assistance is not needed or wanted.
- Become familiar with the stages of grief and additional stress factors.
- Personalize the deceased. Ask the family to tell you stories or show you pictures. Ask about the victim's hobbies, dreams, and desires.
- Protect the co-victims from unwanted media attention but assist those victims who wish to speak to the media.

- Determine if co-victims need assistance with funeral arrangements or other family notification responsibilities. If yes, offer to help.
- Realize that financial considerations are paramount in any murder, but especially those in which the victim contributed significantly to the family's coffers. Help co-victims to file for insurance benefits, crime victims compensation, co-victims benefits under Social Security, etc., and to seek restitution orders through victim impact statements and pre-sentence investigation reports.
- Provide co-victims with the names of mental health counselors or support groups.
- Provide co-victims with information about the investigation and criminal or juvenile justice process. Keep them informed of its progress. (Please note that although most victims will want to know even the smallest detail, not *all* victims will want this information. Find out the victim's desire for information and act accordingly. It is helpful to identify one family member who will disseminate information throughout the family; however, do not focus all of your attention on this one family member.)
- Realize that each family member will have individual needs. Work with all family members to determine their need for information and support. Do not forget to include grandparents, siblings (where age appropriate), or other extended family members.
- Be aware that coping with the trauma of homicide can lead to substance abuse problems for co-victims. Make appropriate referrals, when indicated, to qualified mental health professionals who specialize in the assessment of substance abuse problems.
- Review, as necessary, all autopsy and/or murder scene photographs to determine the suitability of family members remaining in the courtroom. Some co-victims will want to remain no matter how graphic the evidence is. Remember, the final decision is up to the co-victim.
- Consider using an family friend or distant relative to identify the victim in any court proceedings if using an immediate family member will disqualify him or her from remaining in the courtroom throughout the trial. (Check beforehand with the prosecutor concerning state laws or court rules allowing this.)
- Provide all court services to co-victims that are available to victims of other crimes such as court accompaniment or secure waiting rooms. Assistance in preparing victim impact statements, documenting restitution, or completing pre-sentence investigation reports is appropriate.
- Alert the prosecutor or law enforcement representative of co-victims' concerns for safety or other emotional or physical concerns.
- Inform co-victims of their rights to file civil suits against the offender or third parties, where applicable.
- Prepare a brochure explaining the emotional ramifications of murder on the co-victims and, with permission of the co-victim, send materials or meet with co-victims' employers so that allowances can be made for missed days from work due either to court or emotional needs.
- Be prepared to provide long-term victim assistance in cases involving the death penalty.

- Help co-victims understand the appellate process and provide guidance through any/all appeals that the offender may file. An excellent resource guide to the appellate process is available from the Office of the Attorney General in Missouri.
- Provide guidance to co-victims about rights and services available in the postsentencing phases of their cases. Nearly all states and the federal government have corrections-based victim advocates who provide information and assistance regarding victim protection, notification of offender status and location, restitution, victim input, and parole release hearings.
- Ensure that co-victims know their rights regarding parole release hearings (in applicable cases). These include notification of parole consideration hearings; victim protection to address real and perceived fears; restitution and other financial/legal obligations; the provision of victim impact statements (including both a record of the VIS at sentencing as well as oral, written, videotaped, or audiotaped VIS at parole hearings); and information and referrals to supportive services in the community.
- In death penalty cases, determine if the co-victims have the right to witness the execution. Many states provide specialized services and separate viewing areas for co-victims. It is also important to provide follow-on supportive services, such as accompaniment to the cemetery in which the victim is buried, and media intervention.
- Determine if surviving family members have any desire to meet face-to-face with the criminal who murdered their loved one. While this concept may seem much too painful to some people, the state of Texas has over 300 surviving family members of homicide victims who want to meet with the murderers of their loved ones through its highly structured victim-offender mediation program. It is the victim's choice and, if the opportunity is available, it is important to offer co-victims this option.
- For surviving family members who have reached a point of reconstructing their lives in the aftermath of homicide, determine if they would like to participate in programs such as victim impact panels. Some of the most powerful speakers about victim trauma and the injustices victims endure, for both convicted offenders and justice professionals, are people who have suffered the most immeasurable loss of a loved one through violent means.

Life can continue after the homicide of a loved one. As painful as a co-victim's journey may be, the human spirit can (and will) by nature endure. The loss of a loved one in this painful manner is abhorrent, traumatizing, and difficult in terms of providing aftercare. One survives because it is the course of human development to do so. It is in the natural order of things that people, nations, and worlds persevere and continue to go on. Those who are dedicated to helping to restore the lives of co-victims of homicide must accept that the real work is accomplished not only through guiding but also through learning and understanding.

PROMISING PRACTICES

- *Separation And Loss Services*, Seattle, Washington. This program provides assistance to co-victims through a variety of services, including family and community crisis response;

individual, family, and group therapy; psychiatric consultation and pharmacotherapy; advocacy during the investigative and judicial process, and media management.

- *Homicide Support Project*, Seattle Washington. The purpose of this project is to train professionals across the country to provide effective assistance to crime victims experiencing grief and loss. Supported by a VOCA grant, the Homicide Support Project team, consisting of a psychiatrist, crisis counselor, bereavement specialist, victim advocate, and prosecuting attorney, has written a training manual. It includes a battery of screening instruments to guide clinicians in assessing and recommending appropriate intervention for posttraumatic stress, depression, substance abuse, and other mental health problems caused by or co-existing with the victim's traumatic grief.
- *Parents of Murdered Children (POMC)* was founded in 1978 by Charlotte and Robert Hullinger in Cincinnati, Ohio, after the murder of their daughter Lisa. What was once a small group is now a large organization with over 300 chapters and contacts through the United States and abroad. POMC provides the ongoing emotional support needed to help parents and other survivors facilitate the reconstruction of a "new life" and to promote a healing resolution. Not only does POMC help survivors deal with their acute grief, but with the criminal justice system as well. The staff of the National Headquarters of POMC will help any survivor, and if possible, link that survivor with others in the same vicinity who have survived their loved one's murder. In addition, the staff is available to provide individual assistance, support, and advocacy. POMC will provide training to professionals in such areas as law enforcement, mental health, social work, community services, law, criminal justice, medicine, education, religion, the media and mortuary sciences who are interested in learning more about survivors of homicide victims and the aftermath of murder. POMC can be reached toll-free at 888-818-POMC.

1. Which of the following groups is at greatest risk of being killed by an intimate partner?
 - a. Latino males
 - b. White females
 - c. African-American males
 - d. African-American females
 - e. White males

2. Name five key issues that most co-victims of homicide victims will have to confront.

3. How and why does death due to homicide differ from natural forms of death?

4. What is traumatic grief, and why is bereavement a major factor in homicidal deaths?

5. What are five support factors anyone can provide to a co-victim of homicide?

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STATISTICAL OVERVIEW

- A total of 15,935 persons (38% of all traffic fatalities) died in alcohol-related crashes in 1998—an alcohol-related fatality every 33 minutes (NHTSA, *Alcohol*, 1999, 1).
- In 1998, more than 305,000 persons were injured in alcohol-related crashes—an average of one person injured approximately every two minutes (Ibid.).
- The rate of alcohol involvement in fatal crashes in 1998 was about four times as high at night as during the day (60% v. 17%) and almost twice as high on weekends as during the week (52% v. 29%) (Ibid., 2).
- Intoxication rates for vehicle operators involved in fatal crashes in 1998 were highest for motorcycles (31%), followed by light trucks (20%), passenger cars (18%), and large trucks (1%) (Ibid.).
- More than one-third (34%) of all pedestrians age sixteen or older killed in traffic crashes in 1998 were intoxicated. Pedestrians age thirty-five to forty-four represented the category of victims' age most often intoxicated at the time of death (48%) (Ibid., 3).
- The intoxication rate for male drivers involved in fatal crashes was 20%, compared with 10% for female drivers (Ibid., 5).
- Older drivers (age sixty-four and over) involved in fatal crashes in 1998 had the lowest intoxication rate (5%) of all adult drivers (Ibid.).
- In 1998, 21% of young drivers (age fifteen to twenty) killed in crashes were intoxicated (NHTSA, *Young Drivers*, 1999, 4).
- Twenty-five percent of young male drivers (age fifteen to twenty) involved in fatal crashes in 1998 had been drinking at the time of the crash, compared with 12% of young female drivers (Ibid., 5).
- Twenty percent of child fatalities (age fifteen and under) were killed in alcohol-related crashes—almost half of these were in vehicles where the driver had a BAC level of at least 0.01 (NHTSA, *Children*, 1999, 2).
- In 1998, there was an estimated total of 968,868 arrests for driving under the influence of alcohol (FBI 17 October 1999, 211).
- In 1997, drunk driving offenders accounted for nearly 14% of probationers, 7% of local jail inmates, and 2% of state prisoners—a total of 513,200 offenders (BJS June 1999, 1).
- Drunk driving is the nation's most frequently committed violent crime (MADD 1996).

HIGHER RISK DRIVERS AND MEASURES TO IMPROVE PUBLIC SAFETY

(Portions of the following section are excerpted from an article entitled *MADD's Higher Risk Driver Program*, by Robert Voas, January 2000, <<http://www.madd.org>>.)

Higher risk drivers have been defined as individuals who repeatedly drive after drinking, especially with high levels of alcohol in their blood, and who seem resistant to changing their behavior. On weekend nights in the United States, only 1 percent of drivers have a BAC of 0.15 or higher, but drivers with BACs of 0.15 or higher account for 65 percent of all drinking driver fatalities. The 1996 MADD "Rating of the States" report found that the average BAC of drunk drivers arrested by state police varied from 0.130 in Montana to 0.185 in Connecticut. A driver with a BAC at 0.15 is more than 300 times more likely to be involved in a fatal crash. While most drivers in fatal crashes have not yet been convicted of drunk driving, those who have are at significantly greater risk of causing a drunk-driving crash.

What complicates the situation and increases their risk to public safety is the fact that the majority of drinking drivers in fatal crashes do not have a previous DUI conviction, nor do all higher risk drivers come to the attention of the authorities before they are involved in a crash. Heavy drinkers develop a sufficient tolerance to alcohol such that they can appear to behave normally at a high BAC. Furthermore, authorities have difficulty in assuring that an individual arrested and convicted of a drunk-driving offense does not continue to drive after drinking—a shortcoming of state laws and the criminal justice system, and a lack of knowledge about how to apprehend these offenders.

On the other hand, state efforts to reduce illicit driving by convicted drunk drivers through practices such as vehicle impoundment and forfeiture, license plate impoundment and tagging, and the use of alcohol ignition interlocks appear to show promise. Those practices, combined with license suspension and treatment programs, are increasingly being used to deal with higher risk drivers.

MADD HIGHER RISK DRIVERS CAMPAIGN

Mother's Against Drunk Driving (MADD) has developed a plan for controlling the risk presented by those offenders who are apprehended by the police and who become liable for license action by the Department of Motor Vehicles (DMV) or the courts (Voas January 2000). The recommended actions are directed at reducing the risk that these offenders will drink and drive again. MADD identifies three types of offenders as higher risk drivers:

- Someone convicted of a drunk driving offense within five years of a prior drunk driving conviction.
- Someone convicted of drunk driving who had a BAC of 0.16 or higher at the time of the offense.
- Someone convicted of driving with a suspended license where the suspension was the result of a drunk driving arrest.

The “Higher Risk Driver” campaign seeks to create an integrated, comprehensive system in each state where the courts, driver’s licensing agencies, and treatment programs work together to control the most persistent impaired drivers. The court, in conjunction with the DMV, will have responsibilities to:

- Restrict the driving privileges of convicted offenders to keep them off the road.
- See that convicted offenders provide restitution to the injured parties and to the citizens of the community where they have caused a crash.
- Assist convicted offenders in recovering from alcohol dependence by providing treatment programs.

To evaluate the recovery of the convicted offender, payment of restitution, and a successful violation-free suspension period, MADD suggests that the courts and the DMV establish a DUI tracking system to record the outcome of every DUI arrest and the fulfillment of the above requirements. Secondly, they should issue an annual report on the DUI management information systems to identify operational problems as they occur.

PROMISING PRACTICES

- *DUI Vertical Prosecution Unit.* A DUI Prosecution Unit within the District Attorney’s Office in Shelby County, TN handles all new cases involving DUI defendants, including misdemeanors and felonies. The overall goal of the unit is to bring about more effective prosecution in DUI cases by having one prosecutor handle each case from the beginning to the end. To communicate to the offending public that the District Attorney’s Office intends to aggressively prosecute drunk drivers, the office secured a grant from the Governor’s Highway Safety Office to deliver television and radio public service announcements with the following message:

If you get in your car and drive anywhere at 0.08, you’ll have a record. The limit has been reduced—along with our tolerance. Drive Drunk—Do Time—Every Time. Earn the Title of Felon in Just Four Easy Lessons: Have a few too many. Grab your keys and drive. Meet the Cops. Check into the Big House (Blackburn 1 November 1999; *1998 Annual Report*).

- **DUI for Motorists to Report Drunk Driving on the Highway.* The District Attorney’s Office in Santa Cruz County, CA has created a program that permits motorists to report what they observe as alcohol or drug impaired driving on the highways. Drivers with cell-phones may place calls to police dispatchers by dialing *DUI to call in the license plates, descriptions, and locations of vehicles on the highway that are weaving or moving in an erratic manner. The dispatch center contacts the on-duty highway patrol in the area to stop the car and evaluate the driver for symptoms of intoxication. In the event that the suspect is not located on the highway, the registered owner of the vehicle, as indicated by the license plate, receives a letter from the District Attorney’s Office advising that a report has been filed and describing the criminal charges than can be filed had the car been pulled over.

While defense attorneys in the county courts have made the case that the highway patrol had no probable cause for stopping the driver, judges in the county are ruling that the observation of a citizen and the dispatch log for the call is probable cause for a police intervention. A substantial number of DUI cases pass through the Santa Cruz County courts each year, 15 percent of which result from a *DUI call followed by intervention. Prosecutors believe that, in the long run, the more the public is engaged in crime prevention in this manner, the less juries will be skeptical of arrests that are instigated by a citizen intervention (Marigonda 18 October 1999).

- ***Ignition Interlock Program.*** In Hancock County, IN almost all convicted DUI offenders are required to have their cars fitted with an Ignition Interlock device that connects a breathalyzer to the automobile ignition. The technology is considered to be an effective sanction for DUI offenders and a useful alternative to long-term license revocation. DUI probationers must blow into the device before starting their vehicles; if they have been drinking, their ignitions will not operate. The Ignition Interlock device also includes random re-tests while the car is in motion; if the driver fails the test while the car is in motion, the device sets off blaring horns and flashing lights. Between 1990 and 1995, DUI arrests in Hancock County dropped forty percent, a decline that local law enforcement attributes to the Ignition Interlock Program (Drug Strategies 1999).
- ***Alcohol Excise Tax Funds DUI Prevention Programs.*** In West Virginia, all of the revenues from a 6 percent excise tax on alcoholic beverages sold in clubs are used to fund the State Police Commission on Drunk Driving Prevention. In 1998, revenues were nearly \$1 million. Local police departments throughout the state receive grants to fund overtime patrols, sobriety checkpoints, and studies on local drunk driving trends. The Commission's efforts have helped reduce alcohol-related traffic fatalities in the state by 40 percent over a fifteen year period (Drug Strategies 1999).

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ABSTRACT

Before the 1980s, drunk driving was considered unfortunate but socially acceptable. Victims were thought to have been in the wrong place at the wrong time, unable to avoid what were considered “accidents.” With the advent of Mothers Against Drunk Driving and other grassroots victim groups, crash victims are no longer simply an amorphous mass of statistics. They have names and faces, and their tragedies are now rightfully considered crimes. With a combination of victim assistance, prevention programs, and aggressive public policy initiatives, drunk driving deaths are down 40 percent since 1980, but much more remains to be done.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following:

- Grassroots efforts that led to a nationwide movement against drunk driving.
- The impact of drunk driving on the victim.
- Current research on drunk driving crash victims.
- Suggestions for drunk driving victim services.
- Promising practices in drunk driving public policy and public awareness.

STATISTICAL OVERVIEW

- Drunk driving is the most common cause of arrest in the United States. In 1996, 10% of all arrests were for drunk driving, an estimated 1,467,300 arrests (Greenfield 1998).
- More Americans have been killed in alcohol-related traffic crashes than in all wars the United States has been involved in since it was founded (NHTSA 1998).
- An estimated 16,189 persons died in alcohol-related traffic crashes in 1997, an average of one every thirty-two minutes. These deaths constituted approximately 38.6% of the 41,967 total traffic fatalities (Ibid.).
- In 1997, two people were killed in an alcohol-related crash every hour, which translates to 45 per day or 315 per week. This is the equivalent of all passengers killed if two jetliners crashed every week (Ibid.).
- Since 1982, approximately 333,586 persons were killed in alcohol-related crashes. However, since 1982, annual alcohol-related traffic deaths have decreased 36% (Ibid.).

- More than one million persons are injured in alcohol-related crashes every year. This represents one about every thirty seconds (Ibid.).
- About three million innocent drivers have their vehicles damaged in 2.6 million drunk driving crashes per year (Miller, Lestina, and Spicer 1996).
- Alcohol-related motor vehicle crashes cause about \$45 billion in economic costs per year. Adding pain, suffering, and loss of quality of life raises the figure to \$116 billion (Blinco 1997).
- About three in every five Americans will be involved in an alcohol-related crash at some time in their lives (NHTSA 1997).
- In 1997, alcohol was involved in 20% (184) of the deaths of children under five killed in traffic crashes (Ibid.).
- In 1997, the five states with the highest percentage of vehicular crash fatalities that were alcohol-related were District of Columbia (58.5%), Rhode Island (54.6%), Alaska (52.8%), Texas (49.8%), and North Dakota (47.8%). The five states with the lowest percentage of vehicular fatalities that were alcohol-related were Utah (20.6%), New York (27.4%), Arkansas (29.2%), Kansas (29.5%), and Wyoming (31.5%) (NHTSA 1998).
- After five years in which St. Patrick's Day was the holiday with the highest percentage of alcohol-related fatalities, in 1997, New Year's Eve and Day were the highest with 67.1% of the crashes alcohol-related. However, the total number of traffic fatalities from Thanksgiving through New Year's dropped to an all-time low of 4,058, of which 36.9% were alcohol-related (Ibid.).

ALCOHOL AND YOUTH

- About 9% (9.5 million) of the nation's users of alcohol are under twenty-one. Of these, 1.9 million are heavy drinkers, and 4.4 million are binge drinkers (SAMHSA 1997).
- The average age when youth first try alcohol is 12.8 (Ibid.).
- Motor vehicle crashes are the leading cause of death for youth ages fifteen to twenty (NHTSA 1997).

ALCOHOL AND CRIME

- Nearly four in ten criminal victimizations involve use of alcohol (BJS 1998a).
- About 40% of offenders, whether on probation, in jail, or in prison, said they were using alcohol at the time of their offense (Ibid.).
- For about one in five violent victimizations involving perceived alcohol use by the offender, victims believed the offender was also using other drugs (Ibid.).
- Based on self-reports of what incarcerated offenders were drinking and for how long, it is estimated that the average blood alcohol level at the time of the crime was 0.16 for probationers, 0.19 for jail inmates, and 0.27 for state prisoners. When comparing violent

offenders, property offenders, drug offenders, and public order offenders, the highest blood alcohol levels were for property offenders (Ibid.).

- More than half of trauma patients with a positive blood alcohol concentration (BAC) at the time of the trauma were alcoholics, and nearly one in seven patients who were not drinking at the time of the trauma were alcohol-dependent (BJS 1998b).

DEFINITIONS

Administrative License Revocation: A law providing for prompt suspension of the license of drivers charged with Driving While Intoxicated (DWI) upon the finding that the driver had a BAC above the prescribed limit. The law enables the license suspension to go into effect prior to adjudication of the DWI charge.

Alcohol-related Fatality/Crash: A vehicular crash or pedestrian fatality involving a driver who has a positive BAC, though not necessarily above the illegal per se or presumptive level.

BAC (Blood Alcohol Concentration): The number indicates the grams of alcohol contained in every 100 milliliters of the person's blood. For example, a BAC of 0.10% means there is a 1/10 gram of alcohol in 100 milliliters of blood.

Binge Drinker: The Federal Substance and Mental Health Services Administration definition is five or more drinks on the same occasion at least once per month.

Designated Driver: A person in a group who agrees to refrain from alcohol use so the other group members may be assured of having a sober driver. Some bars and restaurants offer incentives to designated drivers by providing free soft drinks, reduced-cost meals, etc.

Heavy Drinker: The Federal Substance Abuse and Mental Health Services Administration definition is five or more drinks on the same occasion at least five days during the month.

Impairment: Effects of alcohol or other drugs that are less severe than intoxication or drunkenness but still diminish driving ability.

Intoxication: A term linked with a specific level of BAC, usually connotating observable and severe effects of alcohol.

Per Se: In and of itself; for example, a BAC at or above a certain level based on chemical tests is conclusive evidence of intoxication, regardless of whether or not the individual operating the vehicle appears to be or acts intoxicated.

Presumptive: No conclusive evidence; for example, a legal presumption can be, and often is, rebutted. A defendant whose BAC is above 0.10% could be found not guilty if the statute includes "presumptive" rather than "per se" language and the defendant did not appear obviously intoxicated.

Provisional License: A driver's license issued to young people (usually fifteen- to seventeen-year-olds) that withholds some of the driving privileges granted to adults; for example, a provisional license may require a curfew, parental supervision, and 0.00% BAC. If the youth does not violate the provisions, some of the restrictions are removed each year.

Sobriety Checkpoints: A system where law enforcement agencies select a particular location for a particular time period and systematically stop vehicles (for example, every third car) to investigate drivers for possible DWI. If any evidence of intoxication is noted, a detailed investigation ensues.

INTRODUCTION

The 1982 Final Report of the President's Task Force on Victims of Crime did not address drunk driving, even though it was one of the most frequently committed crimes in the country. That year, 25,165 people were killed in impaired driving crashes. The lack of attention to this class of victims is attributable, in part, to the fact that grassroots groups such as Mothers Against Drunk Driving (MADD) were in their infancy, and drinking and driving were still considered acceptable—the consequences, just an “accident.”

ACTIVISM AND PUBLIC POLICY

With the advent of MADD and other grassroots groups, public awareness of drinking and driving as a preventable crime grew rapidly. The number of legislative countermeasures at both the federal and state levels increased, and public policy became the focal point of efforts to reduce deaths and injuries resulting from impaired driving crashes.

MADD and Remove Intoxicated Drivers (RID) were the first activist groups to begin putting names and faces to statistics. One of the first nationally recognized victims was five-month-old Laura Lamb, riding in the car seat beside her mother as they drove to the store in November 1979. They were hit head-on by a drunk driver speeding toward them at 120 mph. He had no driver's license, no insurance, and a record of thirty-seven traffic violations (three of them for drunk driving). Laura became America's youngest quadriplegic. Her story was told throughout the nation when Maryland's Congressman Michael Barnes introduced the nation's first tough anti-drunk driving legislation.

In May 1980, thirteen-year-old Cari Lightner was walking to a church carnival in Sacramento, California, with her friend when she was hit from behind and killed instantly by a man who had been out of jail only two days since being arrested for another hit-and-run drunk driving crash. In fact, his record revealed three previous drunk driving arrests. A grassroots effort to organize against drunk driving began when Candy Lightner, Cari's mother, from California and Cindy Lamb, Laura's mother, from Maryland joined forces in late 1980 to form Mothers Against Drunk Driving. Since then, thousands of volunteers, both victims and concerned citizens, have worked to stop drunk driving. Their efforts, combined with a lowered speed limit, increased use of seatbelts and airbags, and other safety measures have contributed to

more arrests for drunk driving every day than for any other crime. Consequently, drunk driving fatality rates are down 40%, from 28,000 in 1980 to 16,189 in 1997 (NHTSA 1998).

HISTORICAL PERSPECTIVE

Drunk driving is not a new problem. Henry Ford worried about it when he introduced “motor carriages” as a quantum leap from horse-drawn carriages. He knew that imbibing would place drivers of his automobiles at greater risk than those traveling by horse and carriage. The horses knew how to get home.

In the 1960s, the Department of Transportation and the National Highway Traffic Safety Administration began showing legislators and the public the staggering number of deaths attributable to traffic crashes in general and alcohol-related crashes in particular. A few drunk driving laws were passed, but they stipulated that a 0.10 or 0.12 BAC only “presumed” an individual to be intoxicated; the charge of intoxication was rebuttable. In 1972, Nebraska and New York passed the first laws stating that a 0.10 blood alcohol content was conclusively “illegal per se.” No further evidence of impaired ability to drive was needed. These laws were based on the fact that at 0.10, any person, regardless of tolerance to alcohol, was significantly impaired in his or her ability to operate a motor vehicle (NHTSA 1974). South Dakota, Utah, and Vermont followed in 1973; Florida and North Carolina in 1974; and Oregon in 1975. By 1979, twelve states had set an illegal per se limit, all of them at 0.10 except New Hampshire which set its per se limit at 0.15 (California Legislature 1979).

Neither the press nor the public paid much attention to the illegal per se limit. This lack of concern was indicated by a two-inch article printed in the October 16, 1979 edition of the *New York Times*, which noted an all-time record number of people had been killed in “road accidents” in 1978—50,145 people.

In 1980, the National Highway Traffic Safety Administration published its first issue paper on illegal per se and preliminary breath testing that proposed model language for both laws (NHTSA 1980).

ANTI-DRUNK DRIVING MOVEMENT

A unique characteristic of the anti-drunk driving movement is its equal emphasis on prevention programs and victim services. Perhaps this is most clear in public policy development and implementation. Grassroots victims organizations attracted not only the minds of the public and legislative bodies but their hearts as well.

Between 1982 and 1997, more than 1,700 pieces of anti-drunk driving legislation were passed nationwide. One result of legislative success is the proportion of traffic fatalities that are alcohol-related declined from a high of 57% in 1982 to 38.6% in 1997 (NHTSA 1998). The proportion of drivers in fatal crashes who had a blood alcohol level of 0.10 or greater has declined from more than one-third in the beginning of the 1990s to less than one-fourth as the end of the decade is approached. Between 1985 and 1995, the proportion of intoxicated

drivers sixteen-to-twenty years of age who were involved in fatal crashes dropped 47%, the largest decrease of any age group during this time period (NHTSA 1996). The bottom line success, however, is measured in total lives saved. In 1980, there were approximately 28,000 alcohol-related fatalities. By 1997, this number had been reduced to 16,189 even though the number of drivers and number of miles driven increased substantially (NHTSA 1998).

CURRENT RESEARCH ON DRUNK DRIVING VICTIMS

DRUNK DRIVING VICTIM SATISFACTION WITH CRIMINAL JUSTICE PROFESSIONALS

Nearly 600 victims of drunk driving crashes responded to a survey (Sobieski 1994) that analyzed (1) victim satisfaction with the criminal justice system and (2) weaknesses in the justice process. Nearly two out of three were satisfied with the quality of the *law enforcement investigation* of their cases. However, many felt the police had failed to protect the property of their loved ones (clothing, jewelry, etc.). This perception was the source of significant hurt and bitterness.

On the other hand, more than half the respondents were dissatisfied with the *prosecutors*. The quality of the interpersonal relationship between the prosecutor and the victim family was much more significant than the final outcome of the case. The victims wanted to be offered choices by prosecutors. They wanted elements of statutes explained to them so they could discuss the possibility of a plea or reduced charge with the prosecutor. They wanted a choice about being present in the courtroom (if they were not going to testify) and about giving a victim impact statement (VIS). Feeling that their role in the criminal justice system was limited, presenting a VIS lent credence to the gravity of the criminal act.

MADD VICTIMIZATION STUDY

Through a three-year research project funded by the National Institute of Mental Health (Mercer 1995b), a national sample of 1,785 MADD members was surveyed. Of those, 1,448 were victims of drunk driving crashes (bereaved and injured), and 337 were not victims. An additional 234 non-MADD drunk driving crash victims and non-victims were surveyed for comparison. On average, victims were surveyed about five years after the crash. Key findings include:

- No significant differences distinguish victims who join MADD from those who do not.
- Drunk driving victimization is generally severe and long-lasting. After five years, most victims remained impaired psychologically, physically, and financially. Twenty percent of the victims felt they would never again experience a normal life.
- Most victims (82%) who speak on victim impact panels are helped by the process. Ten percent are neither helped nor hurt, and eight percent are hurt. Those helped felt speaking on victim impact panels gave a sense of meaning to their crashes, believing that it would save lives (81%), change the behavior and attitudes of others (76%), and bring good from the crash (55%). Those hurt had usually been encouraged to speak when they did not want to or were not yet ready.

- Victims who come to their crash experience with faith, both internal and manifested in outward religious behavior or fervency, tend to find their faith strengthening after victimization. However, significant disappointment in their faith communities was expressed.

IMPACT OF DRUNK DRIVING ON THE VICTIM

The worst is to do nothing because you can only do a little. — Edmund Burke

It is often difficult to work with survivors of those killed or injured in alcohol or other drug-related crashes because of their anger. Our criminal and juvenile justice systems do not provide the same sanctions for these crimes as they do for other crimes with the same result—dead or catastrophically maimed victims. It is difficult to explain to a family that the offender in their case faces a maximum sentence that is only a fraction of what he or she would have faced if a weapon other than a vehicle had been used. Unfortunately, public policy has not yet caught up with the understanding that a death or injury at the hands of an impaired driver is not an accident but the result of two conscious choices: to use alcohol or other drugs and to drive a vehicle.

According to research (Amick-McMullan et al. 1989a,b), very similar percentages of family members of someone murdered and someone killed by a drunk driver develop post-traumatic stress disorder (PTSD). Twenty-three percent had suffered PTSD at some time since the death of their loved one, and five percent were still suffering at the time they were surveyed. With respect to the impact of the homicide on their lives, their experiences with the criminal justice system, and their degree of satisfaction with their treatment by the criminal justice system, surviving family members of murder and alcohol-related vehicular homicide were more similar than different.

Much of what is generally known about grief is based on research of terminally ill individuals and their loved ones. Although correlations can be drawn from traditional thanatology (the study of death and dying), there are significant differences when the death is sudden and traumatic. Understanding those critical differences can enable the service provider to create an environment of support and healing even when the system is unable to acknowledge drunk driving death as murder or drunk driving injury as assault.

The impact of drunk driving crashes that cause serious and/or permanent disabling injuries cannot be overestimated. Victims of these crashes may never fully recover, often spending years in arduous and painful therapeutic efforts. Family members who care for seriously injured victims suffer severe and ongoing stress in all areas of their lives—financial, emotional, psychological, professional, and spiritual.

VEHICULAR DEATH OR INJURY IS UNEXPECTED

Vehicular crashes are sudden. There is no time for psychological preparation, no time to draw upon previous coping skills. Nothing in the human experience can adequately prepare

someone to kiss a spouse good-bye in the morning and then be notified that he or she is never coming home again. No previous experience can equip someone to tell a child to be home by curfew and then to be awakened by a knock at the door from a police officer bringing the devastating news. When the death is caused by a vehicular crash, there is no opportunity to say the “good-bye’s,” “I love you’s,” and “I’m sorry’s” that need to be said. While not all ill and injured people deal with these issues with their families, they at least have the opportunity to do so.

The first task of crash survivors is simply to grasp what has happened. It takes considerable time for the mind and the heart to assimilate the enormity of the trauma, let alone to accommodate it in any meaningful way. Often those supporting the survivors want to see signs of healing, acceptance, and moving on before the survivor has even comprehended what has happened. The injured can experience the same unrealistic “pushes” toward recovery. Comments like, “You *are* getting better, aren’t you?” and “You’re just so lucky to be alive” may discount the physical and emotional devastation of the injured.

Service providers can create a supportive environment by allowing injured victims and family members of those killed or injured to remain within a protective bubble of denial as long as they need to. Denial is a valuable defense to protect individuals from fully experiencing more than they can psychologically handle. To ask probing or direct questions is not helpful. Nor is it appropriate to introduce them to “stage” theory, i.e., the five stages of death and dying. Simply allow them to discuss elements of the experience that are the most significant to them at the moment.

VEHICULAR DEATH OR INJURY IS VIOLENT

Death or injury at the hands of an impaired driver almost always causes violence to the body. Regardless of a person’s theology about what happens to the soul at the moment of death, the body is infinitely precious. Knowing that the loved one’s body was catastrophically damaged can be enormously painful for the survivor.

Service providers naturally want to protect the family from what they perceive to be unnecessary pain and anguish. Therefore, they may mistakenly believe that refusing family members access to the body, photos, and certain information is an act of compassion. Unfortunately, refusal of choices and information only exacerbates the pain, as survivors tend to fill in knowledge or experiential gaps by imagining horrific scenarios that may be worse than the reality (Awooner-Renner 1993; Osmont 1993; Rynearson and McCreery 1993).

DRUNK DRIVING IS A CRIME

Drunk driving is a crime. Deaths and injuries that have resulted from drunk or drugged driving are senseless and could have been prevented. The offender engaged in choices—to use alcohol or other drugs and to get behind the wheel of a car. Therefore, advocates within the anti-drunk driving movement do not describe the consequences as an “accident.” Words like “crash,” “crime,” or “incident” are used because they do not minimize the offender’s responsibility for the tragedy as does the word “accident.”

Another language issue for survivors is distinction between “died” and “killed.” For many, the word “died” feels too passive; it fails to acknowledge that the death was someone’s fault and therefore could have been prevented. The word “killed” suggests that a life was taken, rather than simply lost.

DRUNK DRIVING INJURY AND DEATH CHALLENGE SURVIVORS’ FAITH AND PHILOSOPHY OF LIFE

Just as there are financial, emotional, social, and physical components to every crisis, there are spiritual ramifications as well. Many who have never thought much about God before will do so after a loved one has been killed or injured. For those of faith, a spiritual crisis as great or even greater than that of the non-faithful may develop.

In a study conducted of survivors of those killed in alcohol-related crashes (Mercer 1995a), those who had some or a lot of faith prior to the death of their loved one found their faith becoming stronger over time. Those having little or no faith prior to the death of their loved one found their faith staying the same or getting weaker.

Among those whose faith became stronger, the process of healing took a significant amount of time, and the struggle was primarily an internal one. Respondents were highly critical of the lack of outreach or support they received from their clergy and faith community. Reasons for *dissatisfaction* with this lack of support included being told that they should not be angry; being told they should forgive the offender; feeling unsupported when they “fell apart” in church; and being told they did not have enough faith or trust in God.

One of the tasks of mourning that leads to healing is creating a context of meaning for the tragedy. This may be among the most difficult tasks for victims of alcohol- or drug-related crashes. Some survivors find meaning within their personal faith journey. Others find it through activism or helping others who are suffering. Still others find a context of meaning through personal value changes, perhaps learning to say “I love you” more often or spending more time with family. Creating a context of meaning never explains away the crime or makes it acceptable, but it does help the survivor identify outcomes that honor and memorialize the deceased and affirm the changed lives of survivors (Herman 1992).

SUMMARY

Few things in life are more profound than being with someone who has experienced the soul-shattering, sudden, violent death or catastrophic injury of their loved one. This may especially be true when the cause was drunk driving that could so easily have been prevented. The authority and status of victim service providers or criminal justice professionals offer an unparalleled opportunity to be of support and guidance. The memory of a loved one killed by an impaired driver holds a unique place in the heart of the homicide survivor, but so also do the memories of those who truly helped. Likewise, injured crash survivors express significant gratitude for advocates who do not minimize their experience and help them to seek material and emotional support services. Equipped with courage, compassion, and knowledge about the

unique nature of drunk driving death and injury, compassionate advocates will be counted as extraordinary people who knew how to help.

SUGGESTION FOR DRUNK DRIVING VICTIM SERVICES

According to Mothers Against Drunk Driving, some of the following practices may be especially helpful to victims injured or family members of those killed in drunk driving crashes.

- Rather than explaining stages, ask, “What part of your experience is hurting the most today?” This permits examination of the component of the traumatic experience that is most difficult for the victim and eliminates the need for the advocate to guess or probe. As Rabbi Earl Grollman says (1994), “If it’s mentionable, it’s manageable.”
- Recognize that there will always be a “most difficult” component of the victimization. However, victims’ understanding of each component may change from time to time as it is processed and mastered.
- Provide requested information, but be cautious about overloading victims with more than they can handle. For example, MADD has more than twenty victim assistance brochures and several books for survivors. These should be distributed only as appropriate to address the unique components of each victimization.
- Support family members who wish to view the body of their loved one. Many have a need to get to the body as soon as possible because they did not have time for psychological preparation. Viewing the body helps the death to become real. Many feel that seeing and touching it in its natural state helps them say good-bye more realistically than after funeral home preparation. It also helps to confirm the identity of the person who was killed which combats “magical thinking,” such as “There’s been a mistake; it wasn’t my loved one who has been killed.”
- Offer to view the body first, and then describe it in detail to family members. After hearing the description, many survivors will choose to view their loved one and, after being prepared for what they will see, are grateful for the opportunity.
- Assist survivors who wish to view photographs of their loved one or to go over details of the autopsy report. This desire is most often expressed by those who were unable to view the body of their loved one. As one bereaved father put it:

The worst thing that could happen to me had already happened. I knew her injuries were so severe that they killed her, and I was prepared for that. What I wasn’t prepared for was everyone’s resistance. I knew what I could handle, and all I was asking for was the opportunity to see pictures that a large number of people had already seen.

Photographs may be retrieved from crime scene records, the medical examiner, media entities, and sometimes funeral homes. As with viewing the body, prepare family members to view photos. Parents of Murdered Children offers a helpful technique for assisting the bereaved in viewing difficult photographs of their loved one. Ask the person in possession

of the photographs to sort them with the least offensive photo on top to the most offensive on the bottom. This person should place each photo in its own envelope or folder, or at least separate them with sheets of paper. One at a time, a trusted person of the survivor looks at each photo, describes it, and then asks the survivor if he or she still wishes to view it. This technique offers the survivor two pieces of information from which to decide whether or not to look at a specific photo. The survivor has both the verbal description of the photo and the trusted person's reaction, through body language and tone of voice, to help him or her decide whether or not to view the picture.

Some survivors want to see all the pictures; others want to see only one or two, usually to confirm that it really was their loved one who was killed. Those who want to have copies may choose not to look at them until much later. They may tuck them in a file or drawer, but the survivors know the photos may be viewed at their discretion, not at someone else's.

- Understand that catastrophic injury resulting in permanent disability may have a more lasting impact on families than death. Physical and emotional suffering over-spends the energy needed to function on a day-by-day basis. Likewise, socioeconomic levels nearly always drop due to lack of income of at least one wage-earner in the family. Advocates must not neglect this crucial component of services. Likewise, attention to the caregivers of the permanently injured must not be ignored. A good resource for families of the injured is the book *Injury: Learning to Live Again* (Mercer 1994).
- Listen to the specific language of survivors as they talk about the crime and mirror it. Early on, they may be unable to accept the fact that it was more than an accidental death. As they obtain more information and adapt to reality, their language may change to “killed” or “murdered.” If they continue to use the word, “accident” along with description of the alcohol-related components, suggest that perhaps it really was not “accidental” at all. This will invite the survivors to use stronger language if it feels right for them.
- Do not push survivors to “find meaning” in what happened before they are ready—which may take some time.
- Encourage memorialization experiences such as attendance at MADD Candlelight Vigils and newspaper memorials on the anniversary, if survivors find these helpful. Support their efforts if they choose to become active in groups working to stop drunk driving.
- MADD's Victim Impact Panel program may be especially useful in helping victims find meaning in their victimization. Explain what happens on such panels and encourage those who want to participate.
- Acknowledge that the faith community can sometimes be a source of revictimization and allow victims to ventilate those frustrations as fully as other components of their experience.
- Remind survivors that it may take considerable time to reestablish a relationship with God, to make a decision about forgiveness, or to feel comfortable in worship again. This may help normalize their spiritual concerns.
- Develop a clergy referral list for all major faiths in your community. MADD has a questionnaire that asks clergy about their interest in referrals and requires written response to questions that will help survivors decide about contacting them.

PROMISING PRACTICES IN DRUNK DRIVING PUBLIC POLICY

PREVENTION

There is no single solution to reducing alcohol- and drug-related crashes. Comprehensive, multi-strategy community interventions can best accomplish the task.

The federal government should continue to invest resources to stop drunk driving and ensure the passage of substantive laws at the state level. For every dollar spent on highway safety in 1992, a cost savings of \$33 was achieved in lives saved (NHTSA 1994). Continuation of the incentive grant programs that have been so effective is crucial. Examples include supplemental federal highway funds for states passing minimum 21 drinking age, maximum 0.08 BAC, and 0.00 BAC for youth laws.

The goal of the National Highway Transportation Safety Administration (NHTSA) to reduce alcohol-related fatalities to 43% by 1996 was achieved two years ahead of schedule, and MADD's goal to reduce the proportion of traffic fatalities that are alcohol-related to 40% by the year 2000 has been achieved. However, components of the 1995 National Highway Safety Act that did away with the 55 m.p.h. speed limit and mandatory helmet laws are extremely likely to increase overall fatalities and injuries. The Insurance Institute of Highway Safety (*Fort Worth Star-Telegram* 1999) reports that highway deaths increased approximately 15% in states that increased their speed limits after the 1995 law was passed. In states that retained the old limit, deaths remained constant.

The Department of Transportation has established the ambitious goal of reducing alcohol-related fatalities to no more than 11,000 per year by the year 2005 (NHTSA 1995). This means a reduction of about 5,000 annually from the 1994 level, saving sixteen more lives each day. MADD also adopted the goal of 11,000 by 2005, but emphasizes that there is *no* acceptable minimum number of alcohol-related deaths or injuries.

LEGISLATION AND COMMUNITY-BASED SANCTIONS

The following state-level efforts will help reduce drunk driving nationwide:

- *Administrative License Revocation (ALR)*: This is an administrative system that provides for the immediate suspension of the license of drivers who are arrested for driving under the influence and fail blood alcohol tests by registering above the legal BAC limit in their state. The thirty-eight states that adopted ALR have reduced single vehicle nighttime fatalities 6% to 9%. If all states without ALR would adopt the law, 200 to 350 lives could be saved each year.
- *21 Drinking Age Laws*: The establishment of a uniform minimum drinking age of twenty-one in all states, territories, and jurisdictions of the United States has been critical to arresting drunk driving. No single piece of legislation has been more effective in reducing alcohol-related deaths and injuries among the under twenty-one age group than the federal 21 Minimum Drinking Age Law of 1984. Faced with a loss of federal highway funds, every state raised its minimum drinking age law to twenty-one by 1988. As a result,

SOME FINAL RESEARCH REMINDERS

Victim service providers should be mindful of a few important points:

- *Correlation is Not Causation.* Studies that demonstrate associations do not imply causative relationships. The fact that a correlation is found between two variables does not mean that one caused the other. The relationship may still be extremely important, depending upon the strength of the correlation, but other factors may not be measured by the study that contributed to the correlations found.
- *A Significant Finding Is Not Necessarily Meaningful.* Frankly, some of the research encountered will seem to go beyond its more obvious implications or otherwise seem quite esoteric. If the reader's reaction to the findings is "so what" or that the limitations on the study are so severe as to make it meaningless to work in the field, the reader is probably correct. However, victim service providers should be careful to take what may be useful from these studies that will help build on the field's knowledge.
- *Be Alert to Clever Manipulations of Data.* This is less of a concern in the more academic (or "refereed") journals that have high standards for their publications. However, as the publications that are being reviewed become less rigorous, or when more popular publications are being used, care must be taken to assure the validity of findings. There are many kinds of issues that arise in this way, a few of which follow:
 - Make sure that the reader has access to both the raw numbers as well as proportional representations. Readers should not rely heavily on, for example, percentage representations if there is not a good sense for the underlying data (which really should be made available). For example, two jurisdictions have claimed a 50 percent reduction in homicides in the same period. Jurisdiction A fell from 50 to 25, while jurisdiction B fell from 2 to 1. These may be equally significant depending upon the many circumstances involved, but they do represent quite different things such as a drop in the actual homicide frequency versus a percentage change in the homicide rate.
 - When data are provided graphically (for example, in graphs that show trend lines), look to see that the graph shows the zero point on the axis and, if it does not, then see if there is a good reason for this and if it is understandable as to what the data actually represent.
 - Be wary of trend data that make broad claims from either short spans of time or from two discrete points in time because manipulating the presentation of data is an easy way to limit the focus.
 - Readers should be very skeptical of claims made about the greater population at large from studies that have small sample sizes because there are limitations to the strength of estimating techniques. Studies that examine a few subjects with the purpose of examining the effects of an intervention on individual subject behavior are relevant and important. Even in these studies, however, one should be very careful in generalizing results to a larger or different population.
 - Victim service providers should be aware of misinterpretations that arise from mishandling proportions in population demographics. Even if group A and B seem to have the same absolute numbers of victims, if one group is many times the size of the

Victim advocates can begin by collecting suggestions from colleagues regarding what they are reading (or wish they had the time and money to read) and add to that list by talking to the professor(s) and their graduate student(s). Addresses should be obtained for the publications, and free sample issues requested.

Additional publications may be listed for review on a monthly or quarterly basis by visiting the library. To stay current across disciplines, victim service providers should look for periodicals that have a broad range of editors listed who represent the areas to be covered. Also, colleagues can be drawn upon to informally share information where articles of interest are brought to the attention of others to cut down on the initial work of each participant.

ON-LINE SERVICES

The power of the on-line services should not be underestimated. Specific information about on-line research is available in Chapter 21. The amount of time that can be saved in researching topics on-line can be astounding. The only caution here is to be particularly skeptical of sources found on-line if they cannot otherwise be verified as credible by the identification of author or institution such as when addresses end with <.edu> or <.gov>. While there is excellent information to be gathered from the Internet, there is a lot of pure nonsense there too. The Internet is a very powerful tool, but it is subject to abuse and manipulation. Information and references obtained from the World Wide Web should be cross-checked.

GOVERNMENTAL CLEARINGHOUSES

Various government agencies provide outstanding information clearinghouses, such as the National Criminal Justice Reference Service (NCJRS); the Office for Victims of Crime Resource Center (OVCRC) is part of NCJRS. In addition, departments such as Health and Human Services, Housing and Urban Development, and Education offer similar information services. Victim service providers should register with all applicable clearinghouses to assist in identifying innovative programs and current information.

EXPERIENCE

It is often noted that good experimental design is mastered by practice and not simply by being told the potential problems for which one should be on the lookout. The best way to keep up-to-date is to commit to conducting a small scale research project, or to writing a brief review article about some area of interest. Set reasonable, but strict, deadlines. Starting with the tips provided in this chapter, victim service providers should get input from a variety of sources and ask others to review and react to this work. No doubt the new researcher will be amazed at how much was already known, and a considerable array of additional material will probably be compiled. Victim service providers will learn much from an open-minded reception of methodological, content, and editorial feedback.

alcohol-related youth fatalities decreased 56% between 1982 and 1994. Alcohol-related adult fatalities during the same time frame decreased by 40%. Minimum drinking age laws have saved an estimated 15,667 lives since 1975 (NHTSA 1997).

In November 1995, Congress and President Clinton further strengthened the 21 drinking age law by passing and signing the National Highway System Act that requires each state to pass “zero tolerance” laws (minimum BAC at 0.00 to 0.02) in order to receive federal highway funds. Zero tolerance laws reduce young drivers’ alcohol-involved crashes by 20%.

- *0.08 BAC Limits For Adults:* In 1996, more than 46 million Americans drank or took drugs within two hours of driving (Knutson 1998). Nearly 25% of all alcohol-related traffic fatalities in 1996 involved drivers whose blood alcohol content was below 0.10 (NHTSA 1997). In California, alcohol-related fatalities dropped 12% after 0.08 and Administrative License Revocation (ALR) laws were passed. Preliminary results of the most recent studies reveal that California, Oregon, Utah, and Vermont have also experienced significant decreases in driver alcohol involvement after lowering the BAC limit to 0.08 (NHTSA December 1994).
- *Sobriety Checkpoints:* Sobriety checkpoints are frequent and regular, highly publicized, highly visible enforcement programs to detect and apprehend alcohol- and other-impaired drivers. Two-thirds of the driving age public believe sobriety checkpoints should be used more frequently than they are now (NHTSA 1996). Even a majority of drivers who drink support increased use of sobriety checkpoints (Ibid.). Programs in the areas listed below have shown how effectively-run sobriety checkpoints can have a substantial impact on drinking and driving and alcohol-related crashes.
 - Charlottesville, VA: 13% reduction in proportion of alcohol-related crashes.
 - Clearwater/Largo, FL: 20% decrease in proportion of alcohol-related crashes.
 - Bergen Co., NJ: 10% to 15% decline in single vehicle nighttime crashes.
 - Binghamton, NY: 39% decline in drinking drivers based on a roadside survey.
 - North Carolina: More than 50% decline in drinking drivers at checkpoints.

The U.S. Supreme Court has upheld sobriety checkpoints as constitutional.

- *Open Container Laws:* These laws restrict the consumption or possession of open containers of alcohol in any motor vehicle, thus separating alcohol consumption from vehicle operation.
- *Plate/Vehicle Confiscation/Impoundment/Forfeiture:* Laws providing for confiscation and/or impoundment of license plates or vehicles of habitual drunk driving offenders or those who drive on suspended licenses are believed to be effective but more research is needed. States that have passed these laws should study their effect and develop model legislation based on the findings.
- *Mandatory Confinement for Repeat Offenders:* Laws providing for mandatory jail sentences that cannot be suspended or probated for repeat drunk driving offenders are believed to serve as a deterrent to future violators, but definitely serve a remedial purpose by assuring

that these drivers are kept off the public streets and highways during incarceration. States should study the effect of mandatory confinement laws and amend their statutes accordingly.

- *Happy Hour Restrictions:* Prohibitions against “happy hour” promotions and other marketing practices that encourage excessive alcohol consumption have been shown to be effective at preventing alcohol-related injuries and fatalities in some communities. Bars and restaurants that engage in “happy hour” promotions should be sanctioned by their state’s Alcohol Beverage Control agency.
- *Excise Taxes:* A tax on all alcoholic beverages is one means of funding programs to prevent drunk driving and serve victims. Excise taxes on beer and wine should be made equivalent to taxes on distilled spirits and these tax dollars used for funding prevention programs.
- *Mandatory Testing:* More than 80% of impaired drivers admitted to hospital emergency departments were not held responsible for their crimes because they were not reported by emergency physicians or charged by law enforcement (Orsay et al. 1994). Mandatory blood alcohol concentration testing of drivers in all traffic crashes resulting in death or injury should be enacted. Medical providers should be required to report BAC levels and other drug involvement of drivers to law enforcement agencies.

VICTIMS’ RIGHTS

- *Constitutional amendments for victims’ rights and statutory Victims’ Bills of Rights:* While most states now have statutory rights, the courts will never assure that these rights are actually offered until they are placed in the U.S. Constitution and all state constitutions. An Amendment to the U.S. Constitution and all state constitutions would assure rights for victims of all crimes, including victims of drunk driving crashes.
- *Bankruptcy protection:* In 1982, if a crash victim won a money judgment against a driver, the driver could immediately walk into federal bankruptcy court and successfully have the debt discharged. Through amendments to Chapter 7 of the *Federal Bankruptcy Code* in 1984 and Chapter 13 in 1990, persons who kill or injure others while driving impaired cannot file bankruptcy to avoid paying criminal restitution or civil judgments to their victims. An amendment to Chapter 11 of the Federal Bankruptcy code would prevent businesses found liable of irresponsible alcohol services from claiming bankruptcy protection.
- *Compensation:* The re-authorization of the Victims of Crime Act (VOCA) in 1988 represented a major step in assuring that drunk driving crash victims are considered legitimate victims of crime. The new law provided that states excluding drunk driving crash victims from their crime victim compensation program would no longer be eligible for VOCA funding.

Within a couple of years, all fifty states amended their statutes to include drunk driving crash victims and, in most states, victims of hit-and-run. The 1988 law also opened the door for services grants to programs serving crash victims by designating that states must begin allocating a proportion of their victim assistance grants to “previously underserved victim populations.”

Compensation statutes should be amended to assure fair compensation for crash victims. Amendments should remove means tests, eliminate denial of benefits for victims who are uninsured or passengers in a vehicle driven by an impaired driver. An ample number of mental health counseling hours for family members of someone killed and those who survived crashes should be assured. Compensation caps should be raised or removed for victims of severe or permanent head or spinal cord injury.

- *Dram shop/social host liability*: Dram shop statutes and case law hold servers of alcohol (bars, restaurants, social hosts) financially liable for serving minors or noticeably intoxicated adults. State laws should be passed to assure that those who knowingly contribute to the intoxication of others who then kill or injure become financially liable to the crash victims. States should also assure that their tort laws do not limit a seriously injured victim's ability to recover financially.
- *Endangerment of Children*: Driving intoxicated or impaired by other drugs is clearly endangering to all passengers in the vehicle and is particularly negligent or even abusive when children have no choice about riding in the vehicle. The Federal Crime Bill of 1994 enhanced the drunk driving penalty of all offenders on federal land if a child under the age of sixteen was a passenger in the vehicle.

Legislation that increases the criminal sanctions for drunk driving offenders who have children in the vehicle when crimes are committed should be supported. Also, states should define "driving impaired with children in the vehicle" a specific form of child endangerment. Evidence of such conduct should be considered by family court judges in determining custody and visitation in suits affecting the parent-child relationship.

- *Victim Impact Panels*: Victim Impact Panels are a group of three or four victims who speak ten to twelve minutes each about the effect of their drunk driving crash. Research (Mercer 1995b) indicates that while panels appear to reduce recidivism among offenders, even more significant is the fact that they offer a healing opportunity for victims. Legislation that mandates attending a Victim Impact Panel as a component of the sentence of every drunk driving offender in counties that offer the program should be supported.
- *Drunk Driving Death and Injury a Violent Crime*: The violence perpetrated on the bodies of those killed and injured in drunk driving crashes is well documented. Yet, it is not uniformly understood as a violent crime. Legislation that defines drunk driving death and injury as violent crimes and elevates them to felony status should be supported. Repeat offenders who maim and kill should be prosecuted under second-degree murder statutes, or second-degree murder language should be amended to define this victimization as one form of wanton and willful disregard for human life. The FBI and Uniform Crime Reports should define drunk driving death and injury as major crimes.

PROMISING PRACTICES IN DRUNK DRIVING PUBLIC AWARENESS

Public awareness programs must not be overlooked as a component of the significantly reduced drunk driving fatality rate. MADD's positive relationship with the National Association of Broadcasters was solidified in 1984 when MADD decided not to oppose alcohol advertising.

Public service announcements and paid advertisements by numerous corporations about drunk driving are believed to have made a difference, although their effect is difficult to measure.

- “MADD: The Candy Lightner Story,” which aired as NBC’s Movie of the Week in March 1983, was seen by hundreds of thousands of viewers and contributed to the development of more than 200 MADD chapters in forty states. The movie also served as the catalyst for a significant increase in media coverage of drunk driving. A Catholic University study indexed five major newspapers (*New York Times*, *Wall Street Journal*, *Washington Post*, *Los Angeles Times*, *Christian Science Monitor*) and 370 periodicals in 1983. The study found that print coverage of drunk driving increased dramatically from four stories in 1980, to 30 stories in 1981, to 116 stories in 1982, and to 219 stories in 1983 (McCarthy et al. 1986).
- Other public awareness programs may have contributed to the decline in drunk driving: MADD’s Poster/Essay Contest for elementary through high school youth and the Red Ribbon Campaigns of Parents for Drug Free Youth and MADD (“Tie One on for Safety”) reach thousands. Alcohol-free prom and graduation parties are now commonplace throughout the nation. MADD’s Sobriety Checkpoint Weekend over the July 4 weekend has received significant media attention as have Candlelight Vigils of Remembrance and Hope held at the local, state, and national levels each December.
- The Ad Council has developed a number of public service announcements related to drunk driving awareness and prevention. One such campaign focuses on designated drivers with the slogan “friends don’t let friends drive drunk.”
- Project CHEERS (Creatively Helping to Establish an Educated and Responsible Society) is Missouri’s designated driver program, funded by Missouri Department of Public Safety Division of Highway Safety. Project CHEERS works with college campuses and communities all over the state to reduce the number of alcohol-related crashes.
- An excellent example of a state coalition is the Designated Driver Program, sponsored by the St. Mary’s Alliance for Alcohol/Drug Abuse Prevention, the Calvert County alliance Against Substance Abuse, Charles County Community College Safe Community, Charles County Sheriff’s Office, and the Highway Safety Division of the Maryland Department of Transportation. This group works with customers and vendors to encourage designated drivers. Program “kits” are provided to vendors (including buttons saying, “Kiss Me, I’m the Designated Driver”), and the group utilizes all media for extensive PSA campaigns.
- MADD’s Victim Services Program. All of MADD’s services and literature are free. Its Victim Services Department offers a series of twenty brochures for victims that address various features of victimization. The organization also requires that each chapter provide eight basic services to victims, and many chapters provide Level II and Level III services. Each chapter’s advocate must receive a minimum forty hours of training and must comply with numerous policies to assure quality care of victims. Many MADD chapters offer victim support groups and victim impact panels. Advocates assist victims in writing victim impact statements and completing compensation forms. They assist victims through the criminal or juvenile justice process and attend court if requested. MADD offers a wide array of prevention programs for victims when they are ready to become actively involved in MADD’s mission to stop drunk driving and to support victims of this violent crime.

1. Name at least one reason for the significant drop in drunk driving deaths beginning in the early 1980s.
2. Name three of the first states to pass 0.10 per se laws.
3. How much did the drunk driving fatality rate for victims under age twenty-one drop between 1982 and 1994?
4. How did the 1988 reauthorization of the Victims of Crime Act (VOCA) contribute to the development of additional programs and funding for drunk driving crash victims?
5. Discuss the impact of drunk driving crashes upon survivors of murdered victims. How does this parallel and how does it differ from the experiences of victims who suffer injuries and their families?
6. Name three emerging issues in drunk driving that you think would make a difference in reducing injuries and deaths.

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Order from MADD's Resources to Heal By" catalog or through amazon.com, generally at a 40% discount:

Grollman, Earl. *Straight Talk About Death for Teenagers*.

Lord, Janice Harris. *Beyond Sympathy: How to Help Another through Injury, Illness or Loss*.

Lord, Janice Harris. *No Time for Goodbyes: Coping with Sorrow, Anger and Injustice After a Tragic Death*.

Mercer, Dorothy. *Injury: Learning to Live Again*.

Saperstein, Robert and Diana. *Surviving an Auto Accident*.

STATISTICAL OVERVIEW

- A 1999 AARP survey designed to assess consumer behavior, experiences and attitudes found that older consumers are especially vulnerable to telemarketing fraud. Of the people identified by the survey who had suffered a telemarketing fraud, 56% were age fifty or older (NCL 10 January 2000).
- According to the National Elder Abuse Incidence Study, nearly one-half of all substantiated reports of elder maltreatment involved neglect (48.7%), followed by emotional/psychological abuse (35.4%), financial/material exploitation (30.2%), physical abuse (25.6%), abandonment (3.6%), and sexual abuse (0.3%) (NCEA September 1998).
- Three out of four elder abuse and neglect victims suffer from physical frailty. About one-half (47.9%) of substantiated incidents of abuse and neglect involved elderly persons who were not physically able to care for themselves, while 28.7% of victims could care for themselves marginally (Ibid.).

RECENT RESEARCH***FORGOTTEN VICTIMS OF FINANCIAL CRIME CONFERENCE***

(Portions of this section are excerpted from *Forgotten Victims of Elder Financial Crime and Abuse: A Report and Recommendations* by Lisa Nerenberg for the National Center on Elder Abuse, Washington, DC and the Goldman Institute on Aging, San Francisco, CA, August 1999.)

At the *Forgotten Victims of Financial Crime* conference held in San Francisco, California, in October 1998, criminal justice professionals met for a series of roundtable discussions to better understand the role that the justice system has in addressing elder financial crime, the remedies and resources it offers, and special challenges to serving the elderly. Sponsored by the National Center for Elder Abuse in conjunction with the Northern California Office of the U.S. Attorney and the Goldman Institute on Aging, the roundtable discussions focused on elder financial fraud within each of the four systems: criminal justice, civil justice, victim/ witness assistance, and federal investigative and regulatory agencies. Following is a summary of conclusions and recommendations agreed upon in the areas of statutory reform, procedural innovation, elder victims right, and training:

Statutory reforms.

- Promote the development of criminal statutes that facilitate the prosecution of financial crimes against the elderly, recover and preserve assets to the greatest extent possible, and create adequate penalties that will serve as a deterrent to future crimes.
- Review financial crimes and assess whether certain crimes currently handled on the local and state levels could be handled more efficiently as federal crimes.
- Promote the development of civil statutes that create incentives for civil attorneys to handle financial abuse; cover all types of financial abuse including those where the offender has a close relationship with the victim; define mental capacity in functional terms; use broad definitions of undue influence; and expand the range of protective interventions available to the courts to conform to the needs of vulnerable victims.
- Promote measures to ensure that victims of financial crimes enjoy the same rights as victims of violent crimes.
- Promote preventive measures to reduce the risk of financial abuse and reduce losses.

Procedural innovations.

- Development of specialized units in prosecutors' offices to work with elderly victims of crime.
- Development of specialized units within law enforcement for financial crimes against the elderly, ensuring that experienced personnel are available for ongoing training.
- Development of special procedures for handling elder fraud cases.
- Development of programs and materials aimed at ensuring elderly victims' rights, including court watch programs using volunteers to observe how the courts handle cases involving elder financial crimes; and development of large print referral cards that provide information on victims' rights and services with regard to elder fraud.
- Services and policies that address the emotional needs of elderly victims of financial crime, including facing the trauma of losing one's assets and the betrayal of trust this crime engenders.
- Pro bono legal assistance to recover losses, annul bogus marriages, contest guardianships, enforce restitution orders, and call for accountings on powers of attorney.
- Pro bono private investigators to track down the location of the offender and stolen assets.
- Shelters for people who become homeless as a result of financial abuse.
- Social services including assistance with finding alternative housing, moving possessions, setting up new bank accounts, and finding trustworthy attendants.
- Credit counseling programs.

Elder victims' rights. Elder victims should be allowed to access victim services and compensation programs even if they are not willing to report criminal conduct. If programs

mandate cooperation, that requirement should be interpreted to deny coverage only when the victim's behavior makes prosecution impossible.

Training. With regard to elder victims who agree to press charges against their offenders, there is a lack of tools available to easily assess mental deficits using functional criteria that would provide guidance for the courts. Also lacking are instruments or protocols for assessing undue influence that take into account ongoing patterns of persuasion. Ongoing training for judges, prosecutors, law enforcement officers, probation officers, and victim advocates about the dynamics of elder financial crime and how it relates to other forms of elder abuse is needed in the following areas:

- Restitution and its importance to the elder victim.
- Mental capacity evaluations.
- Undue influence.
- Community resources.
- Crafting effective orders for monitoring guardianships.
- Training of expert witnesses to testify in criminal and civil matters, to explain the indicators and dynamics of financial abuse, its relationship to other abuses, mental capacity, and undue influence.

PROMISING PRACTICES

- *Elder-Sensitive Response Protocols*, San Diego County, CA. The Elder Crime Unit at the San Diego County, CA, District Attorney's Office has developed special response protocols for assisting the local population of 350,000 seniors in reporting elder victimization. Three prosecutors and an advocate vertically prosecute all cases. They have developed an elder-sensitive response protocol and procedures for evidence collection from elder victims. Because seniors may have difficulty providing evidence to law enforcement officers, the advocate checks all police reports daily for dates of birth and follows up with every victim over sixty-five. The unit works with emergency rooms in hospitals to improve detection of elder physical abuse. Prosecutors speak at banking conferences to heighten awareness of senior-related irregular money management. They monitor "boiler room" telemarketers and bogus charities that are active in the county and frequently visit retirement communities to inform them of the kinds of calls that they can expect and discuss how to respond to them. Office of the District Attorney, 330 West Broadway, San Diego, CA 92101 (619-531-3464).
- *Outreach to Seniors on Elder Abuse*, Ventura County, CA. The Victim/Witness Assistance staff assigned to the Elder Abuse Unit at the Ventura County District Attorney's Office has developed a comprehensive set of bilingual outreach publications and programs for elders and their families to make them aware of and help them to avoid elder abuse and fraud. When the staff receive a police report of elder abuse, whether or not a crime has been

committed, they send out a packet of materials to the potential elder victim. The senior crime prevention handbook is a large print guide for identifying fraud schemes such as home repair scams, fake delivery schemes, and sweepstakes offers; financial crimes; and physical and psychological abuse and neglect. A laminated card is included in the packet that includes referrals to community services agencies that support elders. In addition, Elder Abuse Victim/Witness staff makes presentations at seniors' clubs, seniors' daycare facilities, and seniors' apartment complexes to discuss elder abuse and fraud. They conduct bi-weekly radio addresses on subjects related to elder abuse. Through the Meals-On-Wheels program, they disseminate information about elder financial abuse, elder physical abuse, and caregiver fraud on the paper placemats that arrive on the food trays. For nonreaders, they have developed audiotapes about elder fraud in English and Spanish. District Attorney, County of Ventura, 800 South Victoria Avenue, Ventura, CA 93009.

- *They Can't Hang Up.* The National Consumers League's (NCL) elder fraud project has produced a free consumer education brochure, available in bulk, on help for the elderly targeted by telemarketing frauds. The brochure advises how to help the elderly recognize that callers may not be legitimate; how the elderly can protect themselves from being targets of fraud and means of testing the caller; and how to recognize if an elder relative or friend is a target of fraud. NCL also offers a twenty-minute video with personal stories told by fraud victims and helpful advice for seniors and their families, available for a small fee. National Consumers League, 1701 K Street, NW, Suite 1200, Washington D.C. 20006 (800-876-7060).
- *Eldercare Locator.* The Eldercare Locator is a nationwide directory assistance service sponsored by the Administration on Aging, U.S. Department of Health and Human Services, to assist seniors and caregivers in finding local community assistance for aging Americans. Weekdays 9 a.m. to 8 p.m. EST (800-677-1116).
- *Elder Victims of Crime Assistance Program, Palm Beach County, FL.* A five-county, support-to-elderly-victims program has been established in Palm Beach County, FL, at the Area Agency on Aging. The service provides crisis intervention, personal advocacy, criminal justice support and advocacy, and assistance in filing for victim compensation. Elder Victims of Crime Assistance Program Area Agency on Aging Palm Beach, Treasure Coast, 8895 Military Trail, Suite 201C, Palm Beach Gardens, FL 33410 (561-694-7601).

National Center on Elder Abuse (NCEA). September 1998. *National Elder Abuse Incidence Study: Final Report*. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families and Administration on Aging.

National Consumer League (NCL). 10 January 2000. Report to the U.S. Department of Justice Concerning Telemarketing and Internet Fraud. Citing AARP survey, 1999. Washington, DC: Author.

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ABSTRACT

This chapter summarizes the different types of elder abuse, neglect, exploitation, and victimization, as well as community resources, supportive services, and collaborative efforts that can assist elderly victims and their families. Specific crimes against the elderly include sexual assault, domestic violence, physical assault, homicide, burglary, and fraud. These are addressed along with appropriate responses to victims, including effective communication techniques and promising practices for dealing with elderly victims.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- Definitions of domestic elder abuse, exploitation, and neglect including culturally manifested abuse.
- Types of community resources and supportive services available for elderly victims and their families.
- How professionals and agencies can collaborate to prevent and intervene in cases involving abuse, neglect, exploitation, or other crimes against the elderly.
- Crime-specific victimization of the elderly, including sexual assault, domestic violence, physical assault, homicide, burglary, and fraud, as well as effective responses from victim service providers.
- Effective communication techniques for dealing with elderly victims.
- Promising practices in preventing and responding to elder abuse, neglect, exploitation, and other crimes.

STATISTICAL OVERVIEW

- The first-ever National Elder Abuse Incidence Study, conducted by the National Center on Elder Abuse for the Administration for Children and Families and the Administration on Aging, U.S. Department of Health and Human Services, estimates that during 1996, at least one-half million older persons in domestic settings were abused and/or neglected, or experienced self-neglect, and that for every reported incident of elder abuse, neglect, or self-neglect, approximately five go unreported (National Center on Elder Abuse 1998).
- After accounting for their larger proportion in the aging population, female elders are abused at a higher rate than males (Ibid.).

- The nation's oldest elders (eighty years and older) are abused and neglected at two to three times their proportion of the elderly population (Ibid.).
- In almost 90% of the elder abuse and neglect incidents with a known perpetrator, the perpetrator is a family member, and two-thirds of the perpetrators are adult children or spouses (Ibid.).
- According to data released by the Bureau of Justice Statistics (BJS) in September 1997, persons age fifty or older made up—
 - 30% of the population.
 - 12% of murder victims.
 - 7% of serious violent crime victims (Perkins 1997).
- Nationally, nearly 70% of Adult Protective Service agencies' annual caseloads involve elder abuse (Tatara 1996).
- The National Center on Elder Abuse estimates the incidence of specific types of elder maltreatment in 1994 (based on reports from thirty-nine states) as follows: physical abuse, 15.7%; sexual abuse, 0.04%; emotional abuse, 7.3%; neglect, 58.5%; financial exploitation, 12.3%; all other types, 5.1%; and unknown, 0.06% (Ibid., 8).
- Among murders of victims over age sixty, their offspring were the killers in 42% of the cases. Spouses were the perpetrators in 24% of family murders of persons over age sixty (Dawson and Langan 1994).
- In most states, specific professionals are designated as "mandatory reporters of elder abuse" and are required by law to report suspected cases of elder maltreatment. In 1994, 21.6% of all domestic elder abuse reports came from physicians and other health care professionals, while another 9.4% came from service providers. Family members and relatives of victims reported 14.9% of reported cases of domestic elder abuse (National Center on Elder Abuse 1994).

INTRODUCTION

It is wrong to think of old age as a downward slope. On the contrary, one climbs higher and higher with the advancing years, and that, too, with surprising strides. Brain-work comes as easily to the old as physical exertion to the child. One is moving, it is true, toward the end of life, but that end is now a goal, and not a reef in which the vessel may be dashed.

— George Sand

It is unlikely that many people in America envision that their "move toward the end of life" will include abuse, neglect, exploitation, or other types of victimization. However, with estimates that more than two-and-a-half million older people in America are victims of some form of reported or nonreported maltreatment each year, most often committed by a perpetrator known to the elderly victim, this seems to increasingly be the case.

Victim service providers can have a significant impact on preventing and intervening in cases of elder maltreatment, particularly through collaborative efforts with allied professionals. In many communities, victim advocates and justice professionals have forged important alliances

with Adult Protective Services, mental health professionals, legal services, federal/state/local agencies that address elder issues, and the private sector to develop a wide range of adult protection, victim assistance, and crime prevention resources for elderly populations. In addition, public awareness initiatives have become a vital component of such collaborative efforts to educate communities about what far too often remains a hidden crime.

DEFINITIONS OF DOMESTIC ELDER ABUSE, EXPLOITATION, AND NEGLECT

(The definitions of different forms of domestic abuse of the elderly are derived from the *National Elder Abuse Incidence Study* conducted in 1996 by the National Center on Elder Abuse at the American Public Human Services Association. This research was jointly funded by the Administration for Children and Families and the Administration on Aging.)

The following definitions of domestic elder abuse, exploitation, and neglect pertain to elders living in domestic settings. The perpetrator of this abuse may be the caregiver of an elderly person but as noted earlier, recent elder abuse surveys show that a member of the elderly person's family is the abuser 90 percent of the time. Furthermore, some signs and symptoms are characteristic of several kinds of maltreatment and should be regarded as indicators of maltreatment. The following are the most important of these:

- An elder's frequent unexplained crying.
- An elder's unexplained fear or suspicion of person(s) in the home.

Physical abuse is the use of force that may result in bodily injury, physical pain, or impairment. Physical abuse may include such acts of violence as striking (with or without an object), hitting, beating, pushing, shoving, shaking, slapping, kicking, pinching, and burning. The inappropriate use of drugs and physical restraints, force-feeding, and physical punishment of any kind are also examples of physical abuse. Particularly alarming is the "hidden" nature of this physical abuse to the elderly. Incidence studies demonstrate that elderly helpers only report signs of physical abuse in one out of five of the cases examined.

Signs and symptoms of physical abuse include the following:

- Bruises, black eyes, welts, lacerations, and rope marks.
- Bone fractures, broken bones, and skull fractures.
- Open wounds, cuts, punctures, and untreated injuries, and injuries in various stages of healing.
- Sprains, dislocations, and internal injuries/bleeding.
- Broken eye glasses/frames, physical signs of being subjected to punishment, and signs of being restrained.
- Laboratory findings of medication overdose or underutilization of prescribed drugs.

- An elder's report of being hit, slapped, kicked, or mistreated.
- An elder's sudden change in behavior.
- The caregiver's refusal to allow visitors to see an elder alone.

Sexual abuse is nonconsensual sexual contact of any kind with an elderly person. Sexual contact with any person incapable of giving consent also is considered sexual abuse. It includes unwanted touching; all types of sexual assault or battery such as rape, sodomy, coerced nudity; and sexually explicit photographing.

Signs and symptoms of sexual abuse include the following:

- Bruises around the breasts or genital area.
- Unexplained venereal disease or genital infections.
- Unexplained vaginal or anal bleeding.
- Torn, stained, or bloody underclothing.
- An elder's report of being sexually assaulted or raped.

Emotional or psychological abuse is the infliction of anguish, pain, or distress through verbal or nonverbal acts. Emotional/psychological abuse includes verbal assaults, insults, threats, intimidation, humiliations, and harassment. Treating an older person like an infant; isolating an elderly person from his/her family, friends, or regular activities; giving an older person the "silent treatment;" and enforced social isolation also are examples of emotional/psychological abuse.

Signs and symptoms of emotional/psychological abuse may manifest themselves in the following such behaviors of an elderly person:

- Being emotionally upset or agitated.
- Being extremely withdrawn and noncommunicative or nonresponsive.
- Exhibiting unusual behavior attributed to dementia such as sucking, biting, rocking.
- Reporting verbal or emotional mistreatment.

Neglect is the refusal or failure to fulfill any part of a person's obligation or duties to an elder. Neglect may also include a person who has fiduciary responsibilities to provide care for an elder (i.e., pay for necessary home care services or the failure on the part of an in-home service provider to provide necessary care). Neglect typically means the refusal or failure to provide an elderly person with such life necessities as food, water, clothing, shelter, personal hygiene, medicine, comfort, personal safety, and other essentials included in the responsibility or agreement to an elder.

The following are signs and symptoms of neglect:

- Dehydration, malnutrition, untreated bedsores, and poor personal hygiene.
- Unattended or untreated health problems.
- Hazardous or unsafe living conditions/arrangements (i.e., improper wiring, no heat, or no running water).
- Unsanitary and unclean living conditions (i.e., dirt, fleas, lice on person, soiled bedding, fecal/urine smell, inadequate clothing).
- An elder's report of being mistreated.

Abandonment is the desertion of an elderly person by an individual who has assumed responsibility for providing care for an elder or by a person with physical custody of an elder. Signs and symptoms of abandonment include the following:

- The desertion of an elder at a hospital, a nursing facility, or other similar institution.
- The desertion of an elder at a shopping center or other public location.
- An elder's own report of being abandoned.

Financial or material exploitation is the illegal or improper use of an elder's funds, property, or assets. Examples include cashing an elderly person's checks without authorization or permission; forging an older person's signature; misusing or stealing an older person's money or possessions; coercing or deceiving an older person into signing any document (i.e., a contract, a will); and the improper use of guardianship or power of attorney.

Signs and symptoms of financial or material exploitation include:

- Sudden changes in bank account or banking practices, including an unexplained withdrawal of large sums of money by a person accompanying the elder.
- The inclusion of additional names on an elder's bank signature card.
- Unauthorized withdrawal of the elder's funds using the elder's ATM card.
- Abrupt changes in a will or other financial documents.
- Unexplained disappearance of funds or valuable possessions.
- Substandard care or unpaid bills despite the availability of adequate financial resources.
- The forging of an elder's signature for financial transactions and for the titles of his or her possessions.
- Sudden appearance of previously uninvolved relatives claiming their rights to an elder's affairs and possessions.
- Unexplained sudden transfer of assets to a family member or someone outside the family.
- The provision of services that are not necessary.
- An elder's report of financial exploitation.

Self-neglect is characterized as the behavior of elderly persons that threatens their own health or safety. Self-neglect generally manifests itself in refusal or failure to provide themselves with adequate food, water, clothing, shelter, personal hygiene, medication (when indicated), and safety precautions. The definition of self-neglect excludes a situation in which cognitive or mentally competent older persons (who understand the consequences of their decision) make a conscious and voluntary decision to engage in acts that threaten their health or safety as a matter of personal preference.

Signs of self-neglect include the following:

- Dehydration, malnutrition, untreated or improperly attended medical conditions, and poor personal hygiene.
- Hazardous or unsafe living conditions or arrangements (i.e., improper wiring, no indoor plumbing, no heat or no running water).
- Unsanitary or unclean living quarters (i.e., animal/insect infestation, no functioning toilet, fecal/urine smell).
- Inappropriate and/or inadequate clothing, or lack of the necessary medical aids (i.e., eyeglasses, hearing aid, dentures).
- Grossly inadequate housing or homelessness.

ELDER ABUSE AND CULTURALLY DIVERSE POPULATIONS

Cultural demographics in the United States are witnessing significant change, with estimates that by the year 2030, the combination of African-Americans, Asians and Hispanics will make up nearly 49 percent of the U.S. population. Caucasians will become the “majority minority” by the year 2050, and the American profile will have changed to be dramatically multicultural. According to Dr. Fernando Torres-Gil, Director of the Center for Policy Research on Aging, within the next fifty years there will be—

- A 160% increase in elder African-Americans.
- A 294% increase in elder Native Americans.
- A 570% increase in elder Hispanics.
- A 643% increase in elder Asian/Pacific Islanders (Torres-Gil 1997).

Considerations and issues specific to elderly victims of color are important to understand in a larger societal context that is based upon the entire history of the United States. The historical oppression of nonwhite people in America has left a residue that allows for continued subjugation of minority populations, most notably for this chapter, the elderly.

A thoughtful perspective on “micro” and “macro” elements in American society that continue to have a profound impact on how elderly persons of color are perceived and treated is offered

by E. Percil Stanford, Ph.D., Professor and Director of the University Center on Aging at San Diego State University. Dr. Stanford presented a paper entitled "Diversity in an Aging Society—Abuse the Wild Card," sponsored in 1997 by the National Center on Elder Abuse with support from the Archstone Foundation. According to Dr. Stanford:

Diversity has been used as a concept to explain differences among and across population groups as well as age groups within. It provides a framework and backdrop for helping to explain many of the social situations and ills facing us today. It does not begin to define the universe of older people of multiple cultural and social backgrounds, but it helps explain their particular circumstances and social conditions. Gender, sexual orientation, religion, and other entities are powerful ingredients to consider when using diversity as a component to explain the universe of older people.

Older adults from diverse cultural backgrounds have historically confronted societal barriers of varying degrees. The multiple barriers have helped define who the older individual has become. The many life situations have helped shape the social, political, and economic outlook and status of older individuals from diverse cultural backgrounds.

As the older persons' position in society is closely examined, it becomes clear that they are easy targets for abuse and misuse. Older individuals from ethnic and minority communities are often at risk of being targets for a wide range of abuse. Their economic situations, in many instances, make them easy prey for those who are determined to be predators for personal and economic gain. Abusers and potential abusers often seek those who appear to be less capable of defending themselves and their property.

Throughout society, there are elements that can be described as micro and macro. For purposes of this discussion, micro barriers will be those issues, circumstances, and/or conditions that have an impact on a small number of people and are more personal in nature. Macro barriers have an impact on a wide range of individuals and are, from the very beginning, positioned to have an impact beyond the individual level. Macro barriers are often put in place through legislation or policy at several levels.

At the macro level, most older people from minority/ethnic backgrounds have experienced unbridled macro societal abuse. Macro abuse has come in many shapes and forms. Some of it has been subtle, and other aspects have been very blatant. Macro abuse has come in the form of Americans of African descent being used as slaves and/or forced to live in slave-like conditions. Being slaves and the residual which has perpetrated slave-like conditions for many, and the ever present memory of slavery on the part of the dominant society as well as the community of persons from African backgrounds, has helped set the stage for ongoing macro abuse.

Groups of American Indians, who have now grown old, have suffered isolation and near annihilation and have been subjected to a degree of macro abuse that has caused considerable social and psychological damage over the past century. Other individuals from diverse cultural backgrounds have been forced to relinquish land, give up their language, not practice their religion, and accept the deprivation of little or no education. In nearly all instances, older individuals from diverse cultural backgrounds have been forced to accept second and third class citizenship, or have found themselves in situations where they could not be the beneficiaries of citizenship at all.

It is too easy to define abuse in the traditional manner, which takes into consideration such areas as physical, sexual, fiduciary, and psychological abuse. Each form of abuse mentioned above has its roots in the community and society at large. These are very rudimentary aspects of abuse that come in the context of lifestyles of older persons...

...It cannot be emphasized enough that macro vulnerability leads to micro abuse and vulnerability in a variety of arenas. At another level, micro abuse begins at the home and community level through education. If families of certain cultural groups are seen as being less significant and having lower esteem in the community than those of majority families, it is in an indirect way setting the stage for the acceptance of abuses as

individuals in the family unit age. If we advance from the family level to the educational system(s) and process, as it becomes clear that most younger people are not encouraged, as minorities, to expect that they are going to successfully compete in the open market for jobs. Therefore, education becomes yet another barrier that helps pave the way for the acceptance of macro abuse that may occur later in life. (Stanford 1997)

Dr. Stanford skillfully summarized three critical elements in effecting societal change to eliminate diversity abuse of the elderly:

- As of now, we must start by practicing diversity and eliminating abuse. The primary issue is not whether or not we like it, appreciate it, or understand it. Conventional wisdom says that the beginning point should be that common sense sets the standard. By using common sense in practicing diversity, we can learn to appreciate it and understand it.
- Second, there should be considerable attention given to the maintenance of dignity of all individuals, regardless of economic backgrounds or social standing in the community. Each older person should be accorded the opportunity to have his/her dignity maintained at all times. The maintenance of dignity is as important in the workplace as it is in the home of the older individual.
- Third, there should be an ongoing alert to understand what is obvious in terms of working with and relating to individuals from backgrounds different from our own. There is no reason to assume that all issues and circumstances are as they appear. (Ibid.)

COMMUNITY RESOURCES AND SUPPORTIVE SERVICES FOR ELDERLY VICTIMS AND THEIR FAMILIES

In preventing, intervening in, and responding to elder abuse, there are numerous entities that can contribute to the provision of quality services and assistance. Collaboration is key to success, combining the skills and resources of law enforcement and justice professionals, state-level elder advocacy and adult protection agencies, victim service providers, and community-based and nonprofit organizations.

In “Improving the Police Response to Domestic Elder Abuse” published in 1993, the Police Executive Research Forum (PERF), with support from the Office for Victims of Crime, identified the range of resources and services available for elderly victims and their families. PERF’s recommended guidelines for law enforcement have been adapted for the following section.

ADULT PROTECTIVE SERVICES (APS)

Federal and state laws and regulations determine the scope and responsibilities of APS. Generally, this program serves as the gatekeeper for vulnerable or at-risk adults such as those who have mental or physical disabilities that make them particularly susceptible to abuse, neglect, or exploitation. Every state has an APS agency; it is important that victim service providers be knowledgeable about the range of programs and services offered by their respective state’s APS.

APS is authorized to—

- *Receive reports or referrals.* Some APS programs have hotlines, twenty-four-hour coverage, on-call caseworkers, emergency services, and translation support to accept abuse reports.
- *Conduct assessments.* The period of time in which APS is required to respond to reports and referrals varies by states. In some states, based on the type of case, APS is required to take action within twenty-four hours. The assessment is intended to determine what is occurring and the degree to which the victim is aware of risks and capable of acting on his or her own behalf. It may take several weeks to thoroughly review situations, find out what is happening, and determine whether or not the allegations are true.
- *Develop service plans.* APS suggests services or actions to stop abuse and eliminate future risk. This involves close coordination with other community agencies, including system- and community-based victim services. With the older person's permission and agreement, services such as home repair, home-delivered meals, financial management, counseling, and others are arranged.

LONG-TERM CARE OMBUDSMAN

Ombudsman programs are federally mandated to protect the health, safety, welfare and rights of older persons who reside in long-term care facilities, such as nursing homes and residential care (board and care) homes. In some states, the ombudsman program also investigates complaints about the quality of services provided in the older person's home. Sometimes, the reported complaints allege abuse, neglect, or exploitation. Ombudsmen may work closely with APS, law enforcement, and victim assistance agencies in these cases. Some ombudsman programs also use volunteers who serve as advocates in long-term care facilities.

AREA AGENCIES ON AGING (AAA)

AAAs serve as the focal point for services and advocacy for older people at the county or multicounty level. Under the supervision of state units on aging, AAAs receive federal, state, and local funds to provide a vast array of services. Formal plans are developed by AAAs with the advice of community agencies and older people. AAAs are required to target services to seniors who have the greatest social and economic needs.

AAAs can serve as a valuable resource for law enforcement, justice, and victim service professionals by providing information about a community's service structure, raising awareness about safety and security issues affecting elders, and addressing unmet service needs. For victim service providers, AAAs can often provide a current, comprehensive resource directory of community-based victim services in a county or multicounty region; it is important that all relevant victim assistance programs be included in such directories. They can also serve as partners in efforts to reach vulnerable elders.

CASE MANAGEMENT

Because elderly clients have a variety of service needs, the “case management” model of service delivery has gained widespread acceptance in the field of aging. Case managers, who include nurses, social workers, victim advocates, and other (or a combination of) social service professionals, provide a wide range of supportive services, such as the following:

- Completing a comprehensive assessment of the client’s functional capacity and service needs, arranging for needed services, and periodically checking in with the client to see whether his or her needs have changed.
- Mobilizing collaborative services provided by families and agencies with the goal of helping frail people stay at home (as opposed to living in nursing homes).
- Assigning workers to monitor clients’ needs over a long period of time and arrange for services as new needs arise.

Case management is particularly important in preventing and responding to elder abuse. Case managers can play an important role in monitoring care providers, identifying high-risk situations, and offering ongoing support to victims who are reluctant to take action because of fear or shame.

MENTAL HEALTH SERVICES

Mental health services that are commonly needed in abuse cases include the following:

Capacity/competency assessments, which determine whether the victim may be suffering from some form of dementia that affects their *capacity*. Capacity refers to an individual’s ability to understand the meaning, seriousness, consequences, and alternatives of a decision, to be able to reach a decision based upon an independent view of his or her own self-interest, and communicate that decision to others. Dementia is a clinical state, diagnosable only by clinical methods. Every elderly person with dementia deserves precise assessment of his or her mental status. This is imperative when working with an alleged case of elder abuse, as the ability of the elder to make his or her own informed decisions can be the determining factor as to how to proceed with interventions (i.e., advocacy and counseling versus guardianship and substituted judgment). It is extremely important to note that capacity may wax or wane for a particular individual according to environmental factors such as time of day; day of the week; physical location; acute, transient medical problems; other persons involved in supporting or pressuring the individual’s decision; or reactions to medication. Capacity can fluctuate over days, hours within a day, and within different spheres of decision-making needs (i.e., an individual cannot balance a checkbook or understand money but can decide where he or she wants to live) (National Association on State Units on Aging 1999).

Crisis intervention, which for elder abuse victims can include counseling about available options, emotional support, assistance in making arrangements, and the provision of information and referrals to supportive services in the community. Crisis intervention may be

provided by special geriatric crisis teams, social workers, domestic violence programs, victim service professionals, or law enforcement personnel.

Because it is usually easier for people in crisis to rely on old coping behaviors rather than to learn new ones, crisis intervention in elder abuse cases often involves encouraging victims to build on their strengths and past experiences to cope with the abuse situation(s). This may be accomplished by asking them to describe past crises and how they handled them. If the action or coping behavior worked in the past, it may be applied to the current situation.

Working with elderly clients in crisis often involves being more directive than in other situations. When an older person is overwhelmed by a situation, it may be helpful to break down what seems to be overwhelming obstacles into manageable parts. Addressing the simple, nonemotional, factual aspects of a situation first and then proceeding into more sensitive areas of concern is often effective.

Counseling commonly involves helping the elderly victim decide what course of action to take and how to deal with emotional distress he or she may be feeling. It may address his or her fears, loss of self-esteem, feelings of loss of control, anger, or depression. Depending on the nature of the abuse or neglect, family counseling may illuminate problems or dynamics that led to the abuse, and help families work through their difficulties.

Legal services are extremely important in elder abuse cases. Civil attorneys can help victims obtain restraining orders or injunctions against harassment, set up trusts or powers of attorney, file lawsuits, and initiate conservatorships. Most communities have some type of free or low cost legal aid for the elderly; branches of the American (or state) Bar Association also may have local clinics or referral panels. It is important for victim service providers to be aware of, and collaborate with, allied professionals who provide legal services to victims of elder abuse and other crimes.

Education may be extremely effective in preventing abuse and in encouraging victims to seek help. When neglect results from a family's inability to provide care, for example, the family may benefit from instruction on how to provide assistance and cope with frustration and stress.

Experienced family violence professionals have found that educating victims about patterns of violence can be effective in reducing victims' unrealistic expectations. When victims are told, for example, that abuse is usually recurrent and likely to escalate, they may be more willing to accept help.

Victim service providers should incorporate issues relevant to elder abuse and other crimes against the elderly into their public education, internal staff training, and cross-training initiatives. They should seek opportunities to promote information about available programs, prevention efforts, and supportive services to address elder abuse and victimization.

Support services can reduce the risk of elder abuse by providing the family with outside assistance that reduces the stress created by the family's caregiving responsibilities. At the same time, outside assistance reduces the elder person's dependence on his or her family

caregiver. These include chore workers, home-delivered meals, transportation, attendant care, homemaker services, and personal care assistance. When elder abuse is observed but has not endangered the health or well-being of the person, and the parties involved want to work to improve the standard of caregiving in the household, victim advocates for the elderly should arrange for an outside psychological assessment to be made to determine the caregiver's capacity to provide a consistently, healthy and safe environment for the older person.

Support groups provide an encouraging environment for victims of elder abuse and other crimes to share their experiences in a safe and confidential environment. In Cook County (Chicago), Illinois, for example, elderly victims of crime and abuse meet regularly with a trained victim advocate to discuss and address their concerns, fears, and safety issues, and to work collaboratively toward solutions that promote safety, security, and a sense of hope for participants.

Respite care, which provides caregivers with a break, comes in many forms, such as the following:

- Providing a professional or volunteer to go to an older person's home for a few hours a day to relieve the primary caregiver.
- Taking the older person to a special facility or providing transportation to appointments.
- Providing care and supervision for elderly clients for a few hours a day, or for longer periods of time, to allow caregivers to take extended breaks or vacations.

Shelters, which can be accessed in an emergency, are provided through domestic violence programs or through community-based initiatives and offer special shelter or temporary housing for the elderly. Some communities also have "safe homes," which are private homes with families that offer shelter to elders in crisis. Safe homes provide emergency housing to victims until alternative housing can be found. Presently, there are few shelters that are suitably equipped to care for the elderly. Victim service providers should identify and assess the capabilities of various shelters in their communities in order to make quality referrals and, when possible, instigate the development of new shelters designed for the elderly (PERF 1993).

OTHER RESOURCES FOR PREVENTION, INTERVENTION, AND VICTIM ASSISTANCE

As communities seek to initiate and expand collaborative efforts to prevent and respond to crimes against the elderly, many of the following entities at the local, state, and national levels can enhance such partnerships:

Academia. Institutions of higher education can contribute to research, professional development, and preparation of future generations of advocates for the elderly. Curriculum infusion about crimes against the elderly and appropriate responses should occur in departments such as gerontology, social work, criminal justice, business, and communications.

In addition, colleges and universities are rich sources for interns and volunteers to support programmatic initiatives at the state and local levels.

Attorneys general. Many attorneys general offices have specialized units that focus on the rights and needs of older persons, as well as victim assistance. The OVC-supported OPERATION FRAUDSTOP program described in this chapter is an excellent example of an innovative program sponsored in partnership with state attorneys general.

Banking and financial institutions. Financial exploitation of the elderly is a major concern for many financial institutions. Employee training and customer outreach programs designed to prevent financial crimes against the elderly are increasing across the nation, and involve strong alliances with victim service providers, law enforcement, elder rights advocates, and the federal government.

Bar associations. Following the leadership and vision of the American Bar Association, many state and local bars have initiated *pro se* programs that provide legal advocacy and services for elderly victims. A number of local bars have also initiated outreach and educational programs that focus on crime prevention and legal rights for older persons.

Coroners and medical examiners. In deaths of older persons that may involve suspicious circumstances, coroners and medical examiners are key to determining signs of foul play and/or prior abuse of the deceased. In addition, training about victim-sensitive death notification protocols is an important aspect of professional competency for coroners and medical examiners.

Cultural diversity/competency professionals. The culturally-specific values and mores of older persons must be understood and respected in order to provide quality and sensitive support and services. Partnerships with professionals and volunteers who specialize in cultural competency can enhance all initiatives relevant to preventing and responding to crimes against the elderly.

Federal Trade Commission. The FTC has developed and disseminates excellent brochures about consumer fraud that are relevant to older persons.

Insurance companies and agents. Often, victim service providers provide vital links to older victims' insurance companies and agents, particularly in cases of burglary or larceny.

News media. Public attention to crimes against the elderly and to prevention and victim assistance programs is enhanced through coverage by the news media. Victim service providers and allied professionals can increase constituent outreach, awareness of available programs and services, and opportunities to provide information and referrals to at-risk elders or older victims through partnerships with the news media.

Prevention programs. The National Center for the Prevention of Elder Abuse develops and disseminates excellent resource materials for professionals and older persons about how to prevent crimes against older persons and elder abuse. Most local collaborative initiatives that

provide victim assistance also focus attention and resources on prevention and related outreach to elderly populations.

Researchers. The lack of research about crime variables specific to older victims and effective treatment modalities can be remedied by further research in elder victimization. In an OJP-sponsored focus group held in 1998, thirteen recommended topics for research in this area were offered:

- Data about the incidence and prevalence of elder victimization, particularly elder abuse and domestic violence in later life.
- Promising practices by justice agencies and victim service providers.
- Characteristics of victims and perpetrators.
- Family dynamics that influence domestic elder abuse.
- Promising interventions, including the value of domestic violence batterer intervention program models.
- Causes of the criminal victimization of older persons.
- The appropriateness and efficacy of using alternative dispute resolution in cases involving elder victimization.
- The costs to taxpayers and the health care system of elder victimization.
- How the justice system can best handle situations where the criminal defendant is a necessary caregiver to the victim who may or may not be a family member.
- The impact of shifting demographics on service delivery, especially among minority communities.
- Incidence and special characteristics of elder victimization in minority and underserved communities.
- Liability for law enforcement when arresting, or not arresting, older perpetrators.
- The impact of broad societal trends, such as welfare reform or managed care, on elder victimization.

Social Security Administration. Social Security checks often provide the major means of financial support for older persons. Victim service providers should have a good contact at local Social Security offices when elderly victimization cases require intervention to assure that checks continue and are not being cashed in a fraudulent manner.

U.S. Department of Justice. Virtually all bureaus within the Department of Justice have initiatives that address exploitation and/or victimization of the elderly. The Office of Justice Programs, for example, has a task force on the issue, and includes representation from three bureaus/offices, including:

- *Bureau of Justice Statistics (BJS)*. This office obtains and publishes data on crime and victimization of the elderly.
- *National Institute of Justice (NIJ)*. This office conducts and publishes research on crimes against the elderly, most notably fraud.
- *Office for Victims of Crime (OVC)*. This office supports numerous training and technical assistance initiatives that enhance the capacity of communities and victim assistance professionals to prevent and respond to crimes against the elderly. Virtually all of these projects are collaborative, involve multidisciplinary approaches and entities representing both the public and private sectors, and include older persons as both advisors and practitioners.

U.S. Attorneys and victim-witness staff. U.S. Attorneys have jurisdiction in many cases involving fraud against the elderly: crimes that occur on federal lands, in embassies, or in the District of Columbia, and crimes that cross state lines. A wide variety of programs and services have been developed over the past decade that are specific to elderly victims of crime.

U.S. Postal Inspection Service. Investigate mail fraud.

U.S. Treasury. Investigate bank fraud.

Veterans Administration (VA) and veterans affairs programs. For many older veterans, the VA provides not only financial support but also linkages to vital services for basic sustenance, health care, and support. Veterans affairs advocates are critical partners in outreach, prevention, and victim assistance initiatives.

Victim compensation programs. Financial remuneration for elderly victims of crime is often essential to their survival. Victim service providers often provide extra assistance to elderly victims in documenting their financial losses resulting from crime, processing their compensation claims, and providing follow-on contacts to compensation programs, as needed.

Victim assistance programs. VOCA guidelines have been revised over the last fifteen years to fund many services at the state and local levels for elderly crime victims. In 1997, the VOCA victim assistance program guidelines were revised to expand the definition of “elder abuse” to include economic exploitation and fraud. Victim service providers should be aware of guidelines specific to crimes against the elderly, which are summarized elsewhere in this chapter.

COLLABORATIVE APPROACHES TO PREVENTION AND INTERVENTIONS RELEVANT TO CRIMES AGAINST OLDER PERSONS

The need for cross-agency and jurisdiction collaboration to prevent, intervene in, and appropriately respond to crimes against the elderly is clear. Partnerships among professionals and volunteers who both serve the elderly and are themselves among the elder population, can

enhance efforts in research, training and technical assistance, professional education, and community/constituent outreach. The following collaborative initiatives hold tremendous promise in this arena:

TRIAD

TRIAD is a longstanding collaborative effort sponsored in local jurisdictions with leadership from the American Association of Retired Persons, International Association of Chiefs of Police, and National Sheriffs' Association, and support from the Bureau of Justice Assistance and Office for Victims of Crime within the U.S. Department of Justice. According to the program's brochure, TRIAD reduces victimization of the elderly in the following ways:

- Forms an agreement where law enforcement agencies in a county (sheriff's office, police departments, etc.) and older or retired persons in the community work together.
- Reduces the criminal victimization of the elderly through the concept of cooperation.
- Forms a partnership to address crime issues that affect older persons and enhances delivery of law enforcement services to such populations.

The 618 TRIAD programs offer five key areas of service: (1) education through the sponsorship of crime prevention and victim/witness programs for older persons; (2) assistance by recruiting and training volunteers to assist the police and sheriff's department; (3) implementation of staff reassurance programs for older persons to reduce their fear and provide moral support; (4) communication through forums that bring together law enforcement and the community to share needs and concerns and to develop solutions; and (5) involvement by uniting seniors, sheriffs, and local police to identify problem areas for older persons in the local community and to develop and implement community-wide solutions.

Since its inception in 1989, TRIAD programs have forged strong alliances with victim service providers. The annual national TRIAD conferences offer forums and training sessions specific to victim assistance. Partnerships at the county level ensure that elder abuse and protection issues are addressed by both community- and system-based victim assistance programs.

ELDER ABUSE LISTSERV

The American Bar Association Commission on Legal Problems of the Elderly has created and manages a listserv on elder abuse as part of its role as a partner in the National Center on Elder Abuse. It is funded by the U.S. Administration on Aging. The listserv provides practitioners, administrators, educators, health professionals, researchers, advocates, lawyers, law enforcement officers, prosecutors, judges, and policymakers, who are concerned about elder abuse, with a forum for raising questions, discussing issues, and sharing information and best practices with each other. The goals of the listserv are to enhance efforts to prevent elder abuse, the delivery of adult protective services, and the response of the justice system to victims of elder abuse.

The listserv is like a bulletin board or discussion group that takes place on a computer. A subscriber e-mails a question, announcement, or discussion topic, and that message is automatically distributed electronically to other subscribers. Any subscriber who wants to respond can do so. The ABA listserv is private; only subscribers can read and respond to what is posted.

ELDER FRAUD PREVENTION TEAM PROJECT

The Elder Fraud Prevention Teams (EFPT) project, a pilot developed through the Fraud Prevention Initiative—a Department-wide initiative established by Attorney General Janet Reno on May 6, 1998 to improve the federal government's effectiveness in fraud prevention—is a collaborative effort of the American Association of Retired Persons (AARP) and law enforcement agencies at all levels. Between October 1, 1998, and March 31, 1999, the EFPT teams conducted on-site presentations on various types of fraud that are directed at older people in five metropolitan areas of the country where significant numbers of older people are concentrated: Miami/Fort Lauderdale, Newark, Phoenix, San Diego, and Seattle.

To ensure that each EFPT had appropriate materials for use and dissemination, the Fraud Prevention Initiative collaborated with AARP and obtained copies of their "Stop Fraud Prevention Kit," which contains suggested approaches and formats for presentations on telemarketing fraud and audio tapes and videotapes to supplement live presentations. In addition, the Fraud Prevention Initiative collaborated with the Federal Trade Commission to obtain thousands of copies of FTC brochures on relevant types of fraud to supplement the kits. Assistant United States Attorneys in each of the five metropolitan areas visited served as EFPT contacts and consultants that could modify presentations to tailor them to address the prevailing frauds in the community. Along with the area U.S. Attorney's Offices, the regional offices of the FBI, the Postal Inspection Service, the U.S. Secret Service, and selected local agencies participated in each EFPT.

ENHANCING THE ABILITY OF VICTIM ADVOCATES TO PROVIDE DIRECT SERVICES

The ABA Commission on Legal Problems of the Elderly seeks to help victim advocates enhance their ability to provide direct services to victims of elder abuse. The Commission is developing, testing, and disseminating a model interdisciplinary curriculum on elder abuse for victim service providers. The curriculum will intensify sensitivity and increase knowledge about the dynamics, capacity issues, laws, and social and protective service programs pertinent to victims of elder abuse. This innovative project, supported by the Office for Victims of Crime, will help establish a dialogue between the victim services field and the adult protective services field, thus amplifying their coordination both in delivering services and in effecting systemic change.

CRIME-SPECIFIC VICTIMIZATION OF THE ELDERLY

According to the Bureau of Justice Statistics, persons age sixty-five or older comprise 15 percent of the U.S. population, and 2 percent of all violent crime victims (Perkins 1997).

This section will examine the scope of specific crimes against the elderly, including sexual assault, domestic violence, physical assaults and homicide, burglary, and financial schemes or fraud. Promising practices in providing collaborative, comprehensive services to elderly victims of such crimes are also included.

ELDERLY SEXUAL ASSAULT VICTIMS

The National Crime Victimization Survey, revised in 1992 to produce more accurate reporting of incidents of rape and sexual assault, found in its 1992-93 estimates the following:

- Women age sixty-five or older have a 4.8% annual rate of violent victimizations by a lone offender.
- Women in families with incomes below \$10,000 were more likely than other women to be victims of violence by an intimate (Bachman and Saltzman 1995).

The Bureau of Justice Statistics estimates that persons age sixty-five or older comprise one percent of the victims of sexual assault or rape in the U.S. (Perkins 1997). Although the actual number of rapes committed against the elderly appear to be small, the consequences of such crimes can be devastating.

Elderly victims of sexual assault are confronted with the psychic trauma of victimization as well as possible physical injuries that can pose significant health threats due to the victim's age and physical well-being. To many older victims, rape is the worst form of lost dignity. Her shame may be exacerbated by misplaced feelings of self-blame and guilt. There may be profound shame in discussing the crime or participating in a medical exam with law enforcement and medical personnel. There may be feelings of embarrassment that family members and/or neighbors will find out or that the media may somehow access and release the information to the community.

The lack of a strong support system, such as close family members and friends, can be a considerable barrier in an elderly rape victim's ability to reconstruct her life in the aftermath of a crime. One's ability and capacity to cope with trauma rely heavily on emotional support that is often not available to elderly victims of sexual assault.

Rape in older victims can increase the chance of sustaining serious injury. Vaginal linings are not as elastic as those of a younger woman due to hormonal changes; this proclivity towards increased sexual trauma may cause infections, bruising, or tears that may never fully heal. Brittle bones such as the pelvis and hips can be more easily broken or crushed by the mere friction and weight of the rapist (NCVC 1995).

First-responders to elderly victims of sexual assault and rape should have a clear understanding of the emotional consequences of rape for the older woman. Victim service providers should be readily available to provide support to the victim during the initial investigation and to accompany the victim for medical care and rape exam when possible. The degree and breadth of the victim's support system, from family members, friends, neighbors, or her place of worship, should be quickly determined. The victim should be consulted prior to making any contact with the victim's family or friends and should be shielded from contact with the news media. Law enforcement and victim assistance professionals can provide information about security options and, perhaps most important, ensure that the victim has a safe place to go after the medical exam.

Victim assistance professionals can—

- Help the victim determine a need to relocate either temporarily or permanently, based on the victim's wishes and feeling of safety, and help the victim find shelter or funds to relocate if a decision is made to do so.
- Work with community programs to repair damage to windows, doors, or locks resulting from the crime if the victim is unable or does not wish to relocate and have law enforcement personnel conduct a safety check of the home and work with the victim to increase her security options.
- Provide the victim with information about her rights to file for crime victim compensation and help her complete the application.
- Make sure the victim has referral information to mental health providers, home-based assistance (if needed), and support groups.
- With consent from the victim, work with her support network to help them understand the emotional ramifications of the sexual assault and to provide them with supportive services, as needed.
- If no family support network is available, close contact should be maintained with the victim to help increase her feelings of self-worth, dignity, and control. After a sexual assault, many elderly victims will further isolate themselves from friends, family, or community networks. This contact may provide the comfort and support she needs through increased phone calls or home visits.
- Keep the victim apprised of any arrest or release of the offender. This serves two purposes: to increase the victim's sense of safety if the offender is detained; and if not detained, to prepare the victim to take extra security precautions. The victim should be notified of the procedures to report any threats or intimidation by the defendant.
- Protect the elderly sexual assault victim at all costs from all publicity! Victims should be shielded from media attention and never identified by the media. Advocates should ask the judge to close the courtroom to the public. A secure waiting area should be provided during all court-related hearings or trials. Whenever possible, the victim should be escorted to and from the courtroom.

- Work with the prosecutor's office to establish protocol for fast-tracking and vertical prosecution of sexual assaults against the elderly. Fast-tracking will alleviate the additional stress of lengthy delays in court-related hearings; vertical prosecution will minimize the number of times the elderly victim has to recount the details of the assault. In addition, the elderly victim should be able to testify early on in any court proceedings and be "on call" as a witness to prevent multiple (and often unnecessary) trips to the courthouse.

ELDERLY DOMESTIC VIOLENCE VICTIMS

(This section is derived from *Older Battered Women: Integrating Aging and Domestic Violence Services* by Lisa Nerenberg.)

In recent years, there has been increasing recognition that older women experience domestic violence at the hands of their intimate partners or children. The prospect of elderly women being battered seems to have struck a nerve, prompting advocates and service providers in the fields of aging, domestic violence, and women's rights to respond aggressively. In the past few years, for example, such prominent organizations as the American Association of Retired Persons and the Older Women's League have made older battered women a top priority.

One challenge to this growing specialized discipline within the field of victim services and adult protection is the lack of research that examines age as a specific variable factor in domestic violence. Owing to this lack of research, much of what is known about the older battered woman is anecdotal or drawn from practical wisdom.

There are several patterns of domestic violence among the elderly and the following situations have been observed:

- "Spouse abuse grown old" in which the victims have been abused for most of their adult lives.
- "Late onset" cases in which the abuse begins late in life by partners who had not previously been abusive. This type of abuse seems to be associated with age-related conditions or stresses including retirement, dependency, changing patterns in relationships, or sexual dysfunction.
- Cases involving women who enter into abusive relationships late in life. In these cases, the abusers are frequently the victim's second or third spouse or intimate partner, and in many instances, financial gain through financial abuse also accompanies the physical abuse.
- Situations in which elderly women who had been battered earlier in their lives by their husbands (or who, in some cases, previously abused their children) are battered by their sons or daughters.

There is a lack of consensus among service providers as to whether or not battering by adult offspring falls under the rubric of domestic violence.

Efforts to determine whether or not older battered women receive services to end their victimization have concluded that access is generally very limited. There has been considerable speculation about why older battered women fail to use services to stop their abuse. It has been suggested that older women do not seek out services because they grew up in an era when social norms discouraged them from revealing family problems to outsiders. Service providers and advocates have also assumed that older women are less likely than younger women to access services because they depend on their abusers for care or financial support, they fear the alternatives or the unknown, or they believe that it is too late to start new lives. It has also been suggested that they lack legal, economic, and family support to establish alternative living arrangements. It has further been supposed that as a result of their acculturation, older women do not perceive separation or divorce as acceptable solutions to a violent relationship, or they may view help from outsiders as a sign of weakness or failure. Their children may discourage them from taking action because they feel protective of their fathers or they don't want to take sides.

Older victim advocates are increasingly coming to the conclusion that it is the services, rather than the elderly victims, which contribute to the low utilization. Generally, lack of specialized training and elderly-specific services that empower older victims of domestic violence are cited as inadequacies of the traditional service systems.

Designing services for the older battered woman.

Shelters

While older women may use the services of existing battered women's shelters, few shelters can readily accommodate elderly women who have special needs as a result of age-related conditions or impairments. Additionally, shelter personnel and volunteers seldom have received training in how to work with elderly women and may be unfamiliar with the network of aging services, benefits, or resources.

Diverse approaches are currently being explored for making shelters more accessible to elderly battered women. These range from adapting battered women's shelters to make them more accessible to developing new facilities exclusively for the elderly. Efforts to make existing shelters more accessible and appropriate for elderly women include establishing bedrooms on the first floors, setting up quiet spaces, installing assistive devices, providing training to staff in how to work with the elderly, and developing linkages with aging service programs.

Several of the following alternatives to traditional shelters are also being tested:

- The Vermont Network Against Domestic Violence and Sexual Assault has established six safe homes across the state, which are private residences whose owners or occupants have agreed to provide temporary shelter to elderly victims.
- The Elder Shelter in Omaha, Nebraska was designed collaboratively by the community's adult protective services unit, police department, and a visiting nurses program; the majority of its clients are victims of neglect.

- In San Francisco, California, residential care facilities provide shelter for up to two weeks to elderly victims in need of emergency shelter. Similarly, in San Luis Obispo, California, several skilled nursing facilities have agreed under certain circumstances to provide three days of emergency shelter, free of charge, to victims of abuse.

Support Groups

Domestic violence and aging services across the country are discovering the benefits of support groups for older battered women. The goal of the groups is to restore a sense of power, control, and dignity to victims. The groups have been credited with helping participants overcome isolation and expand their informal support networks, providing arenas for resolving psychosocial difficulties, instilling a sense of hope, and reducing depression. The groups also enhance members' self-esteem by enabling members to help themselves and others.

Outreach

A significant challenge for service providers who work with elderly battered women is to develop effective outreach strategies to encourage victims to come forward to use services. Those who have been successful have observed that one-on-one contact seems to be more effective than large scale public awareness campaigns that use public service announcements or other media placements. Older battered women appear to be more willing to respond to personal offers of help and assistance than to initiate contact with strangers to request help. Several innovative approaches have been developed to reach older battered women:

- In Massachusetts, peer advocates are recruited and trained to host educational sessions in their homes or at community centers. Because of the stigmas attached to domestic violence, the sessions are entitled "safety in the home." The hosts begin by discussing other types of crime against the elderly, and then steer participants into discussions about domestic violence.
- Some programs have developed partnerships with senior advocacy organizations (e.g., the Older Women's League or AARP) that assist by providing outreach volunteers, clerical help, and donations.

Training

To work effectively with elderly battered women, service providers and volunteers need to have a basic understanding of domestic violence, aging, and elder abuse. Domestic violence workers need to have an understanding of common age-related disabilities and conditions, skills in working with individuals who have impairments, and familiarity with services and resources for the elderly. Professionals from the fields of aging and adult protective services need to have an understanding of safety and security issues, counseling and treatment techniques for working with battered women, patterns of abuse, and the help-seeking process. Both groups need to understand one another's perspectives and approaches so that they can work together effectively and benefit from both disciplines' resources and expertise.

ELDERLY VICTIMS OF PHYSICAL ASSAULT AND HOMICIDE

Statistically, elderly citizens are the least likely to be physically injured in the commission of a crime. However, when injuries are suffered, they tend to be more serious due to the normal physical vulnerability of the aging body. According to national statistics for 1987 to 1992, the elderly are twice as likely as any other age group to be seriously injured and require hospitalizations when victimized. Elderly robbery victims are more likely than their younger counterparts to face multiple offenders and offenders armed with a gun (BJS 1987).

Most homicide victims age sixty-five or older were killed during the commission of another felony (such as robbery) and were more likely to be killed by strangers. By contrast, younger homicide victims are more likely to be killed by an acquaintance and to die during events such as a fight or family argument (Bachman 1992). Both the youngest (ages twelve to fourteen) and oldest (ages sixty-five and older) of the population had the lowest rates of murder: less than 0.05 per 1,000 persons (Perkins 1997).

The elderly are less apt to try to protect themselves than their younger counterparts. As part of the aging process, the elderly have an increased frailty that makes them more susceptible to physical injury and less able to recover from such injuries. Even slight resistance during a criminal incident may result in serious injuries for an older victim. For example, as a victim of a mugging, a younger person may experience only minor bruising or scraping as a result of being pushed to the ground. For the elderly victim, there is a marked increase in sustaining serious injuries, such as broken bones or concussions—injuries from which they may not fully recover.

In assisting elderly victims of physical assaults, victim service providers can do the following:

- Establish an interagency agreement between local law enforcement agencies (sheriffs and police) and the appropriate local agency charged by state law to receive reports and investigate when police or a social worker respond to a report of elderly victimization that results in physical injury.
- Establish a policy of providing hospital or home visits (if victims are stable or their family is receptive) to inform them of available services. Providers can use this time to determine specialized needs such as food shopping and transportation to and from doctors' appointments and drug stores. In addition, they can provide information on witness intimidation and harassment and security options. Victim compensation forms should be provided as necessary along with an explanation of applicable victim compensation benefits to the victims or family. The provider can help victims complete and document the compensation application and supply several self-addressed stamped envelopes to forward the application to the victim service provider's agency. Victims or family members should be directed to forward medical or counseling bills they receive to the agency as well. The provider can also obtain a police report for victims and mail the package to the compensation program on behalf of the victim.
- Determine the physical extent of injury to the victim and any special assistance he or she may need in attending meetings and court-related hearings once released from the hospital

and/or physician's care. If the elder does not have family in the nearby area and depends on public transportation, getting to and from court or medical appointments can be difficult if the victim is in a wheelchair or uses other mobility aids such as canes or walkers. Victim advocates should work with local agencies to determine services available to meet the elder client's transportation needs.

- If the elderly victim is to be hospitalized for an extended length of time, the provider should be prepared to work with the local utility and phone companies to ensure that the injured victim will have electrical and phone service when he or she returns home. The phone may be his or her only life-line to emergency medical care and other supportive services upon return.
- Prosecuting attorneys should be alerted of any extended hospital or physical therapy stay anticipated for the elderly victim. This information will be useful in determining when to conduct police line ups, file charges, hold bond hearings, etc.

ELDERLY VICTIMS OF BURGLARY

For many older persons, their world becomes the area most proximate to their homes as they begin to lose networks that have supported them throughout their life. They retire from jobs, friends and family members begin to die, and outside leisure activities may decrease due to increasing physical or mental limitations. Largely, this helps explain why the majority of elderly crime victims are victimized in or near their home.

The sentimental loss of possessions stolen during a burglary is often far greater for the elderly. Their grief and emotional trauma may be extreme. It may be helpful for victim assistance personnel to work with family members so they can understand the emotional ramifications of the burglary on the victim.

The impact of burglary on elderly victims can result in profound harm that extends beyond the financial losses:

- The larceny of even a small amount of money means many elderly victims must go without food, medication, or other necessities, especially if the victim lives on a fixed-income.
- Undue financial hardship may occur when paying for property damage resulting from a crime.
- Even with insurance, there may be large deductibles and depreciation on the items, making the replacement of stolen items difficult, if not impossible.
- The loss of items deemed insignificant to many younger people can pose life-changing impact on the elderly. For example, the loss of a TV or radio can further restrict the elderly's outside communication and further isolate them from society.

Elderly victims are more likely than any other burglary victims to want to relocate after the crime, but financial limitations may not allow such a move. Although few, there are several federal, state, and community programs that do help with the financial burdens of relocation.

In the event the elderly victim does not wish to move, he or she may experience an emotional need to withdraw from community involvement. As soon as possible after the crime is reported, it is important to restore a sense of security and safety to the elderly victim of burglary.

One approach is to conduct a thorough search of the property to identify points of entry that may need to be repaired or further secured. If the victim is unable to afford the repairs, replacement of damaged property, or increased security options, a list of community resources that can help (including crime repair crews sponsored by many probation departments) should be provided to the victim or contacted on behalf of the victim.

ELDERLY VICTIMS OF FRAUD

Fraud is defined as “when a person or business intentionally deceives another with promises of goods, services, or financial benefits that do not exist or were never intended to be provided.” Typically, victims give money but never receive what they paid for (Alexander and Seymour 1998).

In Rights, Roles, and Responsibilities: A Handbook for Fraud Victims Participating in the Federal Criminal Justice System, published by the Police Executive Research Forum (PERF), the emotional impact of fraud victimization on victims is described as follows:

Fraud crime is a personal violation. Trust in one’s own judgment, and trust in others, is often shattered. Victims may feel a sense of betrayal, especially if the perpetrator is someone they know. They may have hesitated to tell family members, friends, or colleagues about their victimization for fear of criticism. If family and/or friends were exploited by the same fraud, victims might feel guilty and suffer further isolation. Fraud crimes can destroy their financial security and sometimes that of their loved ones. If the victim is elderly, disabled, or on a fixed income, and lacks opportunities to recover their losses, they may face additional trauma, even the loss of their independence (Alexander and Seymour 1998).

PERF goes on to describe the following services that should be made available to fraud victims:

- Referrals to mental health, financial, or social services.
- Security/protection information and referrals.
- Information about the justice system and victims’ rights and roles as they participate in justice processes.
- Assistance with employers and creditors.
- Notification about dates, times, places, and outcomes of court proceedings.
- Information about how to submit a victim impact statement or, where permissible, to speak at sentencing (Ibid.).

How VOCA funding can be used to assist victims of financial fraud. The Victims of Crime Act (VOCA) authorizes OVC within the U.S. Department of Justice to administer grants to the states for victim assistance services and victim compensation. Although VOCA funds may not

be used to compensate victims of fraud for their financial or property losses, VOCA funds may be used to provide these victims with services to help them obtain justice and healing.

OVC allows each state grantee the latitude to determine how VOCA victim assistance grant funds can be used most effectively within their own state. The eligibility requirements for organizations receiving VOCA funds may be found in sections IV.B and IV.C of the 1997 *VOCA Victim Assistance Final Program Guidelines*.

VOCA Victim Assistance Final Program Guidelines (Guidelines). In response to comments from state VOCA victim assistance and victim compensation program administrators, victim service providers, representatives of national victim organizations, elder services agencies, and other victim advocates, the revised *Guidelines*, published by OVC in April 1997, encourage states to fund new or expand services for victims of fraud and economic exploitation. The amended language of the Guidelines does the following:

- *Expands the definition of “victim” to include victims of financial crimes.* In Section I of the *Final Guidelines*, Background, the definition of “crime victim” has been modified to “a person who has suffered physical, sexual, financial, or emotional harm as a result of the commission of a crime.” Although VOCA-funded programs cannot be used to restore the financial losses suffered by victims of fraud, victims are eligible for the counseling, criminal justice advocacy, and other support services offered by VOCA-funded victim assistance programs.
- *Expands the definition of “elder abuse” to include economic exploitation and fraud.* In the Program Requirements section of the *Final Guidelines* (IV.A.4.) describing grantee eligibility requirements, the definition “abuse of vulnerable adults” now includes the mistreatment of older persons through economic exploitation and fraud.
- *Expands the definition of “previously underserved” priority areas to include victims of fraud crimes.* The Program Requirements section of the *Final Guidelines* (IV.A.4.) also states that an additional 10 percent of each VOCA grant will be allocated to crime victims who were “previously underserved.” These underserved victims may include victims of economic exploitation and fraud.

VOCA grant funds may support direct services for elderly fraud victims, such as follows:

1. ***Immediate Health and Safety:*** Services which respond to the immediate emotional and physical needs of crime victims (excluding medical care) are eligible for support with VOCA victim assistance grant funds. Examples include crisis intervention; hotline counseling; and providing emergency food, clothing, transportation, and shelter (section IV.E.1.a.).
2. ***Mental Health Assistance/Support Groups:*** Counseling, either on an individual or group basis, may help some fraud victims and their family members to understand their victimization and to stabilize their lives after the experience. Grant funds may be used to pay for individual counseling, fraud support groups, and therapy (section IV.E.1.b.).

3. *Respite Care and Serving Victims With Disabilities:* Assistance with participation in criminal justice proceedings can be paid for with VOCA funds. These may include the cost of caring for a child or a dependent adult when this enables a victim to attend court. Funds may be used to purchase items such as Braille equipment for the blind or TTY/TDD machines for the deaf, or to make minor building improvements that make services more accessible to victims with disabilities (section IV.E.1.c. and IV.E.2.d.).
4. *Credit Counseling Advocacy or Other Special Services:* VOCA funds may be used to assist crime victims with managing the practical problems created by the victimization such as acting on behalf of the victim with other service providers, creditors, or employers (section IV.E.1.f.).
5. *Restitution Advocacy:* Restitution advocacy on behalf of specific crime victims is now an allowable activity under VOCA grants. Restitution advocacy can include the cost of purchasing, developing, printing, and distributing restitution information for victims. Victim/Witness Coordinators may prefer to hold a meeting with a group of fraud victims or develop a formal program to discuss the restitution process, such as a one-day restitution clinic or workshop (section IV.E.1.c.).
6. *Public Presentations:* Grant funds can be used to support presentations that are made in community centers, nursing homes, and other public forums, and that are designed to identify fraud victims and provide or refer them to needed services. Specifically, costs of such presentations can include presentation materials, brochures, and newspaper notices about the event (section IV.E.2.k.).
7. *Advanced Technologies:* The use of computers and automated victim notification systems can dramatically improve the ability to reach and serve fraud victims (section IV.E.2.f.).

VOCA grant administrative funds may also be used to assist elderly fraud victims through—

- *Training:* Training direct service providers such as social service workers, adult protective service providers, and mental health and medical professionals, about the nature of financial fraud and the needs of victims harmed by this crime.
- *Publications:* Purchasing, printing, and/or developing publications such as brochures, training manuals for service providers, and victim services directories. For example, VOCA funds could be used to translate and print informational brochures to assist non-English speaking victims of financial fraud (Alexander and Seymour 1998).

OPERATION FRAUDSTOP. The National Sheriffs' Association OPERATION FRAUDSTOP program is a campaign to make it difficult for swindlers to be successful via the telephone, and to provide education and assistance to telemarketing fraud victims, especially seniors. With support from the Office for Victims of Crime, OPERATION FRAUDSTOP capitalizes on existing partnerships and programs (such as community policing and TRIAD) and employs resources such as the media, various publications, and private corporations such as Radio Shack and WalMart. The states of Maryland, Montana, Virginia, and Washington serve as pilot sites for the initial phase of the project, with plans to replicate the best program elements and strategies nationwide. In all four states, the attorneys general have begun

concerted efforts to reduce crimes against the elderly and have combined forces with federal, state and local law enforcement, AARP, and adult protective services to more effectively fight criminal activities against the elderly.

EFFECTIVE COMMUNICATION TECHNIQUES FOR ELDERLY VICTIMS

The longstanding communication techniques that victim service providers utilize in the general course of their duties should, of course, apply to elderly victims as well. However, there are some additional methods that can enhance communication with older victims.

First and foremost, it is essential to avoid making assumptions about a person's sensory, cognitive, or physical capacities based strictly upon their age. For example, only 15 percent of all adults over age sixty-five have serious visual impairments, and approximately one-third are affected by documented hearing loss (NCVC 1995). It is also important to recognize that physical and mental challenges do not preclude the older person's ability to provide accurate and important information.

In communicating with elderly victims, victim service providers should consider the following:

- Offer to meet with the victim in a place of his or her choice. This could include the victim's home or a friend's house, place of worship, or other location that is easily accessible and offers a degree of comfort and control, to the victim.
- Ensure that the environment is conducive to communication. This includes eliminating background noise as well as telephone calls or pagers that might distract from the purpose of the meeting. If the meeting takes place at the victim service organization, ensure that there are no interruptions in the session.
- Encourage the victim to bring a support person, if needed, to accompany them through any interviews or service provision meetings. It is, however, important to ensure that the "support person" is not anybody who is involved in the abuse, neglect, or victimization of the elderly client.
- Determine immediately how the elderly client wishes to be addressed and honor the request. For example, if an elderly client wishes to be addressed as "Mrs. Smith," the victim service provider can respond: "Thank you, Mrs. Smith. You may call me Mr. Reed." Similarly, a first-name basis, if requested, should also be honored.
- It is helpful to be seated directly across from the client in order to have clear aural and visual linkages between the service provider and older person.
- Increase voice levels only if it has been determined that the elderly client has a hearing impairment. A loud tone of voice for a nonhearing impaired victim is condescending.
- Written communications, such as brochures and forms, can be provided with a type font size that is slightly larger than the standard 12 point (for example, 14 point typeface).

- Allow the victim to determine if comforting touches (such as a pat on the hand or arm around the shoulder) are appropriate. If the elderly victim initiates such contact, it should be mirrored.
- Avoid or carefully explain “jargon” that is common to both victim assistance providers and the justice system.
- Clarify that if, at any time, the elderly client does not understand a point or requires further information, he or she should let the advocate know.
- Utilize validation skills. This can greatly enhance communications with elderly clients. Any words or phrases that demonstrate empathy, concern, and gratitude to the elderly victim for sharing information about their victimization experiences and “helping” with the case can be comforting to the client.
- Provide options to the elderly client to give him or her choices about their future. The choice he or she makes can then be validated as “good” or “wise.”
- Summarize key information in writing that results from a session with an elderly client (especially any specific actions the client needs to consider or do).
- Provide a list of information, supportive, and referral resources to all elderly clients, including crisis and emergency services that are available twenty-four hours a day, seven days a week. It is helpful for victim service providers to offer to make calls for elderly victims to ensure that appropriate services are available and accessible.

In addition, the National Center for Victims of Crime recommends that victim service providers—

- Keep instructions short and simple.
- Keep their voice and mannerisms calm.
- Ask questions to clarify confusion, but ask only one question at a time, and allow for a response before asking another question. Allow plenty of time for hearing, comprehending, and understanding.
- Observe the elderly client closely for nonverbal cues to see if he or she understands.
- Be sensitive to whether the older adult is tired, not feeling well, or becoming too upset or frustrated. Allow breaks where possible for consuming food or beverages, taking medication, or simply stretching or moving about.
- Be patient. Expect to repeat what you say or to rephrase questions or responses.
- Never interrupt. It discourages free speaking and may cause an older client to forget what he or she was going to say (NCVC 1994).

DEALING WITH OLDER PERSONS WITH COMMUNICATION IMPAIRMENTS

The Police Executive Research Forum (PERF) developed excellent guidelines to help law enforcement officials accommodate elderly victims who may have communication impairments. These guidelines, listed below, have been slightly modified in order to be relevant to victim service providers:

Because many older people have communication impairments, it is essential for service providers to develop skills that will optimize their effectiveness in interviewing victims, providing counseling or other supporting services, and offering information and referral assistance.

Many older people have a partial hearing loss. This means that they can hear some sounds but not others. Most of the elderly with hearing loss do not learn sign language. Rather, they depend on lip reading, hearing aids, or other electronic devices to assist them.

If a service provider suspects that an older person has a hearing loss, the service provider should ask the victim if he or she is having difficulty understanding (but not assume that the victim is having such difficulty). There are numerous methods and devices which can help when communicating with individuals who have hearing disabilities. Some communities have agencies (such as hearing societies or independent living resource centers) that can lend out special equipment or provide assistance with interviews. Victim service providers should determine if such services exist in their jurisdictions.

Most people with hearing loss compensate for the loss by paying more attention to visual cues. For that reason, it is important that they can clearly see the speaker's lips, facial expressions, and hands.

Effective strategies for communicating with adults with hearing loss include the following:

- Asking the person if he or she would prefer to use written communication or an interpreter.
- Arranging the room where communication will take place so that no speaker and listener are more than six feet apart, and everyone is completely visible.
- Concentrating nonglaring light on the speaker's face for greater visibility of lip movements, facial expressions, and gestures.
- Positioning yourself directly in front of the person to whom you are speaking.
- Not standing in front of a direct light source such as a window.
- Speaking to the person with hearing loss from a distances of no more than six feet, but no less than three feet.
- Establishing eye contact before you begin to speak.
- Speaking slightly louder than you normally would.

- Speaking clearly at your normal rate, but not too quickly.
- Using short, simple sentences. Keeping language concrete.
- Never speaking directly into the person's ear.
- Rephrasing the statement if the person does not appear to understand what is being said, rather than just repeating the same words.
- Refraining from over-articulating. Over-articulation distorts both the sound of the speech and the face, making visual clues more difficult for the elderly victim to understand.
- Including the person in all discussion about him or her.
- Avoiding smoking, chewing gum, or covering your mouth while you speak.
- Repeating key words and phrases. Asking the listener to repeat what you have said.
- Asking the victim to repeat or rephrase the response if you cannot understand the person's answer to your question.
- Using open-ended questions, not questions requiring a "yes" or "no" answer.
- Using visual aids whenever possible, such as drawings, diagrams, and brochures.
- Treating the elderly client with dignity and respect, and avoiding a condescending tone (PERF 1993).

PROMISING PRACTICES

- In Oregon, a statewide collaborative initiative has focused attention on the financial abuse of the elderly. In 1994, the Oregon Attorney General's Task Force on Elder Abuse was formed. One year later, the Attorney General and Oregon Bankers Association (OBA) successfully worked to amend the Private Financial Records statutes, providing banks with immunity for reporting cases of financial abuse and fraud against the elderly to law enforcement. In 1996, the Senior and Disabled Services Division joined with the OBA to plan a training program to ensure that bank employees know about the law, and a statewide "kickoff" training and eleven local trainings were held in 1997-98. An excellent training kit and brochure for the elderly entitled "Protect Your Money: It's Your Future," have been distributed to every bank in Oregon as well as to every state across the nation.
- In Milwaukee, Wisconsin, the police department has created a Senior Citizen Unit called the "Gray Squad," which is comprised of five detectives, eight uniformed officers, a uniformed sergeant, and a part-time detective. Its primary responsibility includes the prevention and investigation of personal crimes against seniors, such as assaults, robberies, personal larcenies, and confidence crimes such as fraud. Cumulative data from the average of thirty-five incident reports received by the unit each day help determine possible patterns in crimes against the elderly in order to focus the department's and community's efforts on prevention and intervention. All police employees assigned to the "Gray Squad" receive sensitivity training on how best to assist elderly victims and are familiar with the many

community-based resources that are available to older victims for information, referrals, and supportive services.

- Three innovative projects that receive financial support from the ABA's "Partnerships in Law and Aging Program" include the following:
 - The Center for Advocacy for the Rights and Interests of the Elderly (CARIE) in Philadelphia, PA, which is building a coalition of experts from the aging, advocacy, disability and legal networks to help long-term care staff identify complex ethical issues, provide tools for analysis, and make recommendations in order to achieve the best moral outcome for long-term care residents. This project also helps nursing homes, personal care and assisted living facilities create and train their own multidisciplinary ethics committees and create and train a regional volunteer committee to which facilities without their own committee can turn for assistance.
 - Connecticut Legal Services developed and maintains a Web site to make comprehensive information regarding elder law, government programs, and sources of legal assistance available via the Internet. Promotional activities include targeted publicity through the state's senior network, including senior and adult day care centers, libraries, courts, retirement communities, and health care providers.
 - The Legal Aid Society of Hawaii is developing a *pro se* uncontested guardianship clinic to be held quarterly on the island of Kona. An attorney and paralegal lead each clinic, teaching caregivers and family members how to fill out, serve, and file the necessary court forms to become a legal guardian for an incompetent person (ABA 1998/99).
- The Women's Center of Bloomsburg, Pennsylvania, designated one of its domestic violence counselors as the "Elder Abuse Counselor" and assigned her to work with a local Adult Protective Service (APS) unit to enhance coordination between the domestic violence and aging services communities. The counselor went through an intensive APS training program to achieve an understanding of the APS approach, outlook, and resources. She now accompanies APS staff on home visits in situations where domestic violence is believed to be occurring, to talk to the victims while an APS representative works with the alleged abusers, and to assess the conditions in the home that are threatening the well-being of the older person. In the future, the project will begin to develop safe homes for elder victims who are in need of emergency shelter (National Center on Elder Abuse 1996).
- The National Hispanic Council on Aging (NHCOA) has developed a special program on domestic violence against the elderly in Washington, DC, that is designed to focused on the special needs of traditional, not "Americanized" older Latinos who generally do not acknowledge their abuse because of cultural taboos and their fear of legal procedures that would further jeopardize already unstable family units. (They feel a responsibility to contribute to their families by performing household chores and taking care of the children. Leaving the family is out of the question.) NHCOA has developed several approaches to support Latino elderly in at-risk situations. First, a community board comprised of members from social, legal, and health services identifies conditions that prompt domestic violence within the population and designs strategies to address them. Second, support circles, made up of at least twenty-five elder members and overseen by an advocate, are the primary units that address domestic violence and neglect in the community. Advocates

conduct outreach and educational activities using the local Spanish media, and have developed a video which depicts the lives of four elderly women and their struggles in their homeland and in the USA. The video focuses on the strengths of elderly Latinas to overcome the types of violence that have characterized their lives (National Center on Elder Abuse 1996).

- The Los Angeles County Fiduciary Abuse Specialist Team (FAST) in collaboration with the Elder Person's Estates Unit at the Los Angeles Police Department, The Los Angeles County Adult Protective Services program (APS), and Long Term Care Ombudsman has created an Elder and Dependent Adult Abuse Protocol for the effective review of cases of suspected fiduciary abuse of the elderly. Since the enactment of California's mandatory elder abuse reporting statutes in 1984, APS has witnessed a three-fold increase in the number of elderly abuse incidents reported. They have included physical abuse, sexual abuse, neglect, abandonment, psychological abuse, and fiduciary abuse which accounted for approximately 25% of all reports received. Funded by the Los Angeles County Area Agency on Aging, FAST works closely with highly qualified professionals in the areas of law, gero-psychiatry, finance, securities, and real estate. The multi-disciplinarian task force can effectively investigate, document, and prevent financial abuse of the elderly in approximately two thousand cases a year (APS 1997).

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To subscribe to the ABA listserv on elder abuse, victim service providers can e-mail the ABA Commission on Legal Problems at <lstiegel@staff.abanet.org> . A request to subscribe should include information indicating your profession and explaining your interest in adult protective services and/or elder abuse.

STATISTICAL OVERVIEW

- The FBI's *Uniform Crime Reports* show that in 1998, of the 9,235 reported bias-motivated offenses, 27 were motivated by disability bias—14 by anti-physical disability bias and 13 by anti-mental disability bias (FBI 17 October 1999, 60).
- Approximately 54 million Americans live with a wide variety of physical, cognitive, and emotional disabilities (Tyiska September 1998).
- Estimates indicate that at least 6 million serious injuries occur each year due to crime, resulting in either temporary or permanent disability. The National Rehabilitation Information Center has estimated that 50% of patients who are long-term residents of hospitals and specialized rehabilitation centers are there due to crime-related injuries (Ibid.).

FEDERAL LEGISLATION

The Crime Victims With Disabilities Awareness Act of 1998 (Public Law: 105-301) was designed to increase public awareness of the plight of victims of crime with developmental disabilities. The act directs the Attorney General to:

- Conduct a study to increase knowledge and information about crimes against individuals with developmental disabilities, the results of which will be useful in developing new strategies to reduce the incidence of such crimes.
- Report study results to specified congressional committees.
- Include, as part of each National Crime Victimization Survey, statistics relating to the nature of crimes against individuals with developmental disabilities and the specific characteristics of the victims of those crimes.

RELEVANT TRAINING

Effective training for victim service providers, law enforcement, and prosecutors on assisting victims with disabilities varies according to type of disability, as do viable risk reduction programs. The initiatives described below approach the issues from various angles:

END THE SILENCE

The Institute on Disabilities at Temple University is conducting a three-year initiative called *End the Silence* funded by the Administration on Developmental Disabilities at the U.S. Department of Health and Human Services. The program approaches crime against people with developmental and other disabilities as a problem similar to violence against women, child abuse, and elder abuse. *End the Silence* recognizes that while much progress has been made in these three areas, crimes against people with disabilities continues to be largely invisible and unaddressed in mainstream criminal justice. Part of the initiative is devoted to self-advocacy. Individuals with disabilities, including victims, are taking an active role in developing the training material on sexual abuse awareness and are participating in the pilot training programs.

Program goals are to:

- Develop and disseminate focused training curricula.
- Develop communication boards with understandable vocabulary and symbols to convey risk prevention strategies and disseminate them to individuals with significant cognitive and speech disabilities and/or assist these individuals in reporting sexual abuse when it occurs.
- Pilot test the training curricula for law enforcement, victim service providers, prosecutors, families, and allies in a five-county area around Philadelphia.
- Conduct research and advance systemic change.
- Conduct a national public awareness campaign on the victimization of individuals with disabilities.

The first completed publication, *Keeping Yourself Safe at Home, at Work, and in the Community*, is a risk reduction program to educate victims with developmental disabilities about sexual abuse and safety strategies to prevent it. The publication will be available for distribution after pilot testing is completed. End the Silence, Institute on Disabilities, Temple University, Philadelphia, PA (215-204-1356) <http://www.temple.edu/Inst_disabilities>.

UNDERSTANDING MENTAL RETARDATION: TRAINING FOR LAW ENFORCEMENT

A three-hour training curriculum, *Understanding Mental Retardation: Training for Law Enforcement*, provides police officers with information about victim and offender issues involving people with this disability. The training includes a fifteen-minute video, program materials, hand-outs, and references for background reading. The ARC of the United States, 500 E. Border Street, Suite 300, Arlington, TX 76010 (817-261-6003) (Davis August 1998).

RESPONSE PROTOCOLS FOR THE MALTREATMENT OF CHILDREN WITH DISABILITIES

The National Center on Child Abuse and Neglect at the Department of Health and Human Services has sponsored the development of a curriculum to provide trainers with a framework for teaching victim service providers about the maltreatment of children with disabilities.

Responding to Maltreatment of Children with Disabilities: A Trainer's Guide is made up of five modules that include an introduction to disabilities; the relationship between maltreatment and disabilities; assessment protocols; child protective services practices for children with disabilities; and risk reduction. The training curriculum specifically addresses myths about disabilities; impact of disability on communication and culture; incidence and prevalence of abuse and neglect; signs of abuse and neglect; and medical examination practices. The curriculum manual provides a lecture guide, participant guides, trainer's texts, transparencies or Power Point slides, and videotapes for each module (Steinberg, Hylton, and Wheeler 1998).

SEXUAL ABUSE OF CHILDREN AND ADULTS WITH DISABILITIES

The Disability, Abuse & Personal Rights Project (DAPR) has developed sensitive forensic interviewing protocols for use by criminal justice professionals with victims of sexual assault who have cognitive and communication impairments. A curriculum for police making first response is currently under development. For disability service providers, DAPR has developed training on the identification and reporting of sexual assault. They have also developed training on risk reduction strategies for parents of and individuals with cognitive and communication impairments. They are currently working with the California State Board of Control (SBOC) and child protective services to change the child victim data collection system to include the reporting and tracking of children with disabilities who are sexually assaulted, and children who are disabled as a result of abuse. In addition, DAPR coordinates a national conference, conducts research, and generates articles, documents, and guidebooks on sexual assault primarily of children and adults who have developmental handicaps. Related subjects include: sexual abuse, other types of abuse, sexuality of persons with disabilities, parenting issues, protections of sexual civil liberties, and other civil rights. Issues related to abuse, such as perpetrators with developmental disabilities, and the onset of disability as a result of abuse, are also addressed. Disability, Abuse & Personal Rights Project, Spectrum Institute, P.O. Box T, Culver City, CA 90230 (310-391-2420) < www.disability-abuse.com > .

PROMISING PRACTICES

- *Enhancing Your Interactions with People with Disabilities*. This American Psychological Association (APA) brochure targets victim service providers, mental health providers, advocates, and psychologists and assists them in the development of improved communication skills with people with disabilities. *Enhancing Your Interactions with People with Disabilities* addresses three critical areas:
 - *Initial approaches to people with disabilities*. The effective use of language in portraying their condition lays the groundwork for the success of further communication. Words mirror prevailing attitudes, and societal attitudes are the fundamental barriers that people with disabilities must overcome to have successful interactions.
 - *Communication issues*. To reduce anxiety when interacting with people with specific disabilities, the brochure offers specific advice on how to communicate with deaf individuals, the visually impaired, the speech impaired, and individuals with mobility impairments.

- *Compliance.* To meet the legal and ethical obligations as set forth by The Americans with Disabilities Act, and to better serve the needs of individuals with disabilities, the brochure offers guidelines and advice on service requirements, referrals, physical barriers to office access, and specials aids to enhance communication.

The brochure is available by mail from APA or in an alternative form on its Web site <www.apa.org/pi/cdip/>. American Psychological Association, 750 First Street NE, Washington DC 20002 (800-374-2721) <www.apa.org>.

- *All Walks of Life.* The mission of this Texas-based, nonprofit organization is to empower social solutions for people with disabilities. They believe that the vulnerability of people with disabilities attracts predators, and that whenever there is a reduction in an individual's mobility or life skills, there is an increased risk of violence and repetition of violence unless measures are taken to prevent it. All Walks of Life promotes the position that people with disabilities can and should engage in prevention solutions, that they are capable of being responsible for self-awareness that they live in a violent culture, and that they should learn violence prevention skills that will help them compensate for their vulnerability. The All Walks of Life Web site includes useful resources and links relating to violence and violence prevention for people with disabilities. All Walks Of Life, 9106 Benthos, Houston, TX 77083 (281-495-9226) <<http://www.awol-texas.org>>.

WEB SITES

- *The National Information Center for Children and Youth with Disabilities (NICHCY)* <<http://www.nichcy.org>>. Sponsored by the U.S. Department of Education, Office of Special Education Programs, NICHCY is a national information and referral center on disabilities and disability-related issues for families, educators, and other professionals that emphasizes services to children and young adults, age twenty-two years or under. State resource sheets that help locate organizations and agencies that address disability-related issues serving children and youth can be found through NICHCY, P.O. Box 1492, Washington DC 20013 (800-695-0285).
- *Disability Resources, Inc.* <<http://www.disabilityresources.org/>>. Disability Resources, Inc., a nonprofit organization, maintains the Disability Resources Monthly (DRM) Guide to Disability Resources on the Internet, an extensive online resource established to promote and improve awareness, availability, and accessibility of information that can help people with disabilities. It serves individuals with disabilities through a multidisciplinary network of service providers and consumers, targeting their services and publications to libraries, disability organizations, independent living centers, rehabilitation facilities, educational institutions, and health and social service providers. The DRM WebWatcher maintains an extensive database of disability-related resources (links to Web sites, documents, databases, and other informational materials) in order to perform customized searches, including a page for victims of abuse who have disabilities <www.disabilityresources.org/ABUSE.html>.

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ABSTRACT

Until recently, the victimization of individuals with disabilities has not received national attention, and few victim assistance programs offered services for these victims. With increased awareness of the issue and new federal initiatives in the executive and legislative branches, model programs to serve crime victims with disabilities are expanding. This chapter discusses the progress toward recognizing and meeting the needs of crime victims with disabilities. Requirements of the landmark federal legislation, the 1990 Americans with Disabilities Act, for the criminal justice system and private nonprofit victim assistance programs are outlined. New programs that have been designed to provide services to victims with disabilities are described, and federal law mandating that the issue be studied by the Department of Justice is discussed. In addition, guidelines are provided for the development of critical services in criminal justice and victim assistance programs.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- The scope and causes of victimization of individuals with disabilities.
- How the Americans with Disabilities Act of 1990 applies to criminal and juvenile justice and private nonprofit victim assistance programs.
- The primary thrust of recent recommendations of the 1998 OVC-sponsored National Symposium on Working with Victims with Disabilities for improving criminal justice and victim assistance programs.
- How to use appropriate terminology to effectively respond to victims with disabilities.
- Strategies for meeting the needs of crime victims with disabilities.

STATISTICAL OVERVIEW

- Approximately 54 million Americans report some level of disability, and 26 million of them describe their disability as severe (Holmes 1999).
- Between 4 and 5% of Americans have a developmental disability, including mental retardation, autism, cerebral palsy, and severe learning disabilities (LaPlante and Carlson 1996).

- About 11 million women (29%) over the age of forty-five have conditions that limit their activities, compared with 9 million men (25%) (Hasler 1991) .
- Research consistently shows that women with disabilities, regardless of age, race, ethnicity, sexual orientation or class, are assaulted, raped, and abused at a rate two times greater than women without a disability (Sobsey 1994; Cusitar 1994).
- The risk of being physically or sexually assaulted for adults with developmental disabilities is four to ten times higher than it is for other adults (Ibid.).
- The FBI's Uniform Crime Report shows that in 1997, of the 9,861 reported bias-motivated offenses, twelve were motivated by disability bias (FBI 1998).
- Estimates indicate that at least 6 million serious injuries occur each year due to crime, resulting in either temporary or permanent disability. The National Rehabilitation Information Center has estimated that as much as 50% of patients who are long-term residents of hospitals and specialized rehabilitation centers are there due to crime-related injuries (Tyiska 1998).
- Research conducted by the National Center on Child Abuse and Neglect (NCCAN) in 1993 found that children with any kind of disability are more than twice as likely as children without a disability to be physically abused and almost twice as likely to be sexually abused. Of all children who are abused, 17.2% had disabilities (Crosse, Kaye, and Ratnofsky 1993).
- Child protective services caseworkers reported that the disabilities directly led to or contributed to child maltreatment in 47% of maltreated children with disabilities (Ibid.; Barnett, Miller-Perrin, and Perrin 1997).
- A national survey of 860 women found that women with and without physical disabilities were equally likely (62%) to experience physical or emotional abuse from husbands, live-in partners or other family members; however, for women with disabilities the abuse tends to last longer than for women without disabilities. Women with physical disabilities were also more at risk for abuse by attendants or health care providers (Young et al. 1997).
- A national research project on young male victims of sexual assault in Australia found that young men with intellectual disabilities are at greatest risk (Colman 1997).

INTRODUCTION

The prevention of victimization and the provision of needed services to individuals with disabilities who are victims of crime are urgent issues that have yet to be comprehensively addressed by public policy makers, the criminal or juvenile justice system, and victim assistance service providers. The lack of attention given these issues, until recently, illustrates the enormous gap that has existed between those who advocate for the rights of individuals with disabilities and those who work to ensure fundamental justice in the justice system and advocate for the rights of crime victims.

Throughout the last two decades, these two advocacy movements operated on parallel tracks and made significant gains on behalf of crime victims and individuals with disabilities. Achievements include the passage of significant legislation as well as enhanced and expanded services. As crime victim advocates sought to ensure that victims are “at the center of the criminal and juvenile justice systems,” disability advocates sought full “inclusion” of individuals with disabilities in communities and services. Many of the accomplishments of the two movements have been achieved through the joint efforts of self-advocates in partnership with service providers and allied professionals.

Only recently have the crime victims movement and the disability rights movement intersected with a common concern and national focus. The common ground has expanded as our awareness of the victimization of individuals with disabilities has increased and the need to improve our response to victims with disabilities has become clear. A better understanding of the issues related to victimization and victim assistance for individuals with disabilities will enable justice professionals and crime victim advocates to extend the possibility of justice and healing in the aftermath of a crime to victims with disabilities. As a result of their shared concern, victims’ rights advocates and service providers and disability rights advocates and service providers have begun to forge coalitions that ultimately will dramatically improve the treatment of crime victims with disabilities.

CAUSES OF DISABILITY

The term “disability” is very broad, and there is a wide variety of conditions that can affect an individual and result in some form of disability. Age of onset, cause, and manifestation of a disability can be significant factors in treatment of individuals with disabilities. The effects of a disability on major life activities can range from mild to severe. The degree and type of accommodation needed for effective service provision for crime victims with disabilities also varies, depending upon the crime and its impact, the victim and his/her individual needs.

Developmental disabilities occur early in life and have a life-long effect on development, adaptive behavior, and learning (i.e., mental retardation, cerebral palsy, severe learning disabilities, and other neurologic conditions). Historically, individuals with developmental disabilities were often placed in state-operated institutions as infants or children where they were isolated from family and society. When widespread physical, emotional, and sexual abuse and neglect of the “patients” in many public facilities were documented in the 1970s and early 1980s, advocates for individuals with developmental disabilities successfully launched the movement to “deinstitutionalize” people with developmental disabilities. “Mainstreaming”—enabling people with developmental disabilities to participate in the “mainstream of society” within the community—became the goal. As a result, community-based services, such as group homes, other assisted living arrangements, and day programs, have expanded tremendously in the last two decades. However, many individuals continue to live in state and private institutions, and issues related to their vulnerability to abuse and neglect remain a concern of family members and advocates. In addition, in recent years the victimization

(sexual assault, financial exploitation, and emotional abuse) of people with developmental disabilities who live in the community has been identified as a concern.

The treatment and educational response to an individual's hearing loss or vision loss may vary, depending upon the cause, when it occurred, and whether the individual has any hearing or sight. Physical disabilities such as hearing or vision loss can be congenital or occur later in life as the result of an illness, accident, or injury due to a violent crime. Previously it was thought the best "special education" that children who were diagnosed with deafness or blindness at a young age could receive was in a special residential school away from family and community. Today, such education services are provided in local public schools. Differences in educational approaches for individuals who are deaf or hard of hearing or blind may result in these individuals being more comfortable with different methods of communicating or moving. For example, some individuals who are deaf or hard of hearing are comfortable with sign interpreters while others prefer lip-reading; some may be comfortable with written material while others are not. Some individuals who are blind use a cane; some do not. Not all people who are blind read braille; some use scanners to read written material and others are accustomed to readers.

Disabilities that affect mobility and/or the ability to function independently (i.e., spinal cord injury) can occur in conjunction with a congenital condition or can occur in childhood, adolescence, or adulthood as a result of an automobile accident or crash, diving, or other accident or injury. Rehabilitation for such injuries is often a lengthy, difficult process involving medical treatment, physical and occupational therapy, counseling, vocational training, and other support services. In addition, people whose lives are changed in this way experience countless adjustments as they adapt to changes imposed by the disability.

The likelihood that an individual will have a disability increases with age, in part because the progression of many diseases can have disabling effects that limit activity and many aspects of daily life (i.e., heart disease, multiple sclerosis, diabetes, and many others). In addition, some conditions that occur predominately among the elderly affect memory and intellectual functioning as well as the ability to care for oneself and live independently (i.e., Alzheimer's disease). Individuals with such conditions are often cared for at home by family members or treated in nursing homes or other care facilities.

DISABILITIES CAUSED BY VIOLENT CRIME

Millions of people suffer injuries as a result of criminal victimization each year, and many of these injuries cause long-term disabilities. Examples include assault victims who suffer gunshot wounds that cause spinal cord damage or blindness; victims of drunk or drugged drivers who suffer the loss of a limb, spinal cord injuries, or head injuries that cause traumatic brain injury; infants who suffer the effects of "shaken baby syndrome" and sustain severe brain injury and resultant developmental disabilities; children who are victims of severe physical abuse whose emotional and physical development is affected; or victims of domestic violence who sustain permanent injuries as a result of a single battering incident or repeated battering over a period of several years.

For many of these victims, the traumatic impact of the victimization is compounded by the life-changing impact of the disabling condition. The combination of these circumstances, imposed abruptly and unexpectedly, can have a profound emotional impact. Depending upon the disability, the impact may be seen in many areas. For example, mobility or the ability to live and travel independently may be affected and loss of employment and change in economic status may result. In addition, the impact is felt by family members who also experience changes in relationships and “the loss” of the way their lives had been. While coping with medical or mental health treatments and rehabilitation and these unexpected life changes, individuals who acquire a disability as the result of a crime may also have to cope with involvement with the criminal or juvenile justice system as a victim and/or witness.

Sensitivity to the needs of these crime victims and their physical and emotional recovery process is essential to providing effective victim assistance. In addition to providing information about the status of the case and facilitating participation in criminal or juvenile justice proceedings, victim assistance may need to coordinate a broad range of community resources and referrals and long-term support. Coordination with other service providers (medical, rehabilitative, income assistance, housing, etc.) may be necessary. Financial remedies such as crime victim compensation, criminal restitution, and civil actions against the perpetrator and other persons responsible are very important in such cases.

ATTITUDES AND MYTHS ABOUT DISABILITIES

There are tens of millions of Americans with disabilities, many of whom have been victims of crime and most of whom are at risk of being victims of crime. Societal attitudes toward individuals with disabilities often reflect negative stereotypes and a lack of knowledge. Attitudinal barriers are usually subtle but discernible. Examples include reactions of disgust, pity, or discomfort expressed both verbally and non-verbally, overtly and covertly.

Tyiska (1998) discusses three myths about individuals with disabilities that were identified at an OVC-sponsored national symposium held to discuss issues related to assistance for victims with disabilities. Each of these myths is based on negative stereotypes and interferes with many people’s ability to relate and interact with individuals with disabilities.

- First, the “perception that people with disabilities are suffering,” and should be extended charity and kindness instead of rights and responsibilities.
- Second, people with disabilities are not capable of making decisions for themselves and need others to manage their lives.
- Third, many people fear contact with people who have disabilities as if the condition were contagious. This stems from a fear of whatever is “unfamiliar” and different and a lack of information, knowledge, and experience. Anyone who is perceived as different from the “norm” is suspect and marginalized.

In 1990, Dick Sobsey outlined five “cultural myths” surrounding people with disabilities that serve to undermine their individuality and value as people, and even contribute to their vulnerability to abuse.

- *The “Dehumanization” Myth:* Labels such as “vegetative state” suggest that a person with a disability is something less than a full member of society and serves to dehumanize the individual. Thus, perpetrators may rationalize their abusive behavior as not really injuring another person.
- *The “Damaged Merchandise” Myth:* Similar to “dehumanization,” this myth asserts that the life of the individual with a disability is “worthless” and thus he or she has nothing to lose. This thinking is aligned with advocates for euthanasia of children with severe disabilities, who rationalize that such killing is in the best interest of the child. For example, a well publicized case in Canada, argued in the courts through 1997, involved a father’s so-called “compassionate homicide” of his thirteen-year-old daughter with cerebral palsy.
- *The “Feeling No Pain” Myth:* With this myth, people with disabilities are thought of as having no feelings or as being immune to pain and suffering. There is no basis for this myth and, in fact, individuals with disabilities experience the same range of emotions found in any person.
- *The “Disabled Menace” Myth:* Perceived as “different,” individuals with disabilities are often considered unpredictable and dangerous, whether or not there is any foundation for the fear. Adherence to this myth may motivate people to prevent community facilities, such as group homes for adults with mental retardation, from being developed in their neighborhoods.
- *The “Helplessness” Myth:* Beliefs or perceptions that individuals with disabilities are “helpless” and unable to take care of themselves undermine their self-esteem and ability to take on decisions related to daily life. This in turn, makes the individual more vulnerable to abuse and manipulation.

These attitudes undermine the individual’s self-advocacy and increase vulnerability. Sobsey suggests that “changing societal attitudes towards persons with disabilities” is important to long-term empowerment and the prevention of abuse. Through empowerment and self-advocacy, individuals with developmental disabilities will better be able to protect themselves from abuse or seek assistance to end it.

SCOPE OF THE PROBLEM OF VICTIMIZATION OF INDIVIDUALS WITH DISABILITIES

There is no definitive or comprehensive source of information on the extent of the problem of victimization of individuals with disabilities. However, considerable research conducted over the last two decades consistently suggests that individuals with disabilities are as likely or more likely than nondisabled individuals to be victimized by crime. Research consistently reports

that children and adults with disabilities are at much greater risk of physical, sexual, and emotional abuse (Sobsey and Mansell 1990, 1998; Sobsey and Doe 1991; Sobsey 1994, Sobsey et al. 1994; Doucette 1986; Crosse, Kaye, and Ratnofsky 1993; Baladerian 1991). In addition to the growing evidence of victimization, anecdotal evidence suggests that crimes against individuals with disabilities are seriously underreported, and that when it is reported, victims are not believed and cases are not prosecuted (Sorensen 1997; Petersilia 1997; Sanders et al. 1997). Finally, it appears that few victims with disabilities ever reach victim assistance programs for assistance and support.

In addition, concerns about violence against women with disabilities are growing among disability advocates and researchers (Chenoweth 1996; Young et al. 1997; Harness-DiGloria 1999). In 1995–1996, a survey was conducted by Berkeley Planning Associates under a federal grant entitled *Meeting the Needs of Women with Disabilities: A Blueprint for Change*. The survey sought input from women with disabilities about the importance of various research and policy issues. Issues relating to violence and abuse were rated as the number one priority of survey respondents.

THE VICTIMIZATION OF CHILDREN WITH DISABILITIES

The issue of child abuse and disabilities emerged in the mid-1980s; however the full extent of the problem was not known until a national study was mandated by Congress in 1988 (Crosse 1993). Early efforts in this area focused on the dual problem of the abuse of children with disabilities and the disabling effects of child abuse. Early programs combined the expertise of child abuse diagnostic and treatment specialists with the expertise of specialists in developmental and other disabilities in children:

- *The Center for Child Protection—Children’s Hospital and Health Center*. In 1986, the Center for Child Protection in San Diego, California, developed one of the nation’s first forensic assessment protocols for victims of sexual assault who have developmental disabilities. The Center offers specialized assessment and treatment to approximately 1,200 child victims of sexual assault each year, many of whom are disabled, including a four-week course for children who are scheduled to testify in court (Grayson 1992).
- *Boys Town National Research Hospital, Center for Abused Children with Disabilities*. The Center, located in Nebraska, provides evaluation and treatment for 250 to 500 abused children with communication disorders each year. It offers a short-term residential program, specifically for abused hearing-impaired children and their families, and is the only program of its kind in the nation. The Center employs staff with disabilities, who thus serve as role models for the children and parents. In addition, the Center has developed protocols for police and child protection workers which assist them in conducting investigations of abused children with disabilities (Ibid.).
- In 1991, Nora J. Baladerian, Ph.D., released a report from the Spectrum Institute in Culver City, California, entitled, *Abuse Causes Disability*. The report summarized the literature related to child abuse, its devastating impact, and the frequency with which children who

are abused have disabilities. Dr. Baladerian called for a national program to combat the devastating and debilitating impact that child abuse has on children (Baladerian 1991).

In 1993, the National Center on Child Abuse and Neglect (NCCAN) released the findings of a comprehensive national study entitled *A Report on the Maltreatment of Children with Disabilities*. The *Report* was prepared in response to Section 102(a) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 (P.L. 100-294). The study focused on maltreated children who had physical, intellectual, or emotional disabilities. Much of the information in the *Report* is based on data collected from a representative sample of thirty-five child protective service (CPS) agencies, which provided information on all cases of substantiated maltreatment of children over a six-week period in 1991. Information was collected on cases involving 1,834 children whose maltreatment was substantiated. The study found the following:

- An estimated 23 out of 100 children in the United States are maltreated each year.
- Of children who are abused, 17.2% had disabilities, and of all children who were sexually abused, 15.2% had disabilities.
- Abused children with disabilities were more likely to be male and generally older than children without disabilities who were abused.
- The incidence of maltreatment (number of children maltreated annually per 1,000 children) among children with disabilities was 1.7 times higher than the incidence of maltreatment for children without disabilities. (The rate was 2.1 times higher for children who were physically abused; 1.8 times higher for sexually abused children; and 1.6 times higher for neglected children.)
- The disabilities directly led to or contributed to child maltreatment in 47% of maltreated children with disabilities. The most common disabilities noted were emotional disturbance, learning disability, physical health problems, and speech or language delay or impairment. (Crosse, Kaye, and Ratnofsky 1993).

Based on the results of this study, six recommendations were made:

1. Risk assessment approaches used in child protective services (CPS) agencies should include the child's specific disabilities as a risk factor.
2. CPS caseworkers should be educated on the relationship between maltreatment and disabilities, on identifying disabilities, and on making appropriate referrals for children with disabilities.
3. Professionals who come into contact with children with disabilities should be educated on the relationship between maltreatment and disabilities, on identifying disabilities, and on making appropriate referrals for children with disabilities.
4. State and federal systems that report information on cases of child maltreatment should include uniform information on whether or not children have disabilities.

5. Caseworkers in CPS agencies and professionals in other settings should provide specialized services to prevent maltreatment in families who have children with disabilities.
6. Future research should continue to study the relationship among child maltreatment, race/ethnicity, and disabilities, and on the causal relationship between disabilities and maltreatment (Crosse, Kaye, and Ratnofsky 1993).

RESPONSE TO CRIME VICTIMS WITH DISABILITIES

The victimization of individuals with disabilities was largely overlooked on the national level prior to passage of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101). The ADA provided a new framework for governmental and nonprofit agencies responding to individuals with disabilities. Since its implementation, the Department of Justice and other federal agencies have initiated a variety of efforts to provide information to state and local criminal and juvenile justice agencies and victim assistance programs on the intent and requirements of the Act. However, despite these efforts, many programs that serve crime victims lack a full understanding of whether their program is covered by the Act and what is required. The two sections of the Act that are of particular importance to justice systems and victim assistance programs are described below. Other significant national efforts and legislation pertaining to individuals and victims with disabilities are also described.

THE AMERICANS WITH DISABILITIES ACT OF 1990

On July 26, 1990, landmark federal legislation, the Americans with Disabilities Act (ADA) (Pub. L. 101-336; 42 U.S.C. 12101), was enacted to provide comprehensive civil rights protection to people with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. A fundamental purpose of the ADA is to promote the full integration of individuals with disabilities into the “mainstream” of society.

In the legislation, Congress articulated a number of findings (Section 12101), which include the following passages:

- historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;
- discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;
- unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;
- individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices,

exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

- census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;
- individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;
- the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and
- the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

The requirements of two specific sections of the ADA are especially important for government-based and private nonprofit programs that serve victims of crime. These sections are Title II, which covers public entities and Title III, which covers public accommodations, including private entities that own, operate, or lease places of public accommodation.

Qualified individuals with disabilities. The ADA extended broad civil rights protection to people with a wide range of disabilities. U.S. Department of Justice regulations that implement Titles II and III (28 CFR Part 35 and 36) provide the following definitions:

- Disability, with respect to an individual, is defined as:
 - A physical or mental impairment that substantially limits one or more of the major life activities of such individual.
 - A record of such impairment.
 - Being regarded as having such an impairment.

If a person meets any one of the three criteria listed above, then the person is covered by the Act. Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

- Under this definition, the term *physical impairment* means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:
 - Neurological.
 - Musculoskeletal.
 - Special sense organs.
 - Respiratory (including speech organs).
 - Cardiovascular.
 - Reproductive.
 - Digestive.

- Genitourinary.
- Hemic (blood).
- Lymphatic.
- Skin and endocrine.
- The term *mental impairment* means any mental or psychological disorder such as:
 - Mental retardation.
 - Organic brain syndrome.
 - Emotional or mental illness.
 - Specific learning disorders.

Although no comprehensive list of all of the specific conditions that would constitute physical or mental impairments exists, the ADA is thought to cover hundreds of disabling conditions. Examples of specific physical or mental impairments covered by the ADA include such contagious and noncontagious diseases and conditions as:

- Orthopedic, visual, speech, and hearing impairments.
- Cerebral palsy.
- Epilepsy.
- Muscular dystrophy.
- Multiple sclerosis.
- AIDS/HIV infection (symptomatic or asymptomatic).
- Cancer.
- Heart disease.
- Diabetes.
- Mental retardation.
- Specific learning disabilities.
- Emotional illness.
- Tuberculosis.
- Drug addiction.
- Alcoholism.

Individuals who currently engage in the illegal use of drugs are not protected by the ADA when an action is taken on the basis of their current illegal drug use.

Title II of the ADA: Nondiscrimination on the Basis of Disability in State and Local Government Services. Title II of the ADA prohibits discrimination on the basis of disability by public entities, and extends the nondiscrimination mandate of section 504 of the

Rehabilitation Act of 1973 to *all state and local government services regardless of whether the entity receives federal financial assistance*. This includes all activities, services, and programs of state legislatures, courts, town meetings, police and fire departments, motor vehicle licensing, and employment.

More specifically, the ADA prohibits a public entity from excluding or denying the benefits of services, programs or activities to a “qualified individual with a disability,” on the basis of the disability. A “qualified individual with a disability” means an individual with a disability who meets the “essential eligibility requirements” for the services or participation in the programs or activities, regardless of whether reasonable modifications are needed to do so. In other words, any individual who would normally be eligible for a service that is offered (for example, counseling or information and referral provided by a victim assistance program) cannot be denied that service just because the person has a disability.

In order to ensure access to all government-sponsored programs, services and activities must make reasonable modifications to policies, practices, or procedures. This includes the removal of architectural, communication, and transportation barriers and the provision of auxiliary aids and services to ensure that communication with individuals with disabilities is as effective as communication with others.

Communication

State and local government programs must ensure effective communication with individuals with disabilities by providing appropriate auxiliary devices. A wide range of devices is currently available that afford an individual with equal opportunity to participate in programs and services. In determining the most appropriate auxiliary communication aid, service providers should defer to the preference of the individual whenever possible.

The types of devices or services that facilitate communication vary significantly. A particular device or service may be preferred by some and yet be completely inappropriate for others with the same type of disability. For example, some people who are deaf prefer sign language interpreters while others do not sign at all. A public entity may not charge an individual with a disability for the use of any auxiliary aid.

The following examples of auxiliary aids and services make aurally delivered material available to individuals with hearing impairments:

- Qualified interpreters, note takers, transcript services, written materials, assistive listening devices, telecommunications devices for the deaf (TDDs), videotext displays, closed caption decoders, and telephones compatible with hearing aids.

The following examples of auxiliary aids and services make visually delivered material available to individuals with visual impairments:

- Qualified readers, taped texts, audio recordings, brailled materials, and large print materials.

If provision of the auxiliary aid would result in a fundamental alteration of the nature of the service, program, or activity or is an undue financial or administrative burden, public entities are not required to provide them. However, public entities are still required to provide another auxiliary aid, if available, that would not have these results.

Other Barriers to Accessibility

Public entities must ensure that individuals with disabilities are not excluded from services, programs, or activities because buildings are not accessible. Where possible, barriers should be removed. The public entity may comply with the program accessibility requirement by delivering services at alternate accessible sites, providing an aide or personal assistant, or providing the service at an individual's home. Government programs may not provide access by physically carrying an individual with a disability (for example, up a flight of stairs), except in "manifestly exceptional" circumstances. While it is not necessary to remove physical barriers, such as stairs, in all existing buildings, any newly constructed or renovated buildings must be free of all architectural and communication barriers that restrict access or use by individuals with disabilities.

The purpose for the removal of barriers and the use of communication aids is to:

- Make services and programs accessible to, or usable by, individuals with mobility, manual dexterity, hearing, or visual impairments in the most integrated setting possible.
- Promote the inclusion of people with disabilities in programs, services, and activities of all public entities.
- Ensure that individuals with disabilities enjoy any right, privilege, advantage, or opportunity received by others who receive any aid, benefit, or service.

Separate programs or services provided to people with disabilities are not permitted in most instances unless the separate programs are necessary to ensure that the benefits and services are equally effective. Even when such programs are available, an individual with a disability still has the right to choose to participate in the regular program. Further, programs may not have criteria that "tend to" screen out people with disabilities.

Title III: Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations and requires that public accommodations and commercial facilities (including social service agencies) be designed and altered to meet accessibility standards. The definition of public accommodation in Title III includes twelve categories of facilities, one of which is "social service center establishments." Implementing regulations (28 CFR Part 36) specifically include rape crisis centers, substance abuse treatment centers, and homeless shelters among the types of establishments that are included.

The requirements of Title III are similar in intent to those of Title II. Public accommodations must satisfy the following requirements:

- Provide services in an integrated setting, unless separate measures are necessary to ensure equal opportunity.
- Make reasonable accommodations in policies, practices, and procedures that deny equal access to individuals with disabilities, unless doing so would fundamentally alter the nature of the services.
- Furnish auxiliary aids when necessary to ensure effective communication, unless undue burden or fundamental alteration would result.
- Remove structural and architectural communication barriers in existing facilities where readily achievable—”easily accomplished and able to be carried out without much difficulty or expense.”
- Provide readily achievable alternative measures when removal of barriers is not readily achievable.
- Maintain accessible features of facilities and equipment.
- Ensure that newly constructed public accommodations and commercial facilities should be convenient to get to, enter, and use for all patrons or employees with disabilities.

MEETING THE REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT

In *The Americans with Disabilities Act and Criminal Justice: An Overview*, Rubin (1993) suggests the following questions to determine whether a governmental agency is meeting the requirements of the ADA:

- Are any modifications to the agency’s policies, practices, or procedures necessary to ensure accessibility?
- Do any eligibility criteria eliminate or tend to screen out a qualified individual with a disability from enjoying the benefits of these programs, services, or activities?
- Do any policies or practices segregate persons with disabilities from others participating in these programs, services, or activities?
- Are any of these programs, services, or activities delivered at a location or facility that has the effect of denying persons with disabilities the right to enjoy the benefits of these programs, services, or activities?
- If alternative services are offered to persons with disabilities, are these benefits unequal to those offered to the public at large?

Rubin suggests that if the answer to any of these questions is “yes,” the agency may need to revise the way it offers its programs, services, or activities.

For further information about ADA compliance, please refer to the *Additional Resources* at the end of this chapter.

NATIONAL LEVEL EFFORTS

On the national level, little attention was given to the issue of how to respond to crime victims with disabilities until the year the ADA was passed. By 1990, the crime victims' discipline had achieved significant recognition and VOCA funding had enabled crime victim assistance and compensation programs to expand services and increase in number. Several milestones that illustrate the victim service field's growing awareness and concern about addressing the needs of victims with disabilities are noted below:

- In 1990, the National Organization for Victim Assistance (NOVA) first helped to bring awareness to the many obstacles faced by disabled victims seeking services with its publication entitled *Responding to Disabled Victims of Crime* in 1990 (Tyiska 1990).
- In 1992, the National Resource Center on Child Sexual Abuse (NRCCSA) published a comprehensive series of articles, written by research and practitioner experts, on the sexual abuse of children with disabilities. In addition, the Center's annual National Symposium on Child Sexual Abuse regularly features a training track on child victims with disabilities (Baladerian 1992; Pawelski 1992; Sobsey 1992; Tobin 1992).
- In 1993, with support from the Office for Victims of Crime, the National Center for Victims of Crime (NCVC) developed a training curricula entitled *Differently-Abled Victims of Crime* that provides extensive information on how to provide specialized services and information to disabled crime victims (Gregorie 1994).
- In 1993, the National Center on Child Abuse and Neglect (NCCAN) released findings from a comprehensive national study entitled *A Report on the Maltreatment of Children with Disabilities*. The study focused on maltreated children who had physical, intellectual, or emotional disabilities. It found a significant correlation between maltreated children and abuse and offered key recommendations for responding to abused children with disabilities (Crosse, Kaye, and Ratnofsky 1993).
- After the passage of The Americans with Disabilities Act in 1990, the National Institute of Justice (NIJ), within the U.S. Department of Justice, launched an initiative to examine the implications of the ADA for criminal justice agencies at the state and local levels. In 1993, NIJ published *The Americans with Disabilities Act and Criminal Justice: An Overview* as a bulletin in its *Research in Action* publication series (Rubin 1993).
- In 1994, Dick Sobsey's books, *Violence and Abuse in the Lives of People with Disabilities: The End of Silent Acceptance* and *Violence and Disability: An Annotated Bibliography*, were published. The texts extensively review literature on violence and abuse toward individuals with disabilities and provide guidance for prevention of abuse and victimization. Although much of the material focuses on individuals with developmental disabilities and abuse in institutions, the books give new weight to the overall issue of victims with disabilities.
- In 1997, the Victims of Crime Committee of the Criminal Justice Task Force for People with Developmental Disabilities in Sacramento, California, issued its report outlining evidence of the high rates of violent and criminal victimization of people with developmental and other substantial disabilities (including mental retardation, autism, cerebral palsy, epilepsy, traumatic brain injury, severe major mental disorders, degenerative

brain disease such as Alzheimer's, Parkinson's, and Huntington's, permanent damage from stroke, organic brain damage, and others). These high rates of victimization, coupled with underreporting of the crimes and low rates of prosecution and conviction, led the Committee to develop fifty-nine recommendations to improve the reporting, investigation, and prosecution of such crimes. In addition, the group called for multidisciplinary teams to provide victim support and numerous measures to prevent abuse and victimization by service providers. Finally, the Committee recommended that the Bureau of Justice Statistics include information on victims with developmental and other substantial disabilities in its Crime Victimization Survey. Members of the Committee, including Daniel Sorensen, chair, and Joan Petersilia, presented the recommendations to the California legislature and to members of Congress (Criminal Justice Task Force 1997).

- On October 27, 1998 the President signed the Crime Victims with Disabilities Act of 1998 which represents the first effort to systematically gather information on the extent of the problem of victimization of individuals with disabilities. This legislation directs the Attorney General to conduct a study on crimes against individuals with developmental disabilities within eighteen months. In addition, the Bureau of Justice Statistics must include statistics on the nature of crimes against individuals with developmental disabilities and victim characteristics in its annual *National Crime Victimization Survey* by 2000. The legislation was sponsored by Senator Mike DeWine (OH), a former prosecutor, and represents an unprecedented level of attention to an often overlooked crime victim group.

VOCA ASSISTANCE GUIDELINES:

PROVISIONS THAT ADDRESS SERVICES TO VICTIMS WITH DISABILITIES

In 1997, the Office for Victims of Crime modified the *VOCA Assistance Guidelines* that give direction and guidance to the states and territories administering VOCA funding to strengthen its message regarding services to victims with disabilities. According to the Office for Victims of Crime, VOCA administrators are *strongly* encouraged to require state and local programs to meet the needs of disabled crime victims. In the *1997 VOCA Guidelines*, allowable costs to accommodate the needs of crime victims with disabilities are addressed as follows:

- *1997 VOCA Guidelines (IV.E.2.d.)*. The costs of furniture, equipment (such as braille equipment or a TTY for the deaf), or minor building improvements that make victims' services more accessible to persons with disabilities are allowable.
- *1997 VOCA Guidelines (IV.E.2.g.)*. VOCA funds generally should not be used to support contract services. At times, however, it may be necessary for VOCA subrecipients to use a portion of the VOCA grant to contract for specialized services. Examples of these services include assistance in filing restraining orders or establishing emergency custody/visitation rights (the provider must have a demonstrated history of advocacy on behalf of domestic violence victims); forensic examination of a sexual assault victim to the extent that other funding sources are unavailable or insufficient; emergency psychological or psychiatric services; or sign and/or interpretation for the Deaf or for crime victims whose primary language is not English.

THE FIRST NATIONAL SYMPOSIUM ON WORKING WITH VICTIMS OF CRIME WITH DISABILITIES

The Office for Victims of Crime within the U.S. Department of Justice provided funding to NOVA to host a two-day “Transfer of Knowledge” symposium on the needs of victims with disabilities. The symposium convened experts (including victims of crime with disabilities) from the fields of disability rights and services, crime victims advocacy and services, and research, January 23–24, 1998, to discuss issues related to the extent of victimization of people with disabilities and how to improve the capacity and preparedness of victim service providers to respond effectively to the needs of crime victims with disabilities.

Highlights of the symposium discussions were published in an OVC Bulletin, entitled *Working with Victims of Crimes with Disabilities* (Tyiska 1998). The Bulletin represents the first attempt to outline recommendations for crime victim and disability advocates, service providers, and Department of Justice agencies with regard to this important topic. The Symposium participants developed fifteen recommendations for criminal justice agencies and victim service programs, eight recommendations for disability rights specialists, ten recommendations for OVC, and five recommendations for other Department of Justice agencies. Excerpts from the recommendations for criminal justice and victim assistance programs are as follows:

Accessibility.

1. Criminal justice agencies and victim service programs should receive training on the requirements of the Americans with Disabilities Act and should support its vigorous enforcement. Such agencies and programs should take advantage of technical assistance that is available and abide by the letter as well as the spirit of the law, ensuring equal access to the justice system.
2. When full implementation is not immediately achievable, criminal justice agencies and victim service programs should initiate a transition plan that focuses on obtaining accessibility by a specified date. Such compliance plans are mandated under Titles II and III, and should guide the development of incremental steps toward accessibility.
3. Criminal justice agencies and victim assistance programs should be proactive in acquiring technology that would help crime victims with disabilities to be informed, present, heard, and understood when they communicate with law enforcement officers, prosecutors, judges, and victim advocates, through all phases of the criminal justice process. (Note: VOCA funds may be used to cover the costs of acquiring assistive devices and other necessary efforts that enable victim service providers and crime victims to communicate effectively.)
4. Once the agency is accessible and staff is trained, criminal justice agencies and victim assistance programs should publicize their ability to work with crime victims with disabilities by putting the universal symbol of access (a line drawing of a wheelchair) and a TDD/TTY number on all literature, promotional materials, and business cards issued by the agency.

Training and networking.

5. Criminal justice and victim assistance personnel should receive training on disabilities, including instruction on disability cultures. In addition, criminal justice and victim assistance programs should enlist qualified people with a wide range of different disabilities to lead the development of policies and programs designed to assist crime victims with disabilities.
6. Criminal justice and victim assistance programs should reach out to local disability service organizations, providing information about victims' rights and services.
7. Criminal justice and victim assistance programs should develop coalitions, as well as cross training and joint training opportunities, with disability advocacy and service programs to build better working relationships and to improve mutual understanding of each others' programs and services.

Improved policies, procedures, and protocols.

8. Agencies should implement or extend streamlined interviewing and intake procedures so that crime victims with disabilities, particularly those with cognitive or communication disabilities, do not have to undergo repeated interviewing in different locations. A multidisciplinary approach involving law enforcement, prosecution, victim assistance, and others as needed, in victim-friendly environments would be far more effective as well as cost-efficient.
9. Agencies should develop and implement specific protocols on disclosures, confidentiality, and safety for crime victims with disabilities, particularly where there is potential for retaliation by a caregiver or a disability services agency. For example, when a crime victim with a disability reports to law enforcement or others that he or she is being victimized by a caregiver, the victim should be provided assistance with relocating or obtaining an emergency replacement caregiver.
10. Criminal justice and victim assistance programs should incorporate into existing policies, procedures, and protocols the specific inclusion of persons with disabilities who are victims or witnesses of domestic violence, sexual violence, child abuse, impaired driving crashes, survivors of homicide victims, or other violent personal crimes, and economic crimes.

In conclusion, the author notes that although few networks exist that link victim service providers with their counterparts in the field of disability, such linkages at the local level hold the greatest hope for policy and programmatic changes that will improve services for crime victims with disabilities. Such a partnership, built on mutual respect and a willingness to share knowledge and ideas, will strengthen the ability of victim and disability advocates to ensure that all crime victims are afforded fundamental justice and access to quality, comprehensive services.

RESEARCH FROM THE NATIONAL INSTITUTE OF JUSTICE

In 1997, the National Institute of Justice (NIJ) released a report entitled *Americans With Disabilities Act: Emergency Response Systems and Telecommunications Devices for the Deaf*. As part of NIJ's *Research in Action* series, the report summarizes results and lessons learned by the incorporation of telecommunication devices for the Deaf through TDD capability in Denver, Colorado's 911 telephone emergency response services.

ADMINISTRATION ON DEVELOPMENTAL DISABILITIES INITIATIVES

The Administration on Developmental Disabilities (ADD) in the U.S. Department of Health and Human Services has given new priority to the issue of preventing victimization and improving the response to individuals with developmental disabilities who are victims of crime. In 1998, ADD funded nine discretionary grants primarily to university affiliated programs which specialize in providing services and training to professionals who work with individuals with developmental disabilities. A list of the programs, which are located around the country, along with their major goals is provided below:

- *End the Silence*, Institute on Disabilities/Temple University, Philadelphia, PA. This project will build on the previous efforts of the Institute on Disabilities to examine the issue of individuals with developmental disabilities in the criminal justice system. The purpose of this project is to "end the silence" and the invisibility of victims with developmental disabilities so that they can be assured equal protection under the law.
- *Coalition on Disability and Abuse: Equity and Equality Under the Law*, Institute on Disability and Human Development/University of Illinois at Chicago, Chicago, IL. The purpose of this project is to promote equal treatment by the criminal justice system of crime victims with developmental disabilities by developing, piloting, and disseminating a modular training curriculum for representatives of the criminal justice system, human service providers, and self-advocacy organizations.
- *Project Equality: Obtaining Justice Under the Law for People with Developmental Disabilities*, Center on Aging and Developmental Disabilities/University of Miami, Miami, FL. Criminal justice personnel are required to make reasonable accommodations to assist individuals with developmental disabilities who encounter the justice system as victims of crime. This project will develop training materials for criminal justice professionals and self-advocates. Self-advocates will receive training about their right to participate in the criminal justice system and their entitlement to appropriate victim assistance and crime prevention strategies.
- *Invisible Victims of Crime—Individuals with Developmental Disabilities*, Vermont Protection and Advocacy, Montpelier, VT. This project is a collaborative effort among organizations representing people with developmental disabilities and key criminal justice agencies. The purpose of the project is to educate criminal justice personnel, allied service providers, and people with developmental disabilities in understanding and responding to the problem of crime and violence against people with developmental disabilities.
- *Advocacy, Collaboration, and Training (ACT) For Justice*, A. J. Papanikou Center/University of Connecticut, Storrs, CT. The ACT for Justice Project is designed to

eliminate physical and attitudinal barriers that prevent an equitable response from the justice system in Connecticut when crimes are committed against consumers with developmental disabilities. Project objectives are (1) conduct research and data collection regarding the nature, type, incidence, extent, and setting of crimes; identify risk factors associated with victims and characteristics of perpetrators; (2) increase responsiveness to reports of crimes against individuals with developmental disabilities; (3) develop methodologies that will promote an increase in self-advocacy behaviors among consumers, effecting a reduction in risk of victimization; (4) promote equitable prosecution and sentencing of perpetrators of crimes against persons with developmental disabilities; and (5) develop and disseminate a model for collaborative, interagency training that can be adapted and implemented throughout other communities in Connecticut and the United States.

- *Safety First: Sexual and Domestic Violence Prevention and Response Strategies for Women with Developmental Disabilities*, Metropolitan Organization to Counter Sexual Assault, Kansas City, MO. This collaborative project of the Metropolitan Organization to Counter Sexual Abuse (MOCSA), Rose Brooks Center (a domestic violence service agency), the University of Missouri—Kansas City University Affiliated Program, and criminal justice organizations has as its goal the improvement of safety, independence, and productivity of women with developmental disabilities through enhancement of the current network that addresses domestic violence and sexual abuse and the enhancement of the consumer’s ability to prevent this violence.
- *The Arc of Maryland*, Annapolis, MD. The Arc of Maryland, in partnership with The Arc of Southern Maryland and The Arc of the United States, proposes to develop, pilot, and evaluate an 8-12 class gender violence prevention curriculum for women and adolescent girls with developmental disabilities.
- *Personal Safety Awareness Center*, Travis County Domestic Violence and Sexual Assault Survival Center, Austin, TX. The Personal Safety Awareness Center (PSAC) will create a statewide abuse/violence prevention and intervention program for persons with disabilities. The project objectives include increasing awareness of Texans with disabilities, families, caregivers, and disability service providers about domestic violence; increasing accessibility of domestic violence/crisis services; and increasing access to counseling/support services for family violence victims who have disabilities and their families.
- *Women with Developmental Disabilities Violence Project*, Oregon Health Sciences University, Portland, OR. The goal of this project is to design, demonstrate, and evaluate a coordinated community education program to empower women with developmental disabilities to prevent, recognize, and address violence.

TERMINOLOGY

Over the last two decades “accepted” terminology related to disabilities has changed significantly. The term “mainstreaming” was used a decade or more ago to refer to enabling individuals with disabilities, particularly children who had been placed in separate special education classes, to participate and receive services in their public school or community.

More recently, the term “inclusion” is used to convey the practice of including people with disabilities in “regular” programs or services, instead of special/separate services. “Least restrictive environment” refers to the optimum environment with the least amount of restriction in which the individual with a disability can learn, develop, and function as independently as possible. For example, an individual with a developmental disability may live in a group home that offers fewer restrictions and more opportunities for independence and community involvement than does living in an institution.

At the time of enactment of the 1973 Rehabilitation Act, the terms “handicapped” and “people with handicapping conditions” was used to describe people with disabilities. In 1990 when the Americans with Disabilities Act was passed, “individuals with disabilities” was commonly used throughout the statute and its implementing regulations to refer to the entire population of people who are covered by the protections conveyed in the Act.

Despite this usage in legislation and laws, one important message is clear: an individual with a disability may be very comfortable with some terms and very uncomfortable with others. The “disability community” is not a single entity with a single set of preferences or concerns about terminology or treatment. In fact, it encompasses a very diverse group of individuals with disabilities and their family members. It is so diverse because literally hundreds of physical and mental conditions that limit major life activities, to a mild or severe degree, are covered by the ADA (for example, diabetes, mental illness, cerebral palsy, and learning disabilities, all of which may be associated with mild or very severe disabilities). Thus, there is no single source of information on terminology that is comfortable to all individuals with disabilities.

INDIVIDUALIZED RESPONSE

The best way to show sensitivity and respect for the preferences of a crime victim who has a disability is to ask the individual which terminology he or she is most comfortable with. For example, some individuals who have a loss of hearing are deaf, while others may have some hearing or be “hard of hearing.” The terms “deaf” or “hard of hearing” may be more preferable to an individual than the term “hearing impaired.” To ensure that the terms you use are not offensive, ask the individual victim for guidance on his or her individual preferences. Many terms used to describe disabilities or individuals with disabilities evoke stereotypes that are negative and dehumanizing to the individual. For example, terms such as “deaf and dumb,” “disabled,” or “wheelchair-bound” have a negative connotation and yet have been used by many people to describe individuals with disabilities. Such terms should not be used.

When designing services for individuals with disabilities, victim assistance providers should be mindful that many advocates for crime victims with disabilities regard the terms “special needs” or “special services” as negative and inappropriate. They point out that victims with disabilities simply want the services to which they are entitled and request reasonable accommodations to ensure that they are accessible. They do not want “special services,” they want appropriate and accessible services that are individualized to meet their needs (Tyiska 1998).

Care also should be taken with regard to the term “victim” when working with crime victims with disabilities. The term “victim” has been used with a negative connotation to refer to many medical conditions, for example “victim of heart disease” or “victim of cancer.” Many disability advocates have fought to overcome this label, and its use following criminal victimization may add an additional burden due to prior experience. This may be a significant issue for some, and not a concern for others. Again, the best way to ensure sensitive treatment of a crime victim is to ask about individual preferences.

GUIDANCE FOR WORKING WITH CRIME VICTIMS WITH DISABILITIES

While no all-encompassing, up-to-date curriculum that outlines strategies for working with all victims with disabilities is currently available, the following section offers guidance for victim assistance service programs on addressing the needs of crime victims with disabilities. These recommended strategies incorporate many of the ideas contained in Gregorie’s *Focus on the Future* (Gregorie 1994) and the recent OVC Bulletin, *Working with Victims with Disabilities* (Tyiska 1998).

The best method of determining what accommodations people with different disabilities need in order to access services is to solicit the input of individuals with different disabilities regarding how to make a program or facility accessible. Contacting local organizations that provide services to individuals with various types of disabilities and inviting their guidance and collaboration in assessing accessibility and planning improvements are essential to achieving a truly accessible victim service program—a program that is barrier-free in both architecture and communication access.

SPECIFIC SUGGESTIONS FOR SERVING CRIME VICTIMS WITH DISABILITIES

- Treat victims with disabilities with compassion, dignity, and respect.
- Ask the individual victim how you should communicate most effectively with him/her.
- Address and speak directly to the victim, even if he/she is accompanied or assisted by a third party.
- Ask the individual victim about whether or what type of physical assistance the individual would prefer, before offering an arm or hand for support or to guide.
- Address the victim’s safety, expressed concerns, and immediate needs first.
- Ask the individual victim if he/she has any transportation or other needs that will require individualized services or arrangements and then attempt to make arrangements to meet those needs.
- Don’t tell the victim with a disability that you admire his/her courage or determination for living with his/her disability.
- With regard to most accommodations, take your cue from the victim.

- When communicating with an individual who is hard of hearing and who prefers to speech-read, face the person directly when speaking. Be sure you have the person's attention before you begin speaking. Speak slowly and distinctly, but not unnaturally. Avoid gesturing and reduce background noise, which may be distracting. Speak in a normal tone of voice without shouting.
- When using a sign language interpreter, have him or her sit next to you so that the hearing impaired victim can easily shift his/her gaze back and forth from the interpreter to you.
- As with all victims, it is appropriate to assist victims with disabilities in becoming acquainted with the physical surroundings of your office and, if necessary, the courtroom where he or she may be coming for interviews and/or hearings.
- When greeting or meeting with a person who is blind or has very limited vision, indicate your presence verbally, identify yourself by name, and speak in a normal tone. If others are also present, ask each person to identify himself/herself. This will enable the blind person to associate the voice with the name and know the relative location of each person.
- When giving directions to someone who is blind or has very limited vision, be as clear and specific as possible. Make sure to identify obstacles in the direct path of travel. To be most helpful, ask the individual, "I would be happy to give you directions. How should I describe things?"
- Do not assume that a victim who uses a wheelchair or walker needs your assistance entering a room. Provide mobility assistance *only* if you are asked.
- Be aware that a person's wheelchair is a part of his/her body space and needs to be treated as such. Do not stand too close to the wheelchair, as this could block the individual's movement with the wheelchair if he or she wanted or needed to move about.
- When working with a person with a developmental disability, give the individual time to respond. Rapid or intense questioning is likely to cause confusion. Talk slowly and calmly, using easy-to-understand language with clear, concise concrete terms. Do not use complex sentences.
- Obtain expert consultation on how best to communicate with individual victims with developmental disabilities and victims with serious mental illness.
- Depending on the victim's level of mental disability, the victim's parent or guardian should be present when meeting with the victim in the office or at another location.

GETTING PREPARED—PROACTIVE STEPS YOUR PROGRAM SHOULD TAKE

- Establish contact, exchange information, and develop a list of local and state organizations and service providers that have expertise in working with individuals with various types of disabilities to provide consultation and to provide information and referral to crime victims.
- Develop a training program for staff to enhance their understanding of individuals with various disabilities in order to better understand the needs of crime victims with disabilities.
- Develop a resource directory of qualified professional (including court certified) interpreters for assistance with deaf victims or others who need facilitated communication.

- Enlist the assistance of service providers and individuals with disabilities in assessing your program's architectural and communication accessibility and in designing appropriate accommodations. Also, tap such individuals and organizations for suggestions on how to make individuals with disabilities aware of the availability and accessibility of services for crime victims with disabilities.
- Ensure that the courtroom and offices are physically accessible to all victims, especially those who may use a wheelchair or walker or who have limited stamina for walking.
- Be aware of the location of wheelchair ramps and accessible restrooms so that you can direct the victim to these facilities, when needed.
- Install a TDD or a TTY telephone or become familiar with the operation of and use a relay service to make your program accessible for deaf victims.

PROMISING PRACTICES

- *Abused Deaf Women's Advocacy Services (ADWAS)*, Seattle, Washington. In 1986, Marilyn Smith founded Washington state's Abused Deaf Women's Advocacy Services (ADWAS), which offers a twenty-four-hour crisis line, counseling and legal advocacy for deaf and deaf-blind victims of sexual assault and domestic abuse. Most staff members and volunteers are deaf or hard of hearing. The program has developed training for both deaf and hearing crime victim advocates and has published educational materials targeted specifically for deaf adult and youth victims. In 1997, the Office for Victims of Crime (OVC) awarded a grant to ADWAS to develop a training and technical assistance package for five cities across the country, to create and expand services for deaf women who are victims of sexual assault and domestic violence, and to provide follow-up technical assistance on-site to replicate its successful program.

After the first year of this project, twenty-three deaf women from five separate communities (the San Francisco Bay area, Minneapolis, Rochester, New York, Boston, and Austin, Texas) were undergoing training for the development of services for deaf women who are victims of sexual assault and domestic violence. ADWAS staff delivered follow-up technical assistance on-site in each of the communities. At the close of 1998, all five communities were preparing to offer a twenty-four-hour crisis line and basic services to victims during 1999. During the next phase of this project, OVC will fund ADWAS to assist the development of programs for deaf women in additional communities, including Washington, DC, Des Moines, Iowa, Burlington, Vermont, and Flint/Detroit, Michigan.

- *The Midwest LEAD Institute—Leadership Through Education and Advocacy for the Deaf (MLI)*. The Institute has developed a program to provide culturally and linguistically appropriate crisis intervention and counseling services to deaf victims of domestic violence. With support from VOCA funds, MLI provides volunteer sign language interpreters for shelters and agencies, and has established a twenty-four-hour 1-800 crisis line for deaf victims of violent crime. MLI also developed a manual entitled *Breaking the Silence—A*

Manual on Domestic Violence and the Deaf Community to help shelters and other agencies meet the needs of their deaf clients (Marshall 1997).

- *The Parent Advocacy Coalition for Educational Rights Center (PACER)*. The Center is a coalition of nineteen Minnesota disability organizations that is staffed primarily by persons with disabilities as well as by parents of children with disabilities. PACER has developed a special program to help teach disabled children about child abuse. The project, entitled “Count Me In,” reaches over 14,000 school children each year. Over thirty trained volunteers take life-sized puppets to schools to promote understanding of children with disabilities and help children feel comfortable with disabled children. These puppets are also used to teach disabled children about child abuse (Grayson 1992).
- *The Bronx Independent Living Services Crime Victims and Domestic Violence Programs, Bronx, New York*. The BILS Crime Victims Program provides assistance to all types of crime victims with disabilities. Victim assistance services include crisis intervention; assistance with the state crime victims compensation application; assistance with housing, Medicaid, or Public Assistance; accompaniment to police stations and courthouses; supportive counseling; information and referral to community service programs; information about the progression of cases through the criminal justice process; support groups; interpreters for sign language and Spanish; a wheelchair lift van for transportation; barrier-free entry to court buildings, shelters, and offices where people can assist victims; and community education and advocacy.
- *Barrier Free Living, Inc. (BFLI), New York City*. As one of the first Independent Living Centers to offer services to domestic violence victims with disabilities, the BFLI offers shelter to domestic violence victims with disabilities and counseling, skills training, court accompaniment, advocacy, and assistance in finding alternative housing. Sign interpreter services and Spanish-speaking staff are available to assist with communication. In addition, van transportation is available.
- *Hennepin County Attorneys Office, Minneapolis, Minnesota*. Working closely with the local police departments, the Hennepin County Attorneys Office developed *Police and People with Disabilities*, a training program that promotes more effective treatment of individuals with disabilities.
- *Domestic Violence Access Project, State of Hawaii*. Using Violence Against Women Act grant funding, the Hawaii Attorney General’s Office supports a statewide effort to link domestic violence programs with programs that serve individuals with disabilities. The linkages are designed to enable shelter programs to receive training on disabilities and make accommodations to increase accessibility to programs.

VICTIMIZATION OF INDIVIDUALS WITH DISABILITIES

SELF-EXAMINATION

1. Identify the types of victim assistance programs that are covered under Title II of the ADA and name two ways that compliance issues may arise for such programs.
2. Who is considered to be a “qualified individual with a disability” under Title II or Title III of the Americans with Disabilities Act?
3. Since enactment of Section 504 of the Rehabilitation Act, must all government programs, regardless of whether they receive federal funding, meet the anti-discrimination requirements of the Act?
4. What are some of the obstacles faced by crime victims with disabilities in receiving victim assistance services?
5. You have just received a case file involving a victim who is deaf and has been referred to your program for services. Name three important factors you will consider in planning your response.
6. List four agencies or organizations in your community that you believe would be helpful in assisting your office to assess how “barrier-free” your programs and services are, and include one reason why you would tap the expertise of each.

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The Department of Justice offers technical assistance on ADA Standards for Accessible Design and other ADA provisions applying to state and local government programs and nonprofit organizations: ADA Information Line: 800-514-0301 (voice); 800-514-0383 (TDD); and on the Internet <<http://www.usdoj.gov.crt.ada.adahom1.htm>>.

The Disability and Business Technical Assistance Centers (DBTACs) are a network of programs that provide information, training, and technical assistance on ADA responsibilities. These regional programs are supported by the U.S. Department of Education National Institute on Disability and Rehabilitation Research. Contact 800-949-4232 (Voice/TDD) or <www.icdi.wvu.edu/tech/ada.htm> for the program in your region.

STATISTICAL OVERVIEW

- In 1998, 220,262 persons were arrested for fraud crimes. An additional 70,678 were arrested for forgery and counterfeiting offenses, and 10,585 persons were arrested for embezzlement (BJS 1999, 214, table 32).
- The U.S. Department of Justice successfully prosecuted 2,613 cases of financial institution fraud in 1998. These convictions netted \$62.4 million in recovered assets and \$491 million in court ordered restitution to the victims of these frauds (Ibid., 305, table 3.159).
- The National Consumer League's Internet Fraud Watch reported a 38% increase in complaints of Internet fraud in 1999 with estimated average consumer loss of as much as \$580.00 (NCL 16 February 2000).
- Online auction complaints were the number one Internet fraud complaint in 1999, increasing 87% over the number reported to Internet Fraud Watch (IFW) in 1998. Other frauds on the Internet were in sales of general merchandise, Internet access services, computer equipment and software, and work-at-home plans (Ibid.).
- A joint study by the Computer Security Institute (CSI) and the Federal Bureau of Investigation (FBI) found that sophisticated cybercrooks caused losses reported in excess of \$120 million in 1998. Five hundred information security professionals were polled representing a cross section of business and government institutions. Nearly one third reported that their computer systems had been breached in the past year (mostly through an Internet connection) (NWCCC 26 March 2000).
- The fifth annual survey of the FBI and the CSI released on March 22, 2000, showed that 70% of systems professionals report being victimized by serious computer crimes and when equipment theft, viruses, and other pilfering are included, the figure rose to 90%. Those claiming cybercrime related financial losses reported totals exceeding \$265 million (Zuckerman 22 March 2000).
- In 1997, the U.S. Department of Commerce estimated employee theft to be \$40 to 50 billion annually, or \$110 million a day, accounting for 20% of all business failures (Ibid.).
- Federal prosecutors filed 371 criminal indictments in health care fraud cases in 1999—a 16% increase over the previous year. A total of 396 defendants were convicted for healthcare fraud-related crimes in 1999. During this same period, the federal government won or negotiated \$524 million in judgments, settlements, and administrative impositions in healthcare cases and proceedings, and ordered convicted offenders to pay over \$490 million in fines, judgments, and settlements (HHS and DOJ January 2000).

SIGNIFICANT RESEARCH

The National White Collar Crime Center (NWCCC) has completed a significant research project designed to measure public attitudes regarding such white collar crimes as fraud and embezzlement, how often American households are victimized by these crimes, and what U.S. citizens think the government should do to prevent these types of crimes. Although many surveys have measured public perception of violent crime and victimization, this is the first survey to measure public views and experiences related to white collar crime. The National Public Survey on White Collar Crime (Rebovich et al. 2000) was administered between January and April 1999, to a total of 1,169 U.S. citizens. Questions included:

- How serious do you believe white collar crime is?
- How safe do you feel from white collar crime?
- Have you or someone in your household been victimized by white collar crime?
- Did you report the victimization?
- What type of person do you believe the average white collar crime victim is?

Major findings include:

- Over one out of three households had been victimized by white collar crime in the last year.
- Widely held opinions concerning the profile of typical white collar crime victims do not reflect the actual profile of such victims as found by recent research on victimization. While 60 percent of respondents believed that those victimized would be over sixty years of age, for instance, earlier victimization surveys (Titus, Heinzelmann, and Boyle 1995) found that younger adults (18 to 34 years of age) and those with some college or college degrees were more likely to be victimized.
- There is a disparity between how Americans believe they would react if victimized and how they do react when victimized (actual rate of crimes reported is much lower than believed.)
- Fewer than one in ten victimizations were reported to law enforcement or law protection agencies.
- The public wants apprehension and sanctioning of white collar criminals increased.

The information gathered from The National Public Survey on White Collar Crime (Rebovich et al. 2000) is highly significant for several reasons:

1. It is clear that the public is sensitive to the ever-increasing threat of white collar crime and strongly supports the existence and enhancement of control programs as well as stronger and more stringent punishment of those convicted of white collar crimes.
2. The results represent a challenge to the criminal justice community regarding public recognition of the behaviors that can precipitate white collar crime victimization and who should be targeted for such education.

3. Survey results are an impetus for exploring ways to increase the reporting of white collar crimes to law enforcement agencies, including developing innovative strategies to increase public awareness of the white collar crime control responsibilities of law enforcement agencies and increasing the awareness of investigators and prosecutors to keep the public informed of important white collar initiatives and the extent to which they succeed.

TELEMARKETING FRAUD

In a recent report to the U.S. Department of Justice, the National Consumers League (NCL) estimated that telemarketing fraud costs Americans at least \$40 billion a year. In 1992, the NCL commissioned a survey of consumers' experience with telephone-based frauds and found that 3 percent of the respondents had bought something over the phone that they later believed was fraudulent. Sixty-two percent said they would not know where to call to find out if the promotion was legitimate, and one in six said that they found it difficult to resist telephone sales (NCL 10 January 2000).

Also cited in the NCL report was a 1999 AARP survey designed to assess consumer experiences in which 17 percent of the respondents believed that they had been the victim of a serious consumer swindle, 2 percent of which were telemarketing frauds. Of the victims of telemarketing fraud who had been identified by federal and state law enforcement officials for the AARP survey, 56 percent were age fifty or older. Further AARP studies indicate that most elderly fraud victims do not make the connection between illegal telemarketing and criminal activity; they find it hard to believe that the nice voice on the phone line would steal from them, and once cheated, they find it difficult to admit that they have been robbed by illegal telemarketers (NCL 1999).

The top ten telemarketing frauds reported to the National Fraud Information Center in 1998 were:

1. Telephone cramming.
2. Advance fee loans.
3. Telephone slamming.
4. Prizes and sweepstakes.
5. Work-at-home plans.
6. Magazine sales.
7. Credit card offers.
8. Pay-per-call services.
9. Business opportunities/franchises.
10. Travel/vacation offers.

INTERNET FRAUD

The Internet Fraud Watch (IFW) at the National Consumer League reported on February 14, 2000, that online auctions sales remain the number one Internet fraud for 1999, increasing to 87 percent. Consumers are losing the largest sums of money, however, in the purchase of computer hardware and software over the Internet. In incidents reported to the IFW, victims have generally paid for goods with checks and money orders, losing the rights they would normally have had they used a credit card. Unlike telemarketing fraud and identity theft, the average age of Internet fraud victims is substantially younger: 23 percent are under thirty; 53 percent are under forty; and 80 percent are under fifty (NCL 14 February 2000).

The ten most frequently reported types of Internet frauds as reported by IFW for 1999 are: (1) online auctions (by far the most frequently reported scheme); (2) general merchandise sales; (3) Internet services; (4) computer equipment and software; (5) work-at-home schemes; (6) advance fee loans; (7) magazines; (8) adult services; (9) travel/vacations; and (10) pyramid/multilevel marketing schemes. The IFW program received 7,439 reports of fraud in 1998, and in 1999 the complaints increased to 10,660, averaging 890 per month (IFCC 2000).

IDENTITY THEFT LEGISLATION

While the passage of the Identity Theft and Assumption Deterrence Act (18 USC 1028) in October 1998 marks significant progress, there are at least 400,000 victims of identity theft a year in this country and the number is growing, according to Beth Givens at the Privacy Rights Clearinghouse, a nonprofit consumer advocacy program in San Diego. The new legislation provides no incentives to the credit industry to curb their solicitation and verification practices. Givens believes that unless the credit industry granting and reporting practices change dramatically, the rates of identity theft in the United States will remain at epidemic proportions. "Credit grantors are too eager in their competitive zeal to get new customers, and they do not adequately check the identities of applicants before granting credit" (Givens 29 August 1999).

Some indication that identity theft is a prominent consumer concern is represented by a Spring 2000 direct mail promotion from the American Express Corporation (AMEX), entitled "Is Someone Using Your Name to Open Accounts?" Through the services of a financial information company in Chantilly, Virginia, AMEX has set up a program to monitor for identity theft for its customers (available for \$5.99 a month, charged directly to the AMEX card). The program provides a three-bureau credit profile; ongoing monitoring of account activity; and notification reports of any new accounts opened, negative information added, or significant changes in account status.

CYBERCRIME LEGISLATION

As commerce on the Internet grows, law enforcement agencies are observing a growing variety of fraudulent schemes that use the Internet, either to communicate false or fraudulent representations to prospective victims or to obtain valuable information or resources necessary for the success of the schemes. Common Internet fraud schemes include so-called "pyramid schemes"; entities that purport to be Internet banks that offer above-market rates for deposits; companies that promise to repair consumers' credit, but then do nothing after taking consumers' money; companies that purport to offer investments in nonexistent items; and companies that fraudulently offer to sell Internet-related good and services, or collectible goods through online auctions. Finally, some fraud schemes combine use of Internet Web sites with telemarketing "boiler rooms" to enhance direct contact with prospective victims (DOJ 9 March 2000, Appendix B).

While the U.S. Attorney General's Office has discussed strengthening the Computer Fraud and Abuse Act of 1986 to close loopholes that permit some highly destructive computer hackers to escape punishment, all of the above mentioned activities may violate one or more of the general federal criminal statutes dealing with fraud and can be prosecuted. Because these federal criminal and civil laws make no distinction between fraudulent representations over a telephone or fax machine and fraudulent representations posted on an online bulletin board or Web site, federal substantive law appears generally adequate to address Internet fraud. In addition, the Federal Trade Commission (FTC) has authority to bring civil actions against fraudulent Internet schemes under the FTC Act, which prohibits unfair and deceptive acts or practices (Ibid.).

INTERNET FRAUD COMPLAINT CENTER

On May 8, 2000, the Federal Bureau of Investigation, jointly with the U.S. Department of Justice and the National White Collar Crime Center, announced the creation of the Internet Fraud Complaint Center (IFCC). The IFCC was established to combat the growing problem of fraud occurring over the Internet by providing a vehicle for victims around the country to report incidents of fraud online (FBI 8 May 2000). The IFCC mission statement is: "To develop a national strategic plan to address fraud over the Internet and to provide support to law enforcement and regulatory agencies at all levels of government for fraud that occurs over the Internet."

Internet fraud is defined as any fraudulent scheme in which one or more components of the Internet, such as Web sites, chat rooms, and e-mail, play a significant role in offering nonexistent goods or services to consumers, communicating false or fraudulent representations about the schemes to consumers, or transmitting victims' funds, access devices, or other items of value to the control of the scheme's perpetrators (IFCC 2000). Consumers can go to the secure IFCC Web site < www.ifccfbi.gov > to file complaints directly online. IFCC's personnel analyze the complaints to determine jurisdiction, conduct appropriate investigation, and disseminate the information to the appropriate local, state, and/or federal law enforcement agencies for criminal, civil, or administrative action.

The IFCC is a major step forward in the fight against Internet fraud, an area of white collar crime that remains largely undefined in terms of scope and magnitude. No one knows the full extent of the commission of Internet fraud—not all victims report the crimes, and those who do report, do not report it to one place. The IFCC represents the development of a proactive strategy to combat Internet fraud through public education and awareness, the availability of a central repository for the reporting of Internet fraud complaints, and the aggressive analysis, investigation, and referral to law enforcement of criminal complaints of Internet fraud.

FEDERAL INITIATIVES

COMPUTER CRIME AND INTELLECTUAL PROPERTY SECTION

The cornerstone of the U.S. cybercrime program is the Computer Crime and Intellectual Property Section (CCIPS) at the U.S. Department of Justice. CCIPS was founded in 1991 as the Computer Crime Unit and was elevated to a Section in 1996. The CCIPS staff consists of two dozen lawyers who focus exclusively on the issues raised by computer and intellectual property crime. Section attorneys advise federal prosecutors and law enforcement agents; propose and comment upon legislation; coordinate international efforts to combat computer crime; litigate cases; and train law enforcement groups. Other areas of expertise possessed by CCIPS attorneys include encryption, electronic privacy laws, search and seizure of computers, e-commerce, hacker investigations, and intellectual property crimes (Reno 2000).

IDENTITY THEFT

At the National Summit on Identity Theft, on March 15–16, 2000 the U.S. Treasury Department announced four new initiatives to help combat identity theft:

- Skimming and counterfeit check databases will be used to identify common suspects and defendants of identity theft and to address criminal trends prevalent in financial crimes today. The U.S. Secret Service developed the databases in partnership with the financial industry.
- A computer-based training module developed by the Secret Service that focuses on financial crimes and the relevant statutes, including identity theft, will be made available to federal, state, and local law enforcement officials throughout the U.S.
- A pilot program developed by the Secret Service and Citicorp to help identify suspicious activity in electronic commerce will attempt to develop a protocol for the identification of identity theft and other schemes used to commit bank fraud, credit fraud, and money laundering within electronic commerce and the immediate notification of law enforcement authorities.
- Forums and mini-conferences will be held to maintain a dialogue between the private and public sectors.

PROMISING PRACTICES

- *Fact Sheets from the Privacy Rights Clearinghouse (Identity Theft)*. The Privacy Rights Clearinghouse, in collaboration with the California Public Interest Research Group (CALPIRG), has developed several fact sheets and publications on identity theft. In addition, CALPIRG has developed an invaluable information guide with names, addresses and contact telephone numbers of institutions, government and criminal justice agencies, banks, and credit bureaus that it makes available to criminal justice professionals to include in their local guides to identity theft prevention and response protocols. Fact sheets speeches, case studies and referrals to victim support groups are available from the Privacy Rights Clearinghouse, 1717 Kettner Avenue, Suite 105, San Diego, CA, 92101 (619-298-3396 <<http://privacyrights.org>> and CALPIRG, 926 J. Street, Suite 713, Sacramento, CA 95814 (916-448-4516) <<http://www.pirg.org/calpirg>> .
- *Identify Theft: Ways to Prevent It from Happening to You and Identity Theft: What to Do When It Happens to You*. The Office of the Prosecutor in Union County, NJ has developed two excellent free brochures, one that instructs the consumer on how to prevent identity theft, including keeping personal information private, shredding credit card and other financial information, watching for mail theft, and ordering credit reports. The second brochure advises how to respond quickly and thoroughly to identity theft when it occurs, including filing police reports, reporting to the appropriate financial and credit institutions with numbers to call, and contacting the federal and state agencies that issue documents of identification, i.e., passport, social security number, and driver's license. Union County Prosecutor's Office, County Administration Building, Elizabethtown Plaza, Elizabeth, NJ 07207 (908-527-4505).
- *Identity Theft Survival Kit*. Written by Mari Frank, an attorney and victim of identity theft, as a guide to assist other victims, the kit includes the book *From Victim to Victor*, attorney-written form letters on diskette, six audiotaped interviews with experts on procedures to follow to effectively extricate oneself from credit complications resulting from identify theft, and interviews with other victims. The Identity Theft Survival Theft can be purchased from Porpoise Press, 28202 Cabot Road, Suite 215, Laguna Niguel, CA 92677 (800-725-0807) <<http://www.identitytheft.org>> .
- *The National Fraud Information Center (Telemarketing Fraud)*. In 1992, the National Consumers League (NCL) created the National Fraud Information Center (NFIC) to advise consumers on how to spot possible frauds and report them. Professional counselors at the NFIC provide feedback to callers on reports of possible telemarketing scams, make referrals to the appropriate law enforcement agencies, and give reassurance to victims of fraud that they are not alone. In the case of elder victims, the center also advises friends and relatives who are concerned about elder fraud. NFIC distributes free materials on different types of telemarketing frauds. NCL also offers a twenty-minute video (available for a small fee) of personal stories told by fraud victims and helpful advice for seniors and their families. National Consumers League, 1701 K Street, NW, Suite 1200, Washington, DC 20006. National Fraud Information Center Hotline (800-876-7060).

- *Be-Wise: How to Shop Safely Online* (Internet Fraud). The NCL has released a brochure to educate consumers about shopping safely online. The *Be-Wise: How to Shop Safely Online* brochure is available on NCL's two Web sites: <<http://www.nclnet.org>> and <<http://www.fraud.org>> or by calling 800-639-8140.
- <<http://www.cybercrime.gov>>. CCIPA at the U.S. Department of Justice has launched a Web site that provides material to consumers and law enforcement on Internet-related cybercrime. Materials on the subject include how to report a crime, prosecuting hackers, intellectual property piracy and counterfeiting, international aspects of cybercrime, and the legal issues related to e-commerce, freedom of speech, the search and seizing of computers, encryption and privacy rights.

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ABSTRACT

Criminal justice officials have begun to recognize that victims of financial crimes, such as telemarketing or investment fraud, identity theft, and elder financial exploitation, have many of the same needs as victims of violent crime. In response, these victims are beginning to see an increase in services and resources available to them. It is important to develop a basic understanding of the impact of these crimes and how the federal criminal justice system addresses victims' rights and needs. Victims of financial crime may suffer severe psychological and financial harm, and sometimes physical effects as well. They require assistance and intervention that take into account their particular needs and the unusually complex nature of these cases.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- Important legal, programmatic, and definitional issues in financial crimes such as investment and telemarketing fraud, identity theft, and elder financial abuse or exploitation.
- Needs of victims of financial crime.
- Innovative services at the local, state, and federal level to address each type of crime.
- Funding available through VOCA to support innovative victim assistance programs to work with these underserved victims.
- Appropriate and collaborative methods for handling cases involving financial crime.
- Promising practices in response to financial crimes.

INTRODUCTION

Financial crimes include offenses commonly called “white collar crime” such as telemarketing scams, investment or pension fraud, elder financial abuse, and identity theft. Victims of financial crimes represent a tremendously underserved and poorly understood segment of the victim population. This is due to several factors:

- The initial emphasis of the victims' rights movement focused on serious *violent* crime, with little attention paid to financial crime victims.
- Lack of research and understanding regarding the serious emotional impact of these crimes on the victims.

- Lack of consistency in the response of law enforcement and victim services to these crimes.
- The fact that in the federal system, and in some states, financial crime victims do not have the same rights as victims of violent crimes in the criminal justice process.
- No organized constituency group advocates for financial crime victims' rights and services.
- Insufficient allocation of resources, including funding for personnel, to provide services to multiple victims in large scale cases.
- Lack of partnerships among victim assistance, elder abuse advocates, and consumer advocacy groups to address fraud and other financial crime victims.
- The significant number of victims of certain categories of financial crime who are elderly have historically been poorly served and have typically underreported their victimizations.

RESEARCH FROM THE NATIONAL INSTITUTE OF JUSTICE ON FRAUD

The lack of sufficient data on the extent of fraud victimization was highlighted in a recent report entitled *Victimization of Persons by Fraud*, based on research supported by the National Institute of Justice. The report (Titus, Heinzelmann, and Boyle 1995, 54) stated:

The FBI's *Uniform Crime Reports* (UCR) and the Justice Department's *National Crime Victimization Survey* (NCVS) provide annual tabulations on property and violent crimes, based on crimes reported to the police and surveys of households. However, they do *not* provide information with regard to the victimization of persons by fraud.

Crimes of fraud are targeted against individuals and employ deception for the purpose of obtaining illegal financial gain. They involve the misrepresentation of facts and the deliberate intent to deceive with the promise of goods, services, or other financial benefits that in fact do not exist or that were never intended to be provided. This includes:

- Various forms of telemarketing.
- Frauds involving consumer goods or services.
- Frauds dealing with financial advice, insurance coverage, pension, investment or business schemes.

DEFINING FINANCIAL CRIME

Lack of a clear definition of financial crimes, white collar crime and fraud is evident because there is no unified or standardized definition of financial crime victimization. This is an issue that must be addressed first in order to better define the universe of financial crime victims so that appropriate responses to victims can be planned and implemented.

For example, many people use the terms white collar crime, fraud crime, and financial crime interchangeably. However, white collar crime is really a particular sub-category of fraud involving perpetrators of a particular status or method or opportunity involved in committing a crime. Fraud crimes are a larger category within the field of financial crimes. Fraud permits inclusion of identity theft, elder financial abuse, counterfeiting, bribery, and various corporate wrongdoing and embezzlement crimes. Financial crime is a much broader definitional term that can include *all* aspects of financial victimization.

Wellford and Ingraham (1994) list competing definitions of financial crime:

- Sutherland (1983) stated: “white collar crime may be defined approximately as a crime committed by a person of respectability and high social status in the course of his occupation.”
- Various definitions adopted by State Attorneys General and U.S. Attorneys indicate that they, “in general . . . look more to the *way* the crime is committed . . . than the nature or social status of the offender or the social context in which the crime is committed.”

Significant issues regarding the appropriate definitions of financial crime include matters such as the type of victims in question, including determination of whether victims are individuals or organizations, and the nature of crimes involved. Wellford and Ingraham (1994) suggest *three* different classes of white collar/fraud crimes:

1. Business and professional crimes.
2. Occupational crimes.
3. Individual frauds.

Tomlin (1982) describes five basic victim typologies:

- The individual as victim.
- Corporate or business enterprises as victims.
- Government institutions as victims.
- The international order as victims.
- Society as a victim.

Clearly the impact of financial crime is far-reaching, in many cases going far beyond the individual victim. In order to address this ever-growing area of crime, the consequences of such crime must be clearly defined and understood. “If a particular society cannot and will not control its propensity for white collar crime, then it will pay the consequences. The consequences, latent and manifest, will be in the areas of distrust of government and other institutions, a damaging effect on the moral fabric of society, and in the propensity of the populace to rationalize the existence of other types of traditional crimes” (Tomlin 1982). This cumulative community or societal impact may be considerable, but little research has been done (Moore and Mills 1990).

EXAMPLES OF FINANCIAL CRIME

Victims of financial crimes including fraud and identity theft may include individuals and small and large institutions. The following are examples of financial crimes:

FINANCIAL CRIME

- Mail fraud.
- Bankruptcy fraud.
- Wire fraud.
- Computer fraud.
- Health care and insurance fraud.
- Pension and trust fund fraud.
- Mail theft resulting in check washing.
- Credit card fraud.
- Embezzlement.
- Securities and investment fraud (including commodities).
- Reverse mortgage fraud.
- Cellular phone fraud.
- Antitrust fraud.
- Telemarketing fraud.
- Advance fee schemes.
- Identity theft.
- Elder financial exploitation.

Depending on the crime, or the amount of loss involved, such crimes can be investigated by federal, state, or local law enforcement. Unlike violent crime, state or federal regulatory agencies may also investigate cases in a civil or administrative action. Such cases may or may not also include a criminal prosecution. State Departments of Insurance, Real Estate, Corporations, and the U.S. Securities and Exchange Commission are examples of such agencies.

In addition, consumer protection divisions (either federal, state, or local) may also be involved in investigation and civil prosecution of cases involving financial crimes. Agencies such as these work closely with law enforcement and refer cases for criminal prosecution when appropriate.

Victim advocates who wish to work with financial crime victims should become aware of these different agencies and their roles and resources (such as recovery funds or brochures to help financial crime victims). For example, the Federal Trade Commission has a brochure, "Straight Talk About Telemarketing" that could be sent by victim advocates or law enforcement to victims of telemarketing crimes. Often, electronic information is available for downloading on these agencies' Web sites.

IMPACT OF FINANCIAL CRIME ON VICTIMS

Financial crime victims suffer many of the same devastating outcomes as do victims of violent crime (Kusick n.d.). Indeed, certain financial crime victims may suffer more emotional distress. In his 1989 article “White Collar Crime: What About the Victims?” Wells notes some of the following effects suffered by victims:

- Guilt and shame.
- Disbelief.
- Anger.
- Depression.
- Sense of betrayal.
- Loss of trust.

These emotional repercussions are often misunderstood by law enforcement, criminal justice professionals and victim service providers, and the community at large, and the victim is often doubly victimized by this dynamic. Walsh and Schram (1980) described this phenomenon:

People who have lost money to nonviolent white collar criminals (like swindlers and con artists) often encounter skepticism, suspicion, and contempt when they seek help. This negative treatment leaves them feeling guilty and ashamed. The double standard used in handling white-collar offenders and their victims—as opposed to handling street criminals and their victims (except rape victims)—has been attributed to the higher status of the accused perpetrators, the difficulty of establishing criminal intent in such cases, and a belief that imprisonment is not the cure for this kind of stealing.

Another factor is the largely ambivalent attitude toward and negative image of these victims held by the public and by criminal justice officials. A number of aphorisms blame these victims: fraud only befalls those of questionable character, an honest man can't be cheated and people must have larceny in their mind to fall for a con game. The stereotype of cheated parties is that they disregard the basic rules of sensible conduct regarding financial matters. They don't read contracts before signing and don't demand that guarantees be put in writing before making purchases. Their stupidity, carelessness, or complicity undermines their credibility and makes others reluctant to activate the machinery of the criminal justice system on their behalf, to formally condemn and punish those who harmed them, and to validate their claims to be treated as authentic victims worthy of support rather than as mere dupes, losers, or suckers who were outsmarted.

EMOTIONAL IMPACT

Victims of financial crime often describe a tremendous violation of their personal integrity and sense of trust. Because these psychological “wounds” are not perceived in the same way as wounds to the body, nor as generally understood as the emotional scars of a sexual assault, the effects on financial crime victims are often, and very inappropriately, minimized. Wells noted that white collar crime victims, unlike victims of violent, physical crime, have “wounds” that “are not always easy to see and are most often internal rather than external.” However, he goes on to support the notion that white collar crime victims have a similar sense of violation and often require “psychological first aid.”

In Roles, Rights, and Responsibilities: A Handbook for Fraud Victims Participating in the Federal Criminal Justice System (Alexander and Seymour 1998), an excellent overview of the emotional impact of fraud crimes on victims is offered:

Fraud crime is a personal violation. Your trust in your own judgment, and your trust in others, is often shattered. You may feel a sense of betrayal, especially if the perpetrator is someone you know.

You may have hesitated to tell family members, friends or colleagues about your victimization for fear of criticism. If they then were exploited by the same fraud, you might feel guilty and suffer a sense of isolation.

Fraud crimes can destroy your financial security and sometimes that of your loved ones. If you are elderly, disabled, or on a fixed income—and you lack opportunities to recover your losses—you may face additional trauma, even the loss of your independence.

You may experience feelings about:

- Yourself for the part you played in the crime.
- The fraud criminal for taking financial advantage of you, betraying your trust, and jeopardizing your financial independence and security.
- Your family, friends, and colleagues for blaming you, being upset over what they perceive as your lack of judgment, or withdrawing financial or emotional support.
- The investigative and prosecutorial phases of the justice process, especially in cases that progress slowly or do not result in financial outcomes favorable to you.
- The news media for failing to warn the public about fraud schemes or for exploiting victims when fraud crimes are reported.
- Consumer protection agencies for failing to protect your interests.
- Creditors who don't understand your dire financial circumstances.
- Community, state and federal agencies if their resources are limited, or they do not have the authority to help you.

You might find the criminal justice process intimidating and stressful due to several factors:

- Unfamiliarity with the justice process, your role and rights in it, and services available to you.
- Fear of confronting the person who defrauded you.
- Fear of others' judgmental attitudes and actions.
- Fear of public disclosure, especially if you have not told anyone close to you about the crime.

Victim self-blame. One particular characteristic of financial crime victims that may occur in even higher degrees than in cases of violent crime is self-blame. Financial crime victims' self-blame is often extremely high and sometimes debilitating. This may be exacerbated by the insensitive professional and societal responses described above. Since the perpetrator of financial crime typically uses methods that involve first gaining the confidence and trust of the potential victim and then using manipulation and trickery to achieve their goals of robbing the victim of his or her various assets, the victim's ability to trust may be shattered. Many victims

may no longer trust their own ability to handle financial matters, and some no longer trust their own ability to judge people.

Impact on family and friends. Many victims, unaware of the fraudulent investment or scheme, encourage family and friends to participate. When the fraud is uncovered, they may be resentful and often blame the victim. This may lead to mistrust of the victim by a family member or spouse in handling financial affairs. Victims may also experience separation and isolation from family members and friends who may expect the victim to repay their financial losses. Some victims try to hide the fraud from family members out of shame and the fear of repercussions when they find out about the fraud.

Isolation, separation, and even divorce are not uncommon after a large fraud case. In the case of financial elder abuse or sweetheart swindlers, the perpetrator often will manipulate the victim and family to isolate a victim from relatives who could help. In telemarketing cases, elderly people will often attempt to hide their various transactions with illegal telemarketers from their families. They may fear that if family members learn of the extent of their losses, control of their home and entire retirement will be signed away, and they will lose their financial independence. This often makes it more difficult to find services for these victims because they do not want others to know the extent of their victimization. Often such cases are not identified until a victim has died or is found not competent to handle their affairs due to Alzheimer's disease or another debilitating medical condition.

Personal violation. Financial crime victims justifiably feel a sense of tremendous violation. The net result is often a life in financial and emotional ruin, seemingly out of control with no recovery in sight. Because these crimes may appear obvious in retrospect, the victims, who may already feel like they should never have fallen for such an obvious scheme, are frequently not viewed by professionals and society as "legitimate" victims, even though there is often nothing the victim could have done in advance that would have prevented the fraud.

This is compounded by the fact that many financial crime schemes involve investments and other financial arrangements that may lead some to feel that it was the victim's own greed that caused him or her to be blinded to the realities of the situation. Therefore, attitudes of professionals and others frequently will not exhibit a sense of outrage at the plight of the crime victim that normally accompanies their response to victims of violent crime. Consequently, many fraud victims conclude that perhaps they are to blame.

In reality, many of these kinds of scams are based on a long-term relationship of trust with the perpetrator, often within some kind of affinity group affiliation, such as a church or local Lions Club. "The one thing the lowliest con man and the highest white collar offender would seem to share is salesmanship—the capacity to convince others that the person in question is worthy of their trust and their money. The same salesmanship that leads some persons to be chosen as 'man of the year' by their companies can also be used for illegitimate purposes. The capacity for concealment or manipulation, for saying things without meaning them, unites virtually all forms of nonviolent, financially motivated frauds" (Weisburd et al. 1991, 188).

Lack of closure. Victims of financial crime, similar to victims of violent crime, may never see the perpetrator of their crime again. If they do, they observe that the perpetrator often escapes all sanctioning or punishment. Even if the perpetrator is located, the scheme has often been adequately layered with buffers which keep the individual perpetrator from prosecution. If arrested, alleged perpetrators often liquidate their assets and if prosecuted and convicted, typically employ methods such as bankruptcy to avoid paying adequate restitution to their victims. Even when the prosecution of these cases is successful, victims may have to endure many years of emotional and financial struggle and turmoil, only to receive an insignificant outcome.

Many fraud victims in both state and federal cases are not told that an arrest or prosecution has occurred, as a prosecutor may decide there are too many victims to notify or that only a few victims will be included as counts for indictment and/or restitution purposes. This can be devastating to victims' ability to be heard, especially at sentencing, if there is no opportunity to submit victim impact information, seek restitution, or seek prison status or release information. Many victims may not even know that restitution was awarded in a case.

PHYSICAL AND MENTAL HEALTH ISSUES

While the issue of physical and mental health effects has not been widely researched, studies indicate the impact of financial crimes can take a severe physical and/or emotional toll, including depression and suicidal ideation (Ganzini, McFarland, and Bloom 1990). "Neglect of white collar crime victims seems particularly unfortunate in light of its enormous physical, economic, and social toll . . . Victims of some white collar crime suffer death; others sustain serious injuries or exposure to unsafe working conditions that cause long-term, progressively debilitating illness; and financial losses may leave still others with a lower status of living" (Moore and Mills 1990, 411).

While many studies have focused on the needs of violent crime victims, little research has been conducted for victims of fraud crimes (Ganzini, McFarland, and Bloom, 1990). In the Ganzini study, one of very few studies focusing on the psychological impact of major fraud crimes, victims of four investment scams that occurred in Oregon during the 1980s were questioned. Of the seventy-seven victims studied, it was found that 29 percent suffered a major depressive episode after the crime, compared to two percent of a control group. Five victims developed suicidal ideation, while 45 percent had a generalized anxiety disorder and depressed characteristics. Forty-eight percent of those having a depressive episode continued to have depressive symptoms six months later. The study hypothesized that the "persistence of symptoms may be the result of a domino effect whereby the initial financial loss resulted in subsequent catastrophes such as loss of home or difficulty paying debts and taxes" (Ganzini, McFarland, and Bloom 1990, 60).

Financial crime victims tend not to seek appropriate mental health or psychological support. When they do, it is usually through a counselor covered by private insurance or a religious advisor. Victim service providers can assist financial crime victims in either developing their own support groups, or in seeking appropriate emotional support from trained professionals. Other issues that are often not considered when working with financial crime victims are—

- Increased susceptibility to physical illness or death.
- The possibility of physical violence within the family of the victim, including elder, child, and/or partner abuse.
- Substance abuse as a reaction to the victimization.
- An increased risk of suicide.

REPETITIVE VICTIMIZATION

For victims to be swindled on several occasions is not uncommon, sometimes repeatedly by the same individual, or by other swindlers who have acquired their name as potential “dupes” from previous perpetrators. Financial crime perpetrators share lists of potential victims, including individuals who have previously fallen prey to their crimes. The criminal justice or victim service professional, family, and friends often have difficulty understanding how someone could continue to give their money away to scam artists. Sadly, for many elderly victims of financial crime, contact with these smooth-talking criminals may be one of the few, if not only, contacts they have with people who appear to take an interest in them.

EMERGING ISSUES IN FINANCIAL CRIME

IDENTITY THEFT

Identity theft occurs when one individual misappropriates another person’s personal identification information—name, social security number, date of birth, mother’s maiden name—and uses it to take over existing credit card or bank accounts, apply for a mortgage or car loan, make large purchases, apply for insurance. In many cases, unsuspecting victims have no idea that anything is amiss until they receive irate phone calls from creditors or have trouble applying for a job, loan, or mortgage. They then discover that their credit has been seriously damaged or even ruined by any number of purchases or other financial obligations undertaken in their name by the impersonator. In what may be the worst possible scenario for victims of identity theft, the impersonator may commit a separate criminal act, resulting in the victim actually facing criminal charges for a crime committed by an imposter (Mannix 1998).

Incidences of identity theft have increased dramatically over the last several years. This is due, in part, because of new technologies such as the Internet that have enabled criminals to gain access to victims’ financial information with greater ease than ever before. In a May, 1998 report from the General Accounting Office, Trans Union, one of three major credit bureaus, reported that two-thirds of all consumer inquiries related to identity theft. In 1997, these inquiries totaled 522,922, up from a total of 35,235 in 1992. The rise was attributed to “increasing cases of identity fraud, as well as to company growth and better consumer outreach” (AP 1998). The GAO report found that identity theft was increasingly detected by government agencies, including the Secret Service, Postal Service, and Internal Revenue Service. Moreover, the Secret Service reports that financial losses to victims and institutions totaled \$745 million in 1997, while only two years earlier, such losses amounted to \$442 million (Mannix 1998).

Victims of identity theft face an enormous and arduous task in repairing both their credit rating and their emotional well being. One of the biggest obstacles traditionally faced by these victims is the fact that they are, more or less, completely on their own in clearing their financial records. The prevailing attitude on the part of most creditors who are advised of an occurrence of identity fraud is one of downright skepticism. Most creditors require identity-theft victims to submit an affidavit testifying to the fact that they did not incur the debt themselves. Many creditors may require more, including the submission of copies of the victim's driver's license, Social Security card, or birth certificate. Understandably, many victims who are in the midst of the quagmire of identity theft are not eager to hand over these personal identification items, particularly since many victims suspect that it is a creditor's negligence (i.e., inadequate verification of the identity of an applicant) that may have led to the identity theft in the first place (Ibid.).

Proactive Steps for Victims of Identity Theft. While the obstacles and hurdles faced by victims of identity fraud and theft are daunting, they *can* be overcome. As legislative efforts proliferate, public awareness of the devastating impact of this crime increases. As the criminal justice system begins to respond more specifically to the needs of victims, support and services will hopefully become much more readily available. It is crucial, however, for victims of identity theft to take proactive steps to protect themselves and restore their favorable credit ratings. In *From Victim to Victor*, Mari Frank, an attorney and a victim of identity theft herself, outlines a comprehensive plan of action for identity theft victims, which is summarized as follows:

1. ***Contact credit bureaus.*** Contact the fraud units of all three major credit reporting firms, TransUnion, Equifax, and Experian (each may have a different version of the credit report), to report the identity theft. Some credit bureaus may agree to “flag” an account on which there is suspected fraud.
2. ***Alert creditors.*** Immediately call or write all creditors to report the fraud. Request that all fraudulent accounts be cancelled and all fraudulent information on the credit report be removed. It is crucial *not* to cancel any account unless fraud has been committed, so that no suspicion is raised, making it that much more difficult to get credit later.
3. ***Report the crime to the police.*** Once discovered, report the crime within twenty-four hours to the fraud units of the local police and sheriff's department as well as the local police's economic crime unit (if there is one). Make sure a written report is filed and you obtain a copy.
4. ***Do not pay fraudulent bills.*** Never pay bills or cover checks that are not yours, even if that would alleviate your immediate credit problems. Such an action will most likely constitute a legal admission that these debts belong to you.
5. ***Get a new ATM card.*** If your ATM or debit card has been stolen, have a new card issued with a new account number and pin number. Do not continue to use your old pin number.
6. ***Alert your public utilities.*** Contact your local utilities, including telephone, electric, gas, trash, and water. Alert them to the fact that you have been the victim of identity theft and

request that they issue you a password that is used for any communication regarding your account.

7. *Contact appropriate governmental agencies.* Provide written documentation of the fraud and associated financial losses to the Federal Trade Commission, Secret Service, and (if appropriate) the Social Security Administration.
8. *Check on other items of personal identification.* Make sure that other pieces of identification, such as a passport or driver's license, have not been compromised. If so, cancel the old one and apply for a new one.
9. *Conduct a civil and criminal court check.* Conduct a search of the Knowx Web site <www.knowx.com> to determine if any civil actions may be pending or civil judgments entered against you. There is no charge for the search, but there is a fee if you find records you need. You may need the assistance of court personnel or a criminal attorney in determining whether any criminal charges have been filed against you. If so, this poses an extremely serious problem and you should hire a criminal attorney or, if necessary, request the appointment of a public defender.
10. *Take care of your emotional needs.* Remind yourself that you are not alone, that other people are going through the same kind of victimization, and it is very normal to feel hopeless, enraged, frustrated, or overwhelmed. Seek out emotional support from family, friends, and/or counselors who appreciate and understand the difficulties of your situation. When speaking with creditors, banks, or other involved agencies, remember that the person you are talking to is not personally at fault. When dealing with creditors or other interested parties, do everything possible to remain calm and objective so that you can most effectively obtain the information and help you need.
11. *Seek changes in the law.* Channel your frustration and anger into educating the public and advocating for changes in your state laws that will increase the prosecution of identity theft crimes and enhance the rights of identity theft victims.
12. *Don't give up!* Accept that this will be a long process, requiring perseverance and a great deal of hard work. In communicating with creditors and other agencies, use your own form letters wherever appropriate and keep complete and accurate records of all such correspondence and communication. Always resist the temptation to just go ahead and pay off the fraudulent debts (Frank 1998).

INTERNET FRAUD

As described above, Internet fraud can play a large role in crimes of fraud such as identity theft. In response to this growing threat and in recognition of the need for efforts to preserve consumer confidence in the Internet, President Clinton announced, in May 1999, the establishment of a new national initiative to address the problem of Internet fraud. The Internet Fraud Initiative marks the first time that the Department of Justice has made Internet fraud a priority. The Initiative involves a collaborative six-part approach as follows:

- First, the Department of Justice will gather and develop information about the nature and scope of the problem of Internet fraud.

- Second, the Department of Justice is developing coordinated training for federal, state, and local law enforcement personnel and prosecutors. In recognition of the ever-evolving nature and rapid growth of Internet fraud, all training will be updated with the latest developments as appropriate.
- Third, the Federal Bureau of Investigation has joined forces with the National White-Collar Crime Center to establish the Internet Fraud Complaint Center. This new joint venture, together with the Federal Trade Commission's Consumer Sentinel database, will help to ensure that law enforcement and regulators will have timely analysis and strategic information on Internet fraud schemes. The Justice Department is also establishing closer ties and formal referral policies with agencies like the Securities and Exchange Commission, the Federal Trade Commission, and the bank supervisory agencies to address Internet fraud.
- Fourth, the Justice Department will provide interagency coordination on Internet fraud prosecution at all levels of government.
- Fifth, the Justice Department will provide support for and advice on Internet fraud prosecutions for its prosecutors in the field.
- Sixth, the Justice Department will conduct a comprehensive public education and prevention effort on Internet fraud, involving a two-track approach, in collaboration with private-sector organizations. First, the Department will encourage the use of technological solutions that can help reduce the incidence of fraud on the Internet. Second, the Justice Department will work with the private sector to educate the public as to how fraudulent schemes are conducted on the Internet and how members of the public can avoid potentially fraudulent schemes.

(Portions of the preceding section were taken from remarks of Deputy Attorney General Eric Holder at the Economic Crime Summit, Fort Lauderdale, Florida, May 11, 1999.)

SIGNIFICANT FEDERAL LEGISLATION

FRAUD

In the 1995 *Attorney General Guidelines for Victim and Witness Assistance* (USDOJ 1995), telemarketing is defined as the following:

A plan, program, promotion, or campaign that is conducted to induce purchases of goods or services, or participation in a contest or sweepstakes, by use of one or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion or campaign or by a prospective purchaser or contest or sweepstakes participant—18 U.S.C. Section 2325 (1)(A)(B).

A significant legislative victory for victims of telemarketing and other federal crimes of fraud is the Mandatory Victims Restitution Act of 1996, which amends the federal criminal code to require judges to order mandatory restitution for victims of the following crimes:

- Property crimes.
- Fraud.

- Consumer product tampering.
- Drug crimes.

Restitution may now be ordered for victims that are not victims of the specific offense resulting in conviction provided that the parties agree to that in the plea agreement. In addition, procedures for issuing and enforcing restitution orders were significantly expanded under the Act. For instance, the court must order restitution to each victim in the full amount of each victim's losses, regardless of the defendant's ability to pay. The only exceptions to this provision are:

- A finding that the number of identifiable victims is too large, making restitution impracticable.
- Determination of complex issues of fact related to victims' losses would complicate or prolong the sentencing process to a degree that it outweighs the need to provide restitution.

Full implementation of these new provisions will bring new importance to restitution in federal criminal proceedings.

IDENTITY THEFT

Compounding the difficulties identity theft victims encounter in finding support and effective assistance is the fact that, until very recently, identity theft was not even considered a crime against the individual victim, but rather a crime against the credit-granting party, i.e., the bank or merchant. In such locations, victims cannot even file an official police report (although they can file an "informational" report) because legally, no "crime" has occurred. A rapidly increasing number of states, including California and Arizona, have outlawed identity theft, but many states still adhere to the notion that the credit-granting party is the victim (Mannix 1998).

Fortunately, increasing public awareness of and focus on this devastating problem has led to the passage of a new federal statute, the Identity Theft and Deterrence Act of 1998, signed into law in October 1998. This Act contains the following provisions:

- Any person who knowingly transfers or uses, without lawful authority, a means of identification of another person may be sentenced to not more than fifteen years in prison. Identity thefts committed in connection with a crime of violence or drug trafficking can incur a maximum penalty of twenty years imprisonment.
- The U.S. Sentencing Commission is directed to consider the following factors in considering penalties:
 - Number of victims.
 - Number of means of identification and identification documents.
 - Value of the loss to any individual.
 - Range of conduct covered by the offense.
 - Sentencing guidelines for egregious conduct and statutory maximum penalties.
 - Any other factor the Commission considers to be appropriate.

- The Federal Trade Commission is authorized to log and acknowledge reports of identity theft, provide information to victims and refer complaints to appropriate consumer reporting and law enforcement agencies.

As this landmark legislation takes effect, more and more states are focusing on the development of state identity-theft legislation. The good news for victims is that the acknowledgement, on the federal level, of identity theft as a crime against the individual victim whose identity has been robbed will not only lead to increased state legislation but will also permit victims to file police reports with their local police or sheriff's department.

In March of 1999, a California woman pleaded guilty in U.S. District Court to using a stolen social security number to obtain thousands of dollars in credit and then filing for bankruptcy in the name of the victim. She now faces twenty years in federal prison and fines up to \$1 million when she is sentenced (Mayorkas 1999). Although she is not eligible for enhanced penalties under the Identity Theft and Deterrence Act because her crimes took place prior to its enactment, it is precisely these types of crimes that led to passage of this important legislation.

CRIMINAL JUSTICE SYSTEM RESPONSE

Those who work with victims of financial crime understand that these cases can be extremely time-consuming and demanding, and typically involve a unique population. Because of these needs, specialized attention must be paid by victim service providers and others in the criminal justice system to the particular issues involved. Financial crime cases are often very complex, with many victims (sometimes numbering in the hundreds) residing over a wide geographical area. Automated systems could help relieve some of the burden on victim assistance personnel in maintaining the necessary contacts with these multiple-victim groups. In light of these resource shortages, it is extremely important to develop inter-agency, cross-district collaborations to reach these victims. Victims' needs for information are often immediate. Brochures should be provided by investigators responding to the crime and should include information on local, regional, or national resources.

LAW ENFORCEMENT RESPONSE

In an article entitled "Your Best Evidence," Wells (1991) notes that utilization of a "victim first aid" technique will assist investigators and others who work with victims (see the section on the important role of law enforcement at the end of this chapter):

- A fully trained investigator will focus first on the victims' needs, identify emotional roadblocks that separate them from important case information, and help the victim deal with these emotions.

Investigators are often the only criminal justice personnel that victims of financial crimes may come into contact with, so it is important that such investigators be trained in effective and sensitive victim intervention.

An article “Investing in the Future: Protecting the Elderly from Financial Abuse,” reported that because financial abuse is often not reported, and often not understood or recognized by law enforcement, such crimes often go undetected. The article includes a survey of financial institutions in which 83 percent of the respondents believed that some of their elderly clients were victims of financial abuse (Coker and Little 1997). The authors suggested several strategies:

- Provide law enforcement with additional training in recognizing and apprehending elder abusers.
- Develop collaboratives in which law enforcement shares information with adult protective services, financial institutions, public guardians, and prosecutors both at the state and federal levels. (Perhaps the best known model for this exists with the Elder Person’s Estate Unit within the Los Angeles Police Department, which works closely with members of a Los Angeles Fiduciary Abuse Specialist Team (FAST), composed of adult protective workers, district attorney, stock broker, bank trust officer, retired probate judge, and public guardian staff.)
- Create laws that require people, including employees of financial institutions, to report their suspicions of elder abuse to authorities.
- Educate seniors to recognize financial exploitation.

In other types of financial crimes, law enforcement should be sensitive to the immediate financial and psychological needs of victims as a result of the impact of such crimes, and in some cases, susceptibility to future scams as a way of recouping what has been stolen. It is important for victim advocates to help law enforcement find appropriate referrals to provide to such victims.

IMPORTANCE OF VICTIM IMPACT STATEMENTS AND RESTITUTION

Restitution is one of the primary factors affecting the satisfaction of victims within the criminal justice system (OVC 1998). Restitution was an important consideration that was recognized by the 1982 President’s Task Force on Victims: “It is simply unfair that victims should have to liquidate their assets, mortgage their homes, or sacrifice their health or education or that of their children while the offender escapes responsibility for the financial hardship he has imposed . . . if one of the two must go into debt, the offender should do so” (OVC 1998, 356).

It is essential that prosecutors, probation officers, victims, victim service professionals, and the judiciary all work together to secure the right to restitution for victims of financial crime. As discussed earlier in this chapter, significant legislative progress has been made in securing this right on both the federal and the state levels. However, there are exceptions to the ordering of restitution, as described above, and the existence of appropriate laws does not always translate into actual enforcement of their provisions.

The following are others issues that may prevent victims from receiving restitution:

- Judgments not listing the victim's name and loss, thus making it unenforceable as an order, or for other purposes in which a victim may need his or her name listed on a judgment.
- Prosecutors may not feel that it is necessary to include all victims, feeling that victims have the option of civil recovery for their losses. However, by the time a case has been fully investigated and accepted by the prosecution, several years may have gone by, and civil recovery may be precluded because the applicable statute of limitation has expired. Even more crucial, most victims have losses that make it difficult to hire an attorney, especially if a defendant appears to have few assets.
- In some state cases of identity theft, and in federal cases involving acts committed prior to the enactment of the Identity Theft and Deterrence Act of 1998, courts may interpret that the actual victim is the credit card company, bank or other agency that may have incurred losses from the money stolen as a result of the theft of financial information. The underlying individual victim, who may have incurred many costs in trying to clear damaged credit records or restore bank accounts, may not be seen as a victim entitled to restitution.
- In cases of elder financial abuse or exploitation and in many investment and telemarketing cases, the elderly victim may not live long enough to see any restitution even where ordered. Information provided by victim advocates should include provisions on how restitution is distributed to a deceased victim's estate.

Also, even in cases where a victim is awarded restitution, many are not informed enough about the criminal justice system process to understand that an order does not necessarily mean that they will be paid in the near future. Some victims may believe that if restitution is ordered, the defendant will be mailing them a check for their entire loss a week after sentencing. Victim advocates should ensure that a detailed explanation of the restitution process after it has been ordered is a part of the information and brochures available to all victims for whom restitution is ordered. Information should include how to enforce their own judgments, and the need to report address changes to whoever distributes collected restitution for the length that the restitution order is in effect.

Many victims face additional frustrations when restitution is ordered because their name and the amount of their loss are not specifically listed on the criminal court judgment. Unless each victim's name and amount of loss are specified, victims have a difficult time using the loss amount for tax purposes, or pursuing their own civil remedies, or applying for certain Reparation Funds for which they may be eligible. (In California, victims of real estate fraud involving a licensed broker who have a civil or criminal judgment in which they are listed may apply for a recovery account for partial payment of their losses up to \$100,000 per case. Other states may have similar programs.) Although restitution is usually difficult to obtain, it is essential that court orders be pursued vigorously because it is very important to a victim's financial and psychological recovery.

One of the issues involved in obtaining an adequate restitution award is the preparation of a comprehensive and hard-hitting victim impact statement. Detailed accounts of funds stolen in these crimes and documentation of emotional distress are imperative to achieving adequate

awards. This is often made difficult because of the large volume of victims involved in financial crime schemes, and the fact that some victims experience difficulty with trust in divulging personal information, even to officials of the criminal justice system.

Victim advocates should ensure that victims of financial crimes are provided information about how to complete victim impact and loss information as well as information about the date and time of sentencing. If possible, advocates should offer to assist at trials and sentencings in cases such as elder financial abuse, or other cases in which a prosecutor feels that a victim needs special consideration.

THE NEED FOR COLLABORATIVE EFFORTS

With the enhancement of VOCA funding to allow services to financial crime victims, victim service professionals will soon have more options for referrals and community collaborative efforts to assist victims of financial crimes. Until that time, advocates need to look within their own communities to address the specific needs and concerns of financial crime victims. As stated in *Providing Services to Victims of Fraud: Resources for Victim/Witness Coordinators* (Alexander 1998):

In general, victim/witness coordinators are severely burdened with growing caseloads, a lack of program or administrative staff, and numerous job-related duties. Such constraints leave victim/witness coordinators little time to establish programs and services to meet the growing needs of fraud victims. Cases involving fraud make victim/witness coordinators' jobs even more difficult, especially when those cases involve thousands of victims.

Victim/witness coordinators can employ several effective strategies to enhance their services to fraud victims. Coordinators can network with members of the community and allied professionals to learn of appropriate referrals, and they can establish local or regional task forces to address voices in victim assistance programs and services.

Efforts that can identify opportunities for collaboration within the community include:

- Obtaining information about the types of financial crimes being reported to federal agents and/or local law enforcement within a community. Victim services providers can talk to local police who investigate crimes such as fraud, identity theft, or financial elder abuse and invite them to address local victim service meetings.
- Examining state or federal victims' rights laws to compare those rights provided to victims of violent crimes to those afforded to victims of financial crimes. Where there is a difference, or financial crime victims are ignored, advocates should raise this issue for change by state-wide coalitions. (For example, under the Federal Rules of Criminal Procedure (32), victims of violent crimes are permitted to speak about the impact of a crime at sentencing, but the Rule is silent about financial crime victims also having this right.)
- Once the kinds of crimes occurring within a community are known, identifying other persons or agencies that share concerns or could incorporate services to victims within financial crime categories.

- Contact local law schools or legal aid clinics that may be willing to develop restitution clinics and legal advocacy for victims of certain fraud crimes, such as the program developed by the San Francisco Bar Association to combat mortgage fraud.
- Invite and include financial crime victims for recognition during National Crime Victims' Rights Week.
- Include financial crime as a topic on any victim advocacy training and programs.
- Promote the development of support groups for victims of financial crimes.
- Develop new alliances with consumer protection advocates and elder abuse specialists. Identify any job training programs for displaced homemakers or retired seniors who must re-enter the job market due to their victimization. Also identify programs or agencies that provide "companion services" and other services to elderly crime victims.
- Write articles in local newsletters and contact the state VOCA Administrator regarding ways to ensure that the state is utilizing the changes in VOCA funding requirements and is encouraging victim assistance program requests for various kinds of financial crimes.
- Include victims of financial crime to the fullest extent possible within the services provided by one's own agency.

ESTABLISHING A FRAUD VICTIM TASK FORCE

One of the most effective and comprehensive responses to the need for community collaborative efforts on behalf of financial fraud victims is the creation of a specific task force designed to address the particular needs of such victims:

A fraud victim task force should include a mix of governmental and community-based professionals and officials, community leaders, members of the public, and victim representatives so that a variety of expertise and experience can be drawn upon. Members might include the following:

- Prosecutors (county and federal).
- Law enforcement officers (city, county, and especially those who work with elderly victims through such programs as TRIAD).
- Federal case agents.
- Prosecutor-based victim assistance professionals (county and federal).
- Police chiefs.
- Sheriffs.
- Probation and parole officers (county, state, and federal).
- Judges (county and federal, representing both criminal and civil courts).
- Elected officials (mayor, county commissioner, county executive, city council members).
- Representative of the state attorney general's division of economic or consumer fraud.
- Community-based victim assistance representatives.
- Consumer protection agency representatives.
- Better Business Bureau representatives.
- Aging and adult protective service representatives.
- Consumer credit counseling representatives.
- Media representatives.
- Senior citizen organization representatives.
- Local business leaders (especially those in businesses affected by fraud crimes, or those who can provide free or reduced services such as printing).
- Nonprofit organizations (especially those that deal with consumer fraud and elder abuse).
- Religious leaders.
- Fraud victims (Alexander 1998).

The creation of such a comprehensive and community-wide task force can be critical in addressing the financial, informational, and emotional needs of victims of financial crime. An added benefit of such task forces is that they can be instrumental in identifying service areas that are fragmented, overlapping, or simply nonexistent. A coordinated community approach to services for victims of financial crime is essential if the needs of these victims are to be addressed in a meaningful way.

OFFICE FOR VICTIMS OF CRIME EFFORTS TO ASSIST FRAUD VICTIMS

In April 1997, the Office for Victims of Crime (OVC) published the most recent revised Guidelines for Implementation of the Victims of Crime Act. Importantly, many of these revisions addressed services and assistance to victims of economic crimes. As OVC states, while VOCA funds cannot be used to compensate victims of fraud for their financial or property losses, many supportive services can be provided to these victims, including counseling, advocacy, and support throughout the criminal justice system.

In its revised 1997 guidelines, OVC encouraged states to fund new or expanded services for victims of fraud and economic exploitation (*1997 VOCA Victim Assistance Final Program Guidelines*, Sections IV.B and IV.C).

Specifically, the amended Guidelines address the following key issues relating to victims of fraud and economic exploitation:

- The definition of “victim” was expanded to include victims of financial crimes.
- The definition of “elder abuse” was expanded to include economic exploitation and fraud.
- The definition of “previously underserved” priority areas was expanded to include victims of fraud crimes.

As a result, VOCA grant funds may be used to support many direct services for fraud victims. These services can include those that address—

- Immediate health and safety.
- Mental health assistance and support groups.
- Respite care and services for victims with disabilities.
- Credit counseling advocacy or other special services.
- Restitution advocacy.
- Public presentations.
- Advanced technologies, such as notification of victims in mass fraud cases.

In addition to the important changes in the VOCA Guidelines, OVC has supported several projects to improve the treatment and services afforded to victims of financial crimes such as the following efforts:

- *VOCA Federal Victim Assistance/Demonstration Project on White Collar Crime Victimization.* This project is an ongoing collaborative effort between OVC and the United States Attorney's Office for the Northern District of California to improve services for white-collar crime victims. The demonstration project's goals are to identify, implement, and document promising practices for assisting white-collar crime victims. Replication of these important services in other U.S. Attorney's Offices nationwide is a critical aspect of this demonstration project. Another important component of the project is the development of a referral network of programs across the nation for victims of white collar crime and fraud. This project is in its implementation phase.
- *Promising Strategies and Practices to Improve Services to White Collar Crime Victims.* OVC provided support to the Police Executive Research Forum (PERF) to develop a comprehensive package of materials for federal criminal justice personnel to use in their efforts to better assist federal victims of white collar crime and fraud. PERF, in cooperation with an AD-HOC Department of Justice Working Group (composed of representatives from the Executive Office for U.S. Attorneys, National Institute of Justice, Federal Bureau of Investigation, Federal Law Enforcement Training Center, and other federal criminal justice agencies and victim assistance programs) collected model policies and procedures and a wide range of other key information to produce the following: a camera-ready victim pamphlet, a victim handbook, a U.S. Attorney Victim/Witness Coordinator guidebook, and a 20-minute videotape on assisting white collar and fraud victims.
- *Other Efforts to Address Victims of Economic Crime by the Office for Victims of Crime.* OVC is funding several additional projects that involve federal, state, and local efforts to address victims of economic crime. These projects consist of training, technical assistance, demonstration, and other efforts that are designed to prevent and address telemarketing crimes targeted to senior citizens, are national in scope or will have national impact, and provide products or materials that can be adapted and disseminated to senior citizens groups and others who come into contact with elderly victims of crime. Projects currently funded by OVC include: the Elder Financial Exploitation Prevention Program in Oregon; the Telemarketing Fraud Project for Latino Elderly in Washington, DC; Operation Fraud Stop: A Partnership to Reduce Telemarketing Fraud and Assist Victims conducted by the National Sheriffs Association in Alexandria, Virginia; and telemarketing fraud prevention, public awareness, and training activities in Maryland.
- *OVC's First Focus Group on Victims of Fraud and White Collar Crime.* In April 1998, the Office for Victims of Crime (OVC) convened its first focus group on victims of fraud and white collar crime in conjunction with the National White Collar Crime Center's 2nd annual Economic Crime Summit, held in St. Louis, Missouri. This landmark conference brought together over 500 individuals representing federal, state, and local justice agencies and a wide range of programs serving crime victims. Highlights of the conference included a focus group on improving services and support for victims of white collar crimes and

numerous workshops targeting the specific needs of victims of white collar crimes. Model programs were also presented. It is anticipated that the summit will be an annual event.

PROMISING PRACTICES

- One innovative program was developed in Ventura, California, where staff in the County District Attorney's Office work as Elder Services Victim Advocates. They have developed some very collaborative program services:
 - Advocates participate in community forums to talk about crimes such as elder financial exploitation and financial scams.
 - A Spanish-speaking advocate appears on a local Spanish-speaking radio show to warn about potential fraud schemes.
 - The local Victim/Witness Assistance Office receives daily reports from Adult Protective Services on every case of reported elder abuse. An elder abuse advocate is immediately assigned to the case to work collaboratively with other helping professionals, including elder financial abuse.
 - These advocates have also produced, as part of the Senior Crime Prevention program, placemats that address physical abuse, financial exploitation by caretakers, and scams. These placemats are delivered to elderly and dependent adults who get home delivered meals through Meals on Wheels. They also have developed brochures, called "Rx cards," that all Ventura County pharmacists have agreed to provide to elderly customers when their prescriptions are filled. These cards include information about scams against the elderly and elder financial abuse.
- In San Francisco, California, an Elder Victim Services Representative works directly with elders who have been victimized by economic crime. The Elder Abuse Consortium in San Diego, California, works with the San Diego Bar Association to provide assistance on a pro bono basis. The Sunshine Club in Niagara Falls, New York, is a forum for senior citizen groups in the area. They meet to network and share ideas and information.
- Increasing public awareness of the problem is extremely helpful to assist victims of financial crime. Town hall and community meetings are conducted in Northern California, involving prosecutors, attorneys, and victims of fraud and economic crimes.
- The Elder Financial Exploitation Prevention Program in Salem, Oregon, is a two-phase project involving training for bank personnel on the issues of spotting and responding to potential fraud and the development of services for elderly fraud victims. The Oregon Bankers Association, the Senior and Disabled Services Division, the U.S. Attorney's Office, U.S. Postal Inspection Service, American Association of Retired Persons, and law enforcement have all joined together to train bank personnel in how to recognize signs of elder financial exploitation and report suspected abuse. With respect to services for victims, the Senior and Disabled Services Division, other state agencies, and private organizations with expertise in fighting fraud work together to identify high risk seniors and target assistance directly to them.

- The National Sheriff's Association is coordinating OPERATION FRAUDSTOP with a variety of agencies that have expertise in fighting crimes against the elderly. This campaign provides education and assistance to telemarketing fraud victims, especially seniors. The program capitalizes on existing partnerships and programs such as community policing and TRIAD and utilizes resources such as the media and private corporations (i.e., Radio Shack and WalMart).
- The Baltimore County Department of Aging has developed a booklet aimed at preventing telemarketing and telephone fraud titled *They're Calling and They Won't Hang Up!* The booklet has been produced in large print, suitable for a senior audience. It has been distributed by the Baltimore County Department on Aging's Senior Information and Assistance Service to an audience of 30,000 seniors and in October 1998 was included as an insert in a Sunday edition of *The Sunpaper* (the newspaper covered the cost of inserting the document).

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ADDITIONAL INFORMATION

Consumer Credit Counseling Service at 800-388-2227 has locations nationwide.

The Elder Locator Services Hotline at 800-677-1116 can assist in finding various kinds of elder services in most communities throughout the U.S.

Contact these agencies in writing to have your name removed from many mailing lists and phone lists (frequently used by telemarketers):

Mail Preference Service
Direct Marketing Association
PO Box 9008
Farmingdale, NY 11735

Telephone Preference Service
Direct Marketing Association
PO Box 9014
Farmingdale, NY 11735

Contact these credit reporting agencies to request credit reports or report fraudulent activity:

Equifax 800-685-1111
Experian 800-397-3742
Trans Union 800-888-4213

<http://www.equifax.com/>
<http://www.experian.com/>
<http://www.transunion.com/>

Also, state Attorney General Offices, county Legal Aid Associations, consumer protection agencies and some county or state bar associations (for elders) may have programs which may assist victims of fraud schemes, or provide information on avoiding scams.

(The following contains selected excerpts from the Executive Summary of *Fostering Collaborations Between Researchers and Practitioners: Findings from Practitioner Focus Groups. A Report of the National Violence Against Women Prevention Research Center*, May 2000.)

The National Violence Against Women Prevention Research Center (NVAWPRC) was established in 1998 by the Centers for Disease Control and Prevention. The Center includes a consortium of researchers and practitioners concerned with violence against women from the Medical University of South Carolina, National Crime Victims Research and Treatment Center, Charleston, SC; Wellesley College, Wellesley Centers for Women, Wellesley, MA; and University of Missouri–St. Louis, Center for Trauma Recovery, St. Louis, MO.

The fourteen practitioner focus groups were conducted in nine states and the District of Columbia and included the five sites of the 1999 National Victim Assistance Academy. Over 120 women and men participated in these two-hour long groups. While Caucasians represented the majority of participants, African Americans, Latina/Latinos, and Native Americans comprised 22 percent of the practitioner participants. The participants perform a variety of service, administrative, and training tasks. Ninety percent of the focus group participants serve domestic violence survivors; 83 percent serve sexual assault survivors; 30 percent serve batterers; and 16 percent serve sex offenders.

HOW CAN VIOLENCE AGAINST WOMEN (VAW) RESEARCH HELP PRACTITIONERS?

The focus group participants reported that they utilize research findings to help them identify “promising practices” that can help them to prevent, intervene with, and respond to victims of domestic violence and sexual assault. Practitioners said they consult research to identify models for prevention services that they can replicate in their own communities. They reported needing concise information that can help them in program planning, development and implementation. The focus group participants said their research needs were not limited only to victims. In addition, they identified a need to understand “what works” for batterer intervention and treatment programs. Practitioners stated that they need research to validate what otherwise is often considered to be “only anecdotal evidence” about violence against women.

Other important suggestions on how VAW research can help victim service practitioners included:

- Identify and meet the needs of traditionally underserved victim populations, primarily victims who are culturally diverse or who live in rural or remote areas.
- Provide vital tools to enhance funding opportunities.
- Improve victim outreach and community education efforts.

- Determine what is best for client services.
- Identify new problems, new directions and new solutions in efforts to eliminate violence against women.
- Improve school programs designed to educate children about domestic violence and sexual assault.
- Evaluate clients and programs.
- Support prevention initiatives.

WHAT QUESTIONS WOULD PRACTITIONERS LIKE TO SEE RESEARCHERS ADDRESS?

Focus group participants identified the need for research on the cycle of violence and, specifically, on the effects of witnessing violence on children. They expressed a need for understanding violence across the life-cycle and for understanding the inter-relationship of violence, substance abuse, and societal norms, values, and beliefs.

Participants suggested that research should address questions designed to help them best define and meet their clients' needs. They underscored how important it is for researchers to obtain victims' input about what needs are most important. For example, participants stated that many victims, but few researchers, were concerned about victim satisfaction with participation in the criminal justice system.

The focus group participants gave considerable attention to the question of why victims of color were less likely to access victim services. While there was a consensus that minority victims perceive a "cultural stigma" associated with seeking victim assistance, there was less knowledge as to why this might be true.

HOW WOULD ANSWERS TO THESE QUESTIONS HELP PRACTITIONERS?

Overwhelmingly, focus group participants indicated that the answers to their questions about violence against women would help them in organizational management, improving client services, and meeting victims' needs. Specifically, research could help in program planning and developing agency goals and objectives. Most evident was a strong emphasis on the need for research that will help determine "what works" to prevent and combat violence against women.

HOW CAN VAW RESEARCH STRENGTHEN THE CAPACITIES OF VICTIM ASSISTANCE PRACTITIONERS?

Advocates and practitioners wear myriad hats in addition to their primary roles as direct service providers. They are responsible for organizational management, victim outreach, community education, fund-raising, coalition building, and professional and allied professional training and education, to cite a few key duties. Many participants viewed research as a critical tool in helping them to make the best use of their limited time, and to improve their personal and professional capabilities in providing quality services to victims. Other capacity-strengthening outcomes include:

- Enhancing community education and public awareness, particularly in the area of media relations.
- Strengthening victim services by targeting populations who are in the greatest need of intervention and support.
- Strengthening efforts to educate allied professionals about violence against women.
- Enhancing personal career development.
- Strengthening efforts to raise critically needed funding, and providing a significant tool for grant writing.

FOCUS GROUP PARTICIPANTS' EXPERIENCE WITH RESEARCH

Approximately half of the focus group participants had participated in research projects relevant to violence against women, and all of the participants indicated that at one time or another they had been required to provide data on services related to violence against women.

Focus group participants had a wide range of research experiences—many had collected pre- and post-test data from clients or participants in training and educational programs. Most participants had experience with basic data collection, primarily for case management and funding purposes. There was unanimity across all focus groups that service providers disliked the processes of ongoing data collection for funding agencies. They agreed that such tasks took time away from direct services and did not seem to provide useful data for making policy decisions or convincing others of the need for more funding.

Practitioners' positive experiences resulted from participating in research projects that developed clear, mutually established goals that gave paramount consideration to victim safety and possible reactions, and that kept victim service providers informed and involved throughout the process.

Many negative experiences with research were described by the focus group participants. These negative experiences resulted primarily from what practitioners perceived as a degree of remoteness, or even arrogance, on the part of the researchers. They reported that often researchers paid insufficient attention to the effect of research on its participants (i.e., victims of violence), collaboration was non-existent, and practitioners' ideas and opinions were neither solicited nor respected.

PRACTITIONERS' PERCEPTIONS OF BARRIERS TO VAW RESEARCH

Focus group participations identified nine general barriers to VAW research:

1. Lack of resources (e.g., time and money).
2. Participation is too time consuming.
3. Lack of diversity in research topics and participants.
4. Difficulty identifying victims who are willing to participate in research projects.

5. Lack of trust between victims/service providers and the research community.
6. Individual researchers with whom practitioners had had bad experiences.
7. Need for greater collaboration among researchers so that efforts are not duplicative.
8. Need for practitioners to be actively involved in the conceptualization of research.
9. Varying “measurements” utilized by researchers that result in statistics that are “suspect.”

ETHICAL ISSUES RELATED TO CONDUCTING VAW RESEARCH

By far, the most significant ethical issues that focus group participants identified were related to victim safety. Many practitioners declared that without strict guarantees of consideration to victim safety before, during and after participation in any research project, service providers would refuse to facilitate victim involvement. Several groups also identified the “timing” of victim participation in research. If a client was currently in a domestically violent environment, participants stated that special attention should be paid to protecting her privacy and promoting her sense of security.

Many focus group participants echoed one service provider’s frustration with “researchers treating clients like lab rats.” Similar underlying themes resonated through all the focus groups, based primarily on participants’ feelings that many researchers (“unlike practitioners”) lack understanding of, and empathy for, the plight of the victims involved in their research projects.

Three general recommendations emerged for researchers to minimize the risk of harming victims, service providers, and victim assistance organizations: (1) utilize practitioners as “middle persons” to provide liaison services between researchers and their clients, and to pay attention to victims’ personal needs and provide support, as needed; (2) make victims feel safe and comfortable at all times in the research environment; and (3) use language that is understandable in research studies and instruments.

RESPECT FOR PRACTITIONERS

Although a researcher may respect a particular practitioner or all practitioners in theory, actions do speak louder than words. Many researchers have not followed through with behavior to indicate that they value the knowledge, skills, and experience of practitioners. The focus groups revealed many specific ways in which researchers could and should indicate their respect for practitioners, including:

- Approach practitioners as partners, valuing the knowledge they have about the needs and experiences of the women they serve.
- Understand that practitioners already have responsibilities in their work environment (i.e., becoming involved in a research project will involve added responsibility for them). Figure out how to compensate the practitioners or make the involvement in research rewarding to them prior to contacting them.

- Involve practitioners as collaborators in setting up the type of approach to research participants that will best serve the research, the agency, and the victims under study.
- Involve practitioners as much as possible in the design of the study, the interpretation of results, and the presentation or dissemination of findings.
- Offer monetary compensation to the practitioner and/or victims under study.

The findings from this NVAWPRC series of focus groups offer researchers and practitioners valuable insights into what violence against women practitioners perceive to be the benefits of, and barriers to, research. The violence against women community must examine these issues and create innovative methods to minimize barriers, maximize mutual benefits, and achieve successful collaboration.

For more information on this report, contact The National Violence Against Women Prevention Research Center (843-792-2945) <www.vawprevention.org> .

Seymour, A., L. M. Williams, P. Mahoney, and N. Shields. *Fostering Collaborations Between Researchers and Practitioners: Findings from Practitioner Focus Groups. A Report of the National Violence Against Women Prevention Research Center*. Charleston, SC: National Violence Against Women Prevention Research Center.

ABSTRACT

The interdisciplinary field of victims' rights and services is continually developing. The "knowledge base" available through research and evaluation has seen tremendous advances. "Promising practices" recommendations are often developed and updated based on the research. Promising practices are significant to those working in the field and are of particular importance to victim service providers. A victim service provider must employ interventions with victims that are effective and efficient. Therefore, the provider has an ethical responsibility to update and acquire new skills that improve service delivery. Research provides the means of determining which interventions may have value and which may not.

This chapter reviews basic research issues and processes. Also, an extensive resource list is provided to help the reader locate materials to assist in designing and conducting research.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- How information about research findings can be obtained.
- The definition of basic research terms.
- Fundamental research and evaluation methods.
- How you can acquire information and technical assistance to conduct research.

Those who fall in love with practice without science are like a sailor who enters a ship without a helm or compass, and who never can be certain whither he is going. — Leonardo da Vinci

**WHY VICTIM ADVOCATES NEED TO KNOW MORE
ABOUT RESEARCH AND SCIENCE**

Research is often viewed as a topic that is esoteric, the sole purview of "pointy headed intellectuals," and has no practical value to victim advocates. Nothing could be further from the truth. In the criminal justice and victim advocacy fields, almost everyone has strong beliefs about a host of topics from how much crime there really is, to the major causes of crime, to what types of services crime victims really need, to what is the best way to help crime victims, to whether crime victims should or should not have constitutionally protected rights. Much is known about each of these topics. Some of this information is right; some is wrong; and unfortunately, there is often great difficulty distinguishing between which is which.

Research is nothing more than a systematic approach that is designed to help distinguish between beliefs and opinions that are supported by empirical data versus those that have no empirical support. The assumption is that if a technique has empirical support, it has a greater likelihood of being successful or helpful than one that does not. T. H. Huxley wrote: “The great tragedy of science—the slaying of a beautiful hypothesis by an ugly fact.” Among other things, science and research are there to keep practitioners from falling prey to a charming idea that can actually cause people harm.

Research is necessary because it can and does address many issues in the field that have practical significance. Often there are no research articles or reports that offer immediate solutions to problems that arise or are specific to victim service providers’ needs. However, quality research can provide alternative strategies, help us understand complex and puzzling problems, and help us not to fall into the trap of a beautiful opinion that has no relevance and may even make things worse for those who need help. Research also affects policy decisions that alter the way resources are allocated. Research is often used by leaders and administrators to change almost everything—the structure of organizations, the laws that govern us, and even the dollars that support our programs.

In a highly informative and entertaining book about science designed for the lay person, McCain and Segal (1969) describe science as a game that is informed by certain attitudes and played by certain rules. They make a distinction between science-based belief systems and belief systems based on dogma, and suggest that “it is the system of data-based explanation that distinguishes science from dogma.” Scientists cannot accept statements unsupported by data and have the responsibility to decide, on the basis of evidence, the best explanation for a set of facts. In contrast, dogma is based on the pronouncements by people in political, religious, social, or even criminal justice authority. McCain and Segal capture the difference between science-based and dogma-based belief systems as follows:

One way of contrasting science and dogma is to say that a scientist accepts facts as a given and belief systems as tentative, whereas a dogmatist accepts the belief systems as given; facts are irrelevant (p. 31).

Victim advocates seek to learn more about crime victims and the best ways to help them. This chapter is designed to help victim service providers better utilize what scientists, researchers, and research have to offer. Since few victim advocates aspire to be scientists or researchers, the focus of this chapter is to help victim service providers become more critical *consumers* of research and form mutually beneficial partnerships with researchers. First, the issue of understanding research produced by others will be discussed. This will be followed by a primer on conducting research.

HOW TO UNDERSTAND RESEARCH

A comprehensive treatment of understanding empirical research is beyond the scope of this brief chapter. However, there are a few foundational tips to keep in mind about analyzing research. Victim service providers who do not feel that their current knowledge and skill level are sufficient in this area may wish to take (or re-take) a basic course in research methods and

statistics. At the very least, reference should be made to text books in these areas that cover the basic terminology and techniques of empirical investigations. An extensive resource list is provided at the end of this chapter.

It is most typical to begin a research project by reviewing the work of others. This is most often found in the “Literature Review” contained in an article or report. When considering others’ research, victim service providers who are less familiar with research methodology should keep the following in mind as they analyze research under consideration:

- *Who is conducting or interpreting the research?* It is important to know the discipline of the researchers/writers responsible for the report being reviewed. Even in this age of “interdisciplinary,” some researchers tend to find it difficult to truly think beyond their paradigms or “world views.” Readers should know where the author is coming from academically, at the outset of this review of others’ works.
- *What are the research questions and/or the hypotheses underlying the research?* Researchers begin their investigations by posing questions and hypotheses that they seek to analyze. Readers must have a good handle on what the researcher set out to find or support before they can understand the findings and conclusions.
- *Victim service providers will need at least a working understanding of research methods and statistics.* Victim service providers are not expected to become expert methodologists or statisticians. However, advocates should understand the basics of research methodology, variables, descriptive statistics, tests of significance, and some of the common limitations on a researcher’s ability to capture true representations of actual experiences in the necessarily contrived confines of field studies.
- *What can really be said about a study’s findings?* Victim service providers must be careful not to overstate the findings of the studies employed. For the most part, many findings can be refuted, at least to some extent by other studies. One factor in why this happens is the issue of *generalization*. The findings of a single study may not repeat or produce even similar effects in other settings or with other subjects. Obviously then, the strongest research is composed of those studies which have shown an intervention to have similar effects in other settings or situations with lots of different subjects.

BASIC RESEARCH TERMS

When people first begin to read research reports, they often encounter terms that are new. Even if readers are generally familiar with the terms in question, these terms may have a different or more refined usage in evaluation research. Spending some time learning these terms is worthwhile since they form the language of the scientific method and are used consistently to describe the results of empirical studies. The following are basic research terms.

Variable. A *variable* is anything that can have more than one value, that is, it is not a fixed item or event. A variable can change or vary. If something cannot vary, it is not a variable. It is usually the case that studies involve controlled observations of variables and their

interrelationships. Variables can include a wide variety of factors such as victim satisfaction, different treatment outcomes, attitudes of officials toward victims, length of sentences.

There are two basic types of variables involved in research: *dependent* and *independent*. In general, an *independent variable* is something that influences or produces an effect on a dependent variable. The *dependent variable*, then, is one that depends on, or is influenced by, another variable. Generally speaking, an independent variable is the variable that is typically manipulated by the researcher to see what effects this manipulation has on the dependent variable. Of course, many times manipulation of variables is not possible, but the relationship between dependent and independent variables can be observed nonetheless in a naturally occurring manner (so called, naturalistic observation).

Study. A *study* is a very broad term covering just about all objective analyses of variables. Calling something a study does not necessarily imply it is a good one, however. Better studies comport with generally accepted rules regarding appropriate research methods as described below.

Subjects. Most typically, victim service providers will be interested in studies involving people. In such studies, the persons observed are called *subjects*. Subjects could be, for example, victims or survivors whose experience in the system or responses to treatment are being measured, or professionals whose service-providing activities are being evaluated.

Theoretical framework. All good studies begin with a *theoretical framework*, wherein researchers provide some insight into their general approach to the subject matter at hand. This is usually evident in the author's *review of the literature* where specific publications and research are cited and reviewed. From this, researchers develop a hypothesis.

Hypothesis. The *hypothesis* is an extremely important foundation upon which good research is conducted. A hypothesis is a declarative statement that typically expresses the relationship between variables. An example might be "Providing victim impact statements at sentencing significantly increases victim satisfaction with the criminal justice system regardless of sentencing outcomes."

Case study. A *case study* is a study containing observations about one subject. These studies are typically based on what is termed *anecdotal evidence*. A series of case studies typically provide more useful information that something of significance is happening that may merit further study. This further study may begin with a *pilot study*, which is a scaled down version of a major effort conducted for several purposes (for example, to test proposed *measurement instruments*, to hone the *research methodology*, and to see if there is a preliminary basis for supporting the hypothesis).

Sample study. More commonly, a *sample study* would be employed due to the increased inferential power of such studies. A sample study is one where only some of the individuals or

events of interest to the researcher are studied so as to be able to draw conclusions about the population as a whole. The sample group is usually selected or assigned with some degree of randomness. This is done so that researchers can say that the sample is *representative* of the population they ultimately seek to speak about. For example, a group of individuals who have survived a significant traumatic event are randomly assigned to two or more treatment groups such as a traditional therapy approach and an eye movement and desensitization treatment group to see which ones respond better as a result of the treatment provided.

Randomized study. A *randomized study* is one in which subjects are assigned to different groups as randomly as possible. This may be done by flipping a coin or using a random number generator. In contrast, if the researcher decides which subjects go into which group, or if the subjects assign themselves, *selection bias* can cause the groups to no longer be comparable. The purpose of randomization is to represent, as best as is practicable, the entire universe of potential subjects, in this case, all crime victims. Since this is not possible, researchers attempt to assemble unbiased samples to study.

Controlled study. In a *controlled study*, at least two groups are compared. The *experimental group* receives the intervention or treatment, and the *control group* does not. The hypothesis is that if the samples were selected appropriately, the experimental group would be just like the control group, except for whatever the experiment provided (the intervention, sometimes called the treatment). The rationale is that any measurable differences between the groups can be attributed to the experimental intervention.

Generalizing. Assuming good research methods and appropriate statistics are employed, the results of these studies can often be *generalized* to larger groups with some level of confidence. As stated above, the basic rationale for a sample study is the impracticability, cost factors, or simply the impossibility of testing all potential subjects such as testing every rape victim in the country. Therefore, some smaller group is selected for study under controlled conditions and for rigorous analysis that allows for inferences to be drawn from the sample. It is of the utmost importance that sample selection, or other methods employed, do not bias the outcomes.

Research questions—research design. The research design is based on *research questions* which develop from the underlying hypothesis. The research questions ask what variables can and will be manipulated and studied. A sound experimental design attempts to show a functional relationship or an interaction between two or more variables. A researcher sets out to show that changes in one variable influences or controls changes in another event. For example, do restraining orders issued on stalkers reduce violence to victims? Does having a restraining order, the independent variable, result in a reduced likelihood of the stalker hurting the victim, the dependent variable? When conducting research, the function of an experimental design is to control systematically the conditions surrounding how the independent variable and the dependent variable interact. An experimental design's primary purpose is to arrange conditions in order to rule out the possibility that some other event, rather than the independent variable, may have caused the changes to the dependent variable.

Using the above example to explore the idea of a good design over one that is not, a study could be conducted upon two groups of victims, those that have restraining orders on their stalkers and those that do not. To study the changes in rates of violence perpetrated by the stalkers on the victims, this experimental group design requires that the subjects in the group with restraining orders be identical to the group of subjects who do not have restraining orders. If all things are equal between the two groups with the exception of the restraining orders, it could be concluded that the differences in violence between the two groups is a function of the restraining order. If rates of violence are lower in the group with restraining orders, then it can be concluded that restraining orders help protect victims being stalked.

However, if the groups are not identical, then those features that make them different might account for the changes in violence and not the restraining order. For example, rather than assuring that the subjects are the same in both groups, the researcher just looks at those victims who have gotten restraining orders and those who have not. Suppose the researcher finds that the stalkers with a more violent history are the stalkers who are more likely to have restraining orders issued against them. Further, suppose that a violent history predicts future violent behavior. If the most likely stalkers to actually engage in violence are the ones who fall into the group with restraining orders, then it would not be surprising to find higher rates of violence and harm to victims in the group with restraining orders. The data would then suggest that having a restraining order increases the risk of violence to the victim. That would be an erroneous conclusion, however, because the research design was flawed—the groups were not the same. If instead, the history of the violence of the stalker was the same across both groups, then the data might have looked much different showing that restraining orders do indeed help protect the victim from harm.

Operational definitions. Research factors/variables must be clearly defined. For example, if the term “recidivism” is being used in a study, it should be defined, such as “committing another criminal or juvenile offense.” Frequently, otherwise sound research is criticized due to lack of precision in providing the operational definition of research variables. Moreover, how these variables are measured has a great impact on the success of the study. For example, is “committing another offense” measured by arrest data, conviction data, or interviews that may pick up additional violations?

Survey. A *survey* reports the results of a study where data were collected by way of questionnaires or interviews. Surveys can either be *observational*, if no intervention or treatment occurred, or can be used as *pre-test* and *post-test* measures before and after some intervention or treatment. A pre- and post-test design is among the simplest research designs. This approach simply means that some measurement is taken of a population before the experimental intervention, and then re-taken after this intervention to see if there is any significant difference. If other factors are well controlled, these differences can be, at least in large part, attributed to the experimental intervention (the introduced independent variable).

FUNDAMENTAL RESEARCH METHODS

Experimental Research Design. A survey's pre- and post-test approach is an *experimental research design*. The purpose of an experimental design is to provide controlled empirical comparisons when naturalistic observation alone is insufficient to answer the questions posed. Without experimental designs certain questions can never be reliably answered. There are many experimental designs used to control the interactions between the dependent and independent variables being studied. Most research texts describe these designs and how they can be used, such as Campbell and Stanley (1963) or Dixon, Bouma and Atkinson (1991).

Single subject designs. Of the many experimental research designs available, use of *single subject designs* has gained considerable attention in applied research over the last twenty or so years. The advantage of single subject designs is that a large number of subjects are not required to conduct highly reliable and valid research. Most victim advocates in most applied settings with proper training could conduct single subject design research studies. These types of studies focus on the effects of the independent variable as it is systematically delivered to a few subjects across time. These studies also focus on the variations that occur with each subject across time both before and after the independent variable or intervention is employed. For example, some measure of a crime victim's behavior with respect to their avoidance of events associated with the crime might be measured both before, during, and after treatment is delivered. The measurements often take place across many days or even weeks. The strength of this type of research is that it does follow the effects upon the individual subjects with repeated measures across a substantial period of days, weeks, and even months in some studies. Individual reactions and the pattern of their behavior can be assessed. Since behavior is a function of the relationship between the individual and their environment, it is not surprising that an intervention will have effects that are peculiar to each individual. Understanding these effects is important in understanding the very nature and desirability of using a particular intervention with a victim. Where the research question is actuarial in nature, large group studies are preferred. Where the research question relates to how something will affect an individual, then single subject experimental procedures may be more appropriate. If a researcher wants to talk about the population, such as the entire class of individuals with PTSD, then group experimental designs based on samples is more appropriate. However, if the researcher intends to draw conclusions about an individual, a sample is not appropriate.

Correlational studies. *Correlational studies* look for *associations* between variables. A *positive correlation* means that the greater variable X is, the greater one can expect variable Y to be. A *negative correlation*, also referred to as an *inverse correlation*, means that the greater variable X is, the *less* one can expect variable Y to be. It is important to note that correlations do not prove anything absolutely as much as they suggest a relationship. It is often said that "correlation is not causation," meaning that just because two items are associated does not mean that there is a cause and effect relationship. An example of a correlation study might involve measuring victim satisfaction with the criminal justice process and looking at the relationship between this measure and the specific courthouse or prosecutor's office that handled the victims case. The results might demonstrate that there is a relationship between

victim satisfaction and particular courts or prosecutor's offices. However, this does not in itself give us any real information about causation behind these results.

Prevalence/Incidence study. If the research in question is looking at the frequency of something at a particular point in time, this is called a *prevalence study* (such as the number of victims of violent crime per 100,000 people in the United States). If the study focuses on the frequency of something over a given period of time, it is called an *incidence study* (such as the number of violent crime victims in the last month). Often prevalence and incidence data are compared across time in what may be referred to as *trend analysis*, such as whether the number of violent crimes across certain years demonstrates a rising or falling trend.

Retrospective/Prospective study. A *retrospective study* looks to the past for information about the topic at hand. Often these studies involve reviewing archival data such as old arrest reports, etc. A *prospective study* is one which looks forward; a *longitudinal* (or longer-term) study may be prospective. For example, a longitudinal study of the recovery rates of victims exposed to different treatments that followed them into the future for several years would be prospective.

Blind study. A *blind study* means that the researchers and/or the subjects do not know which treatment group each subject is in. In a *single-blind* study, the subjects do not know but the researchers do. In a *double-blind* study, neither the researchers nor the subjects know which group the subjects are in; all information is coded, and the code is not broken until the end of the study. This helps avoid problems that occur when study participants and researchers deliberately or inadvertently contaminate study results.

Quantitative and qualitative research. So far the type of research described is known as *quantitative research*. However, the field of research lately has been broken into two approaches to the collection of meaningful information. Besides quantitative research there is an area of research now known as *qualitative research*. Quantitative research has been the predominant and most widely accepted methodology for collecting information on the world we live in during the last 100 years or so. Qualitative research has in the last twenty years become recognized as a legitimate and respected approach to understanding the relationship of humans to the world around them. This is evidenced by the dramatic increase in qualitative research publications in professional journals, the inclusion of qualitative research sections in revised editions of previously quantitative-only research textbooks, and the publication of numerous books on qualitative research methodology.

While the distinctions between the two approaches are difficult to define at certain levels, qualitative research is grounded in what Mason (1996) has described as three aspects. First, it is concerned with how the social world is interpreted, understood, and experienced. Second, it is based on data-gathering methods that are sensitive and flexible to the social context rather than rigidly standardized or structured. Third, qualitative research is based on methods of collecting data that attempt to discover the richness, complexity, and depth of the event within its social context.

For example, if a researcher was concerned about the influence of victims making impact statements to the court prior to sentencing, the researcher could investigate the problem differently using the two research approaches. From a qualitative approach, the researcher would be concerned with exploring each victim's experience during the court statement. Victims might be interviewed and asked to share everything about the experience from what they were feeling, to what thoughts they had at the time, to their own personal analysis of the experience. A quantitative researcher might explore the same event but do so with a standardized survey instrument or a set of precise questions asked exactly the same of each victim and scored in a precise and exact manner. The quantitative researcher would likely be concerned with a statistical analysis of the data afterwards while the qualitative researcher would look for similarities but typically would not use any statistics. The quantitative researcher would likely be concerned with reducing the data to representative numbers. The qualitative researcher would be concerned with describing each individual subject's experience in its depth and complexity. The quantitative researcher would not typically be concerned with more than a few variables and any individual subject data would be less important than those things that are similar across members of the group. The qualitative researcher would be concerned with a wealth of information, and the individual's experience would not be overlooked or lessened, even when commonalities between individual subjects were found; indeed, these might be seen as very instructive.

The strength of the quantitative research approach is its precision and concerns for reliable and generalizable research results. Its weakness is that it overlooks and fails to observe the context and plethora of variables affecting any situation. The strength of the qualitative approach is that it attempts to understand the individual's experience from the individual's perspective. It is less likely to overlook small but important variables. Its weakness is often its inability to be able to generalize findings to other people in other situations. However, qualitative research can explore the tapestry of experience and lead quantitative researchers to analyze, assess, and isolate variables that would never have been observed without the investigation of the qualitative researcher.

Descriptive and inferential statistics. Despite one's best efforts, it is inevitable that a discussion about research design and evaluation is likely to include some references to statistics. Often jokingly (or maybe not so lightly) referred to as "sadistics," statistics is the part of the research package that can cause the most concern to the uninitiated. However, many user-friendly statistical packages are currently available that may be loaded on most desktop PCs; often a basic understanding is enough to get the newcomer going. Indeed, only a few concepts are important to review here.

Two basic types of statistics are *descriptive* and *inferential*. Descriptive statistics describe or summarize information about a sample. Inferential statistics move beyond simple descriptions and are instructive as to what generalizations or statistical estimations can be made about the population.

The reader is already familiar, no doubt, with many basic descriptive statistics. There are three (generally known as *measures of central tendencies*), the *mode*, *median*, and *mean*. The

mode is the number, item, score or other value that occurs most often. It is the most frequent occurrence in the sample. The *median* is the middle or midpoint of a distribution. Therefore, it is the number, item, score, or other value that has 50 percent of the others above and 50 percent of the values below it. The *mean*, perhaps the most often used measure of central tendency, is the average number, item, score, or other value in the distribution. It is, then, the arithmetic or mathematical center of the distribution.

There are many, many types of inferential statistics, and a full discussion is not possible here. A list of sources for obtaining more in-depth treatment can be found in *Additional Resources* at the end of the chapter.

Statistical significance. *Statistical significance* is a concept that is critical to an understanding of the generalizability of research findings. That is, how confident can one be about these findings, and how can or should these findings be used in the decision-making process? Understanding statistical outcomes is often a matter of degree of confidence in those findings, rather than an “absolute proof” versus “no proof” decision. Very often it is a matter of determining a comfort level with the “odds” that the results in question are due to the experimental manipulation (or the hypothesized naturally occurring relationship) rather than being due to some chance occurrence.

In keeping with this notion, statistical significance is expressed as the “probability” that the outcome was due to what the researcher hypothesized, versus a random outcome. This probability value is expressed in terms of *p value*. P values are typically <0.05 (less than the point 05 level) and <0.01 (less than the point 01 level). A value of <0.01 means that the probability that the results of the study occurred by chance is less than 1 percent. Or to phrase it another way, if one were to re-do (“replicate”) the study 100 times, one would predict that in 99 cases the results would be the same. This is considered an excellent outcome. Perhaps the most often relied upon level is <0.05 . This is considered solid statistical significance (the results would be replicated 95 out of 100 tries).

Sample size. Researchers are often unable to test the entire universe of subjects and must typically rely on smaller numbers of cases. A critical issue in both the research methodology and the power of any statistical findings is the size of the sample. Simply put, a larger sample helps to avoid what are called *confounding variables*. This simply means that there is always the possibility that something other than what was hypothesized actually produced the outcome. Careful methods, good variable measuring instruments, and other factors all contribute to a strong research design. Samples must also be of sufficient size to support the statistical significance of findings and generalizability. No doubt the reader is familiar with the phrase “statistically significant sample” being used in, for example, news reports that relay the results of national opinion polls. Some people may be surprised to learn that these samples are often in the low thousands, if that, and are being used to estimate the views of tens of millions of voters. The power of randomization and sizable samples, in concert with other methodological issues (such as whether or not the questions asked in the poll’s questionnaire protocol are valid), combine to produce some strikingly dependable results.

EVALUATION RESEARCH METHODS

Among the most common applications of research methods in the victims services area is evaluating the effectiveness of a project or program. Indeed, evaluation research is not really a different or difficult area in and of itself. It is best thought of as simply research applied in the field or in a program setting. At its most fundamental level, evaluation research seeks to answer basic questions about whether or not the program is achieving its stated goals as measured in the research project.

There are many forms of evaluation research. Given the fact that many traditional experimental or “laboratory” research methods are not always possible in the “real world” setting of an ongoing victim program, a variety of innovative designs are utilized. Many of these are derived from Campbell and Stanley’s seminal work *Experimental and Quasi-Experimental Designs for Research* (1963). This is a very important book to become familiar with, even on a basic level. In terms of specific evaluation research itself, there are several distinct categories. The reader will note that many of these are distinguished by *what* is being measured and *when* it is being measured.

Process/Impact or outcome evaluation. Service providers should understand certain distinctions between *process evaluation*, which investigates issues regarding the program’s implementation, and *impact or outcome evaluation*, which looks more specifically at whether or not the program achieved its goals and had an effect on the issue at hand. For example, a process evaluation might look at how networks of service providers are formed and measure the number and intensity of these relationships. An outcome evaluation might focus on whether or not this networking actually helped victims in some way.

Empowerment evaluation. Empowerment evaluation is a model that is currently enjoying increased use in a wide variety of public and private settings. While still maintaining the utmost independence, the role of the evaluator evolves into one inclusive of collaborative functions within an open forum, and not merely one of expert-counselor. This approach involves both independent evaluation and the empowerment of management and program staff to continuously assure quality of services. This is also useful given the changing macro-contexts within which services are delivered. As Fetterman (1996) points out:

Empowerment evaluation is necessarily a collaborative group activity....As a result, the context changes: the assessment of a program’s value or worth is not the end point of the evaluation—as is often the case in traditional evaluation—but part of an ongoing process of program improvement. This new context acknowledges a simple but often overlooked truth: that merit and worth are not static values. Populations shift, goals shift, knowledge about program practices and their value change, and external forces are highly unstable. By internalizing and institutionalizing self-evaluation processes and practices, a dynamic and responsive approach to evaluation can be developed to accommodate these shifts (Ibid., 5).

STAYING ON THE CUTTING EDGE

Staying current in a developing field is both exciting and demanding. By virtue of its interdisciplinary nature, the crime victim area requires attention outside the primary fields of a

practitioner's training. Among the fields involved in contributing to knowledge in this area are law enforcement, criminal justice, juvenile justice, criminology, corrections, psychology, social work, sociology, counseling, family studies, human services, public administration, medicine, nursing, and education.

With the ever increasing demands placed on service providers' time by heavy caseloads, staying current in a single primary area is oftentimes difficult. However, there are tools that may be employed to stay current and to better ensure the quality of crime victim services and advocacy. Much of the work in culling through the research and other literature is already being done, at least to some extent, by others. Many journals are published that contain this body of work. Some are specific to a field, such as *Child Maltreatment* published by the American Professional Society on the Abuse of Children, while others provide a variety of articles of interest to service providers, such as the *Journal of Interpersonal Violence*. One publication, *Violence & Abuse Abstracts* summarizes current research throughout areas of interpersonal violence and is a good starting point to see what journals are publishing materials of interest to the service provider. Victim service providers should draw upon these resources and not expend energies to re-create this work.

ACADEMIC INSTITUTIONS

Many relevant research activities may be ongoing in local colleges and universities. Victim advocates can pick up a school/course catalogue and read up on the work victim service providers are doing and the courses researchers are teaching. Victim service providers may not have taken the opportunity to reach out to learn what other victim services agencies in the area are doing, but keeping up with the latest research may reveal what others are doing in a related topic area. The following are several potential ways to work together to achieve a mutual benefit for service providers and researchers alike:

- A professor or academician may be asked to sit on an advisory board or board of directors.
- A professor or researcher may be willing to perform (or more likely have a student compile) a "literature search" or "literature review."
- Faculty members may be willing to review and critique a draft of an evaluation proposal.
- A victim services agency could offer an undergraduate or graduate student internship that would offer some quality volunteer work and provide access to the schools resources, such as on-line literature searches and academic journals.

PERIODICALS

Periodicals published by professional associations or publishing houses often have articles of current relevance. These include publications that are more substantial than the typical newsletter, but perhaps are not truly academic journals. The difficulty here typically involves the time needed to review these publications and the money needed to subscribe. Although these concerns are certainly real, the benefit to victim service providers and their agencies may well justify this resource allocation. It is important to invest these limited resources in the highest pay-off areas.

other group, then their proportional representation should be stated in order to have a truer understanding of this phenomenon. (For example, two ethnic or racial groups may have the same number of homicide victims; however, only within the context of population proportion can these numbers be truly understood.)

- Victim service providers should be skeptical, and not take research at face value. If the author is not convincing about the findings and conclusions drawn from the study, try to articulate what is wrong with the research or how it could have been done differently.

Victim service providers must be careful not to automatically discount research that simply does not happen to jive with their point of view. Research should be read to learn new things as well as to confirm current beliefs. Also, remember that no study is perfect. This is particularly true in the crime victim research area as the demands of ethical treatment of subjects and the limitations on data that can be gathered often conflict with the rigors of pure research.

As the victims' field expands, those who work in it need to keep up with an ever-increasing array of research and other published literature. It is important not to be anxious about delving into this area. Adopting the tips above will help victim service providers stay current and better ensure that their services to, and advocacy for, victims of crime will be of high quality.

Sound research should form the basis of developing sound practices that address the needs of the population of victims served. This research should be of good quality and study actual client populations in field settings whenever practical. Indeed, one's reputation, and the credibility of the field as a whole, relies to a significant degree on the field's collective ability to translate good research into quality service provision.

1. Define the following:
 - a. Variable.
 - b. Operational definitions.
 - c. Randomized study.
 - d. Sampling bias.
 - e. Positive correlation.
2. Explain the difference between descriptive and inferential statistics.
3. List several ways in which your program could access or minimize the cost of research and evaluation services.
4. List and discuss three “clever data manipulations” to be wary of.
5. Describe the difference between the qualitative research approach and the quantitative research approach.

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Journal of Interpersonal Violence

Violence and Victims

Crime and Delinquency

Criminal Justice and Behavior

184075

STATISTICAL OVERVIEW

- A 1997 study published by the Center for Media and Public Affairs (CMPA) found that since 1993, coverage of murders on network evening news shows rose over 700% and overall crime news tripled. Between 1993 and 1996, crime was the most heavily covered topic on network evening news, with 7,448 stories, or one out of every seven news stories on all topics. The amount of crime news tripled from the early 1990s, although violent crime rates declined during the same period (CMPA 1997a).
- According to CMPA, 24% of all stories on the leading syndicated tabloid television news programs dealt with crime; 21% with sex; 17% with accidents and disasters; and 10% with self-destructive behavior such as drug and alcohol abuse. Only 7% of stories dealt with "uplifting themes" such as heroic acts (CMPA 1997b).

PROMISING PRACTICES

- The Washington, D.C. chapter of *Society of Professional Journalists* (SPJ) has developed an informational card that reporters can use to inform crime victims and witnesses about the process of covering a story involving crime and victimization. According to chapter President Don Dudley, "news coverage of crimes benefits from having the perspective of victims and witnesses."

The text of the card, which reporters can hand to victims or leave with a friend or family member, says:

I am a news reporter, and I would like to interview you. I understand that you or someone close to you has been the victim of a crime, or you were a witness to a crime. I do not intend to add to the difficulties you are now facing. My job is to inform members of the public about crimes so that they may protect themselves from becoming victims in the future, and to inform them of the progress police make investigating and solving such crimes.

If you do not wish to talk with me now, you may call later at the number below.

Reporter's Name

Telephone #

News Organization

Victim service providers and justice professionals can inform their community's news media about the availability of the SPJ Crime Victims Card, which can be ordered from the Washington, D.C. SPJ chapter at P.O. Box 19555, Washington, DC 20036-0555.

- *The Victims and the Media Program* of Michigan State University's School of Journalism—co-sponsored by the Michigan Victims Alliance—is a special initiative that focuses on the media's portrayal and treatment of victims of violence. Established in 1991, the program was developed in response to growing concerns about the media's handling of victims. The program is designed to reach both journalism students and professionals, and its goals include educating both groups about the effects of violence and helping them improve their interpersonal skills, so that they can do a better job of approaching and interviewing victims. The efforts also address victims' concerns about media coverage, and the role of such coverage in shaping public perceptions of both victims and violence.

Of special note, the program provides research that gathers data on professional policies and practices, monitors news coverage of victims, assesses how journalists attempt to deal with trauma, and develops guidelines for journalists who report on crime and outreach through the "victims and the media response team." The response team, comprised of faculty, journalists, therapists, victims, and victim advocates, provides instruction on victim issues and debriefs journalists who suffer from the stress of reporting on incidents of violence.

According to their Web site, the MSU Victims and the Media program is a promising partnership that makes a significant difference in how the journalists of today and in the future cover issues of crime and victimization. The Web site address is <<http://victims.jrn.msu.edu/>> (MSU School of Journalism April 2000).

- A comprehensive list of electronic linkages to Web sites sponsored by international, national, and regional journalism associations has been compiled by the Poynter Institute. Many of these associations have sponsored forums about the news media's coverage of crime over the past decade. The Poynter Institute is a school dedicated to teaching and inspiring journalists and media leaders, and promotes excellence and integrity in the practice of craft and in the practical leadership of successful businesses. The list of journalism associations is available from the Poynter Institute's Web site at: <www.poynter.org/research/jsites/je_jsites1.htm> .

To address the "privacy concerns (that) apply to average citizens who are suddenly caught in the news by virtue of a tragedy or their connection to an otherwise newsworthy event," the Poynter Institute developed a series of important questions journalists should ask themselves as they balance the public's need to know with an individual's right to privacy:

1. What is my journalistic purpose in seeking this information? In reporting it?
2. Does the public have a justifiable need to know? Or is this matter just one in which some want to know?
3. How much protection does this person deserve? Is this person a public official, public figure, or celebrity? Is this person involved in the news event by choice or by chance?
4. What is the nature of harm I might cause by intruding on someone's privacy?
5. Can I cause considerable harm to someone just by asking questions, observing activity, or obtaining information even if I never actually report the story?

6. How can I better understand this person's vulnerability and desire for privacy? Can I make a better decision by talking with this person?
7. What alternative approaches can I take in my reporting and my storytelling to minimize the harm of privacy invasion while still fulfilling my journalistic duty to inform the public? For instance, can I leave out some "private" matters while still accurately and fairly reporting the story? Or can I focus more on a system failure issue rather than reporting intensely on one individual? (Steele 1999)

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ABSTRACT

The news media wield a “double-edged sword” in their coverage of crime and victimization relevant to the “public’s right to know” versus “the victim’s right to privacy.” Victim service providers play crucial roles in protecting victims’ privacy rights, and helping victims cope with media coverage immediately following a crime, during the trial, and following verdicts. Advocates must possess knowledge of who the media are, how they operate, and victims’ needs pertinent to dealing with the media.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- The impact of news reporting on crime.
- The influence of the news media on criminal justice, juvenile justice, and victim services policies and practices.
- Advocating for victims in high-profile cases.
- First Amendment issues and precedents relevant to victim privacy.
- Major concerns of victims and service providers when dealing with the media and guidelines for victims who choose to deal with the media.
- The role and responsibilities of the victim advocate in helping victims deal with the news media.
- Significant issues for the media and the courts.
- The media perspective of crime and victimization.

IMPACT OF NEWS MEDIA REPORTING ON CRIME

Crime in America is big news that is of significant concern to the American public. In a 1997 national survey conducted by the Roper Center in conjunction with the Newseum of Arlington, Virginia, 95% of 1,500 respondents said “they want to know about crime,” a higher response rate than for any other topic, including local news, the environment, and world news (*Parade Magazine* 1997, 4).

Numerous studies of American news media have examined the media's coverage of crime in comparison with actual crime rates. A 1996 *U.S. News & World Report* article reported that "the number of crime stories on the network evening news in 1995 was quadruple the 1991 total. Last year (1995), the three networks ran 2,574 stories about domestic crime, more than the combined number of stories on the budget, Bosnia and the presidential campaign. Even excluding stories about the O. J. Simpson trial, the networks aired 375 stories on murder in 1995, more than four times the 1990 total, when the homicide rate was higher." Such news reporting came at a time when the overall crime rate had been significantly dropping. *U.S. News & World Report* concluded that ". . . if there is no new crime wave in the real world, there is one on TV news."

Media reporting of crime and victimization, in both print and broadcast formats, has far-reaching effects on a number of populations and special interests:

THE CRIMINAL AND JUVENILE JUSTICE SYSTEM

Coverage of criminal and juvenile justice system activities offers citizens an overview of the entire justice process, from law enforcement to prosecution through probation, parole, and corrections. The news media's examination of individual cases has resulted in groundswells of public opinion and action that have, in many cases, ultimately changed the way the justice system operates. In addition, the emergence of cameras in the courtroom and the Court TV network have expanded the American public's knowledge of the myriad intricacies that comprise our justice system.

The criminal and juvenile justice systems are also affected by their attempts to preserve the sanctity of criminal cases and, in some cases, protect victims' privacy. The espoused theory of the "public's right to know" often puts the media in direct conflict with system officials who believe that case confidentiality is essential to obtaining criminal convictions.

THE MEDIA PROFESSION

Over the past decade, coverage of crime and victimization has drastically changed. For example, in 1985, footage of bodies and/or body bags on national networks elicited organized outcries from victim advocates across the nation. Today, such footage is commonplace. The volatile issue of identifying victims of sexual assault in the media has been debated and analyzed from both victim advocacy and First Amendment perspectives, with little consensus from either side of the argument.

However, the past fifteen years have also witnessed an increase in media professionals who seek sensitivity training from crime victims and advocates so that they can accurately cover crime stories with the least amount of trauma to the victim. Today, crime victims and service providers offer training programs to newsrooms, professional journalism associations, and university-level journalism classes about media sensitivity in addressing violence and victimization.

Journalists who cover crime beats are also affected by the scope and demands of their jobs. Those who cover the horror and degradation of violence on a regular basis have few outlets for

the personal trauma they must endure. As such, there is high demand for a protocol to “debrief” journalists whose assignments include regular coverage of violence.

VICTIM SERVICE PROVIDERS

The increase in the news media's coverage of crime and victimization has resulted in a very specialized discipline within the field of victim services: advocating for crime victims whose cases are covered by the news media. Training programs to help service providers better work with the news media who cover crime and victimization, as well as guidelines in media relations that help them enhance their professional relationships with the news media, are regularly offered at training conferences and as a component of victim service professional education.

CRIME VICTIMS

The constituency most affected by the news media's coverage of violence and victimization is crime victims. While sensitive coverage of victim's cases can be helpful and, in some cases, even healing, media coverage that is sometimes viewed as insensitive, voyeuristic, and uncaring can compound victims' emotional and psychological suffering.

Most crime victims have never before dealt with the news media. They are thrust, often unwillingly, into a limelight they do not seek and do not enjoy solely because of the crimes committed against them. Many victims describe the initial assault from the perpetrator, a secondary assault from the criminal justice system, and a tertiary assault at the hands of the news media. As ABC News and Political Analyst Jeff Greenfield explained in 1986, “What weighs in the scale is not simply the desire of a victim for privacy . . . but the prospect of further victimization beyond the involuntary thrust into the public arena. And this is something that the journalism community must begin to consider in its daily business.”

THE AMERICAN PUBLIC

The media play a significant role in public safety by keeping citizens apprised of—

- increases and decreases in crime.
- trends in violence and victimization (that are specific to national, state, local, and even neighborhood targeted audiences).
- efforts to prevent crime, reduce violence, and assist victims (including new and existing programs, policies, and legislation).
- measures individuals and communities can take to promote safety.

In the previously cited Newseum/Roper Group poll (*Parade Magazine* 1997, 4), the American public offered some excellent insights and opinions about news reporting:

- 82% think reporters are insensitive to people's pain when covering disasters and accidents.
- 64% think the news is too sensationalized.

- 64% think reporters spend too much time offering their own opinions.
- 63% think the news is too manipulated by special interests.
- 60% think reporters too often quote sources whose names are not given in news stories.
- 52% think the news is too biased.
- 46% think the news is too negative.

Many of these concerns have been identified in the past by crime victims and those who serve them. *Parade Magazine* highlighted similar concerns by leading American journalists. For example, Tom Brokaw, anchor of NBC Nightly News, said: "Coverage of big stories can give the impression of a feeding frenzy. People feel bombarded."

THE MEDIA AND ITS INFLUENCE ON CRIMINAL/JUVENILE JUSTICE AND VICTIMS' RIGHTS POLICIES AND PROGRAMS

The media's significant focus on high-profile crimes, as well as societal ills related to crime and victimization, have wielded considerable influence, both positive and negative, on policies and programs relevant to criminal justice, juvenile justice, and victims' rights and services. News coverage ranging from a single report to more widespread coverage of key issues has profoundly affected the delivery of justice and victim services.

For example, the news media played a significant role in the myriad juvenile justice reforms that occurred throughout the 1990s. The publicity surrounding increases in juvenile violent crime, as well as the cloak of secrecy that shrouded America's juvenile justice system, led to reforms relevant to both offender confidentiality and increased victim involvement in juvenile court proceedings. Attention to hate crimes, including the award-winning series in *USA Today* by reporter Gary Fields about the church burnings in the South, provided impetus to the U.S. Department of Justice's increased collaborative efforts on prevention and resolution of these shocking offenses. Reforms in child welfare systems and services in numerous states followed extensive news reports of too many children who were falling through the cracks of systems that should be designed to protect them.

Many state laws and agency policies relevant to crime victims have been passed or strengthened as a result of media exposure. In these instances, "the power of the personal story" drove public policy and gave impetus to new and important sub-disciplines of the victims' rights field:

- In the early days of Mothers Against Drunk Driving, the founders of MADD effectively utilized the media to draw attention to a criminal act—driving under the influence (DUI) of alcohol and other drugs—that was not even considered a crime. As family members around the nation spoke publicly in a unified manner for the first time about the devastating effects of DUI offenses, the results changed federal, state, and local policies and continue to do so today.

- The courage of John Walsh and other parents, whose children were abducted, contributed to federal and state laws in the 1980s and beyond in addressing the tragedy of missing children. Parents' efforts were institutionalized by the federal government in 1984 with the creation of the National Center for Missing and Exploited Children.
- Despite her pleas for notification of any change in his custodial status, Lisa Bianco was murdered by her ex-husband while he was on furlough from the Indiana Department of Corrections. Her death resulted in the passage of corrections-based victim notification laws in all fifty states and the District of Columbia. Local and national media attention on this tragedy was instrumental in the positive public policy changes that resulted.
- The brutal abduction, rape, and murder of Megan Kanka in July 1994 and ensuing media exposure about the confidentiality of sex offenders under community supervision led to the passage of "Megan's Laws" at the federal level and in most states, which require sex offender registries and the provision of information to communities about the location of sex offenders in their midst.
- When mothers of victims murdered in gang violence were interviewed for a broadcast series by an independent television station in Los Angeles, their pleas for justice and understanding contributed to the U.S. Department of Justice, Office for Victims of Crime "Special Report on Victims of Gang Violence" published in 1996.

The media also provide forums for important dialogue among seemingly disparate groups. For example, widespread attention on the use of DNA testing to clear unsolved criminal cases also focused on how DNA has been instrumental in freeing inmates who were wrongly convicted. One poignant program brought together a sexual assault victim with the man who was freed from prison for that assault through new DNA evidence. In another instance, media attention on the lack of funding for public defense encouraged a victim advocate to address this issue at a national conference of defense attorneys from the victims' perspective—lack of funding for public defense of indigent defendants leads to delays that can be traumatic for victims.

The following are examples where media have also had a powerful influence on improving programs and services for victims of crime:

- Many victim service programs solicit volunteers through feature articles and programs in the local media and through news columns that promote volunteer activities.
- When an innovative approach to victim assistance is publicized through national or local media, it often leads to requests for information that contribute to the replication of promising practices or policies.
- Many victims, who choose not to report crime, learn about community-based victim service programs available to assist them through news reports.

THE INTERNET'S IMPACT ON VICTIMS' RIGHTS AND SERVICES

The most rapidly growing form of media in the world today is the World Wide Web. The global "virtual network" that has resulted holds important implications for crime victims and those who serve them.

Thousands of Web sites now offer information and referral services for victims of crime and victim service providers. Direct services are rapidly becoming available, as evidenced by the free confidential counseling offered on-line to sexual assault victims by the Brazos Rape Crisis Center in Texas. Listservs link together victim advocates and allied professionals who share interest in specific victim- and justice-related topics, simplifying the exchange of information and ideas. In some states, victim compensation claims and agency reports are filed electronically with the compensation authority.

THE NEWS MEDIA AND HIGH PROFILE CASES

In high profile cases, where either the victim or the alleged or convicted offender is a well-known person, the victim is often thrust unwillingly into an excessive and excruciating limelight that he or she neither asked for, nor desires. The "pack mentality" that can result from a combination of mainstream and tabloid media competing for the same scoops, under the same deadlines, can be devastating to victims.

Two victim advocates who joined the rest of the nation in watching the now infamous freeway chase that followed the double murders in Brentwood, California in 1995 shared their perspectives:

We were working on a project in Cheyenne, Wyoming, and had just begun relaxing in our hotel room when all the major networks began broadcasting a minute-by-minute, up-close-and-personal view of the freeway chase of the Ford Bronco—on the heels of days of news media focus on the alleged defendant in the case. We were appalled at the circus atmosphere surrounding this bizarre coverage—people standing by I-405 urging the fleeing alleged perpetrator to "go...go...go...."

Cognizant of the fact that there were two murder victims, as well as two families that were enduring the greatest possible trauma and grief, we decided we could not just stand by idle and let this offensive charade continue. In less than half an hour, we typed out a press release entitled simply "Remember the Victims." It focused solely on the victim perspective of this horrible tragedy and that, in the absolute craziness of the news media in covering the freeway exploits, there were tremendous pain and suffering that were subsequently going on.

After begging the hotel management to let us fax our press release to major media outlets, we contacted a number of victim advocates who could present the victim perspective, as we were in a training session for the next two days. The results were incredible—we fielded a dozen calls that night, and into the wee morning hours, requesting a spokesperson "who could express the voice of the victim."

While this effort was entirely spontaneous and propelled by frustration, the end result was very positive. It showed that every story has two sides, and every victim advocate has both the *opportunity* and *obligation* to speak out on behalf of victims everywhere.

In high profile cases, every aspect of victim advocacy demands a greater intensity to protect the victim's interest and privacy. Such cases require close coordination among key justice officials and professionals or volunteers who are working with the victim. It is essential to present the victim's aspect of a case in a manner that is respectful, a goal that can be difficult to achieve when the limelight is so intense.

THE COLORADO/OKLAHOMA RESOURCE COUNCIL MEDIA CONSORTIUM

When the trial for the Oklahoma City bombing and murders at the Murrah federal building changed venue to Denver, Colorado, a community-based group was established to provide services to the victims and survivors while they were in Denver for the trials. The goal of the Colorado/Oklahoma Resource Council (CORC) was to minimize re-traumatization of victims from Oklahoma City who were displaced during the judicial process.

Recognizing the potential for a "media circus" surrounding the trials, which were the most covered news events since the murder of John F. Kennedy in 1963, CORC created a Media Consortium in partnership with the Denver city government, the federal government, the courts, and the community. The three goals of the Media Consortium were as follows:

- Support the federal court, recognizing that the business of the court is justice, not the media.
- Address community concerns, in particular the powerful presence of the news media.
- Treat victims and witnesses with dignity and respect.

The strength of the Media Consortium offered benefits for the news media, courts, community, and, perhaps most important, the victims. The Consortium developed a credentialing process for journalists who wished to attend the trial, which had limited seats for the news media. It worked closely with the courts to identify space for news media and their equipment and to secure proper permits. Pool coverage was also coordinated by the Consortium so that all reporters had access to information from the courtroom each day, regardless of whether they were on-site. Perhaps most important, the Consortium promoted self-policing control and accountability among journalists.

By establishing both formal and informal rules, the Consortium contributed greatly to victim sensitivity and victim privacy. The pool coverage helped victims avoid a "mob mentality" among journalists. Guidelines for dealing with the news media were provided to the victims, and rules were established for victim service providers that ensured the veracity of their interactions with journalists, and that permission to speak on behalf of specific victims was always obtained.

The CORC Media Consortium holds great promise for other communities that are faced with a high-profile criminal case. CORC is developing a comprehensive training and technical assistance package that will help other communities plan for, and be prepared to implement, a coordinated approach to dealing with the news media in a positive, proactive manner, while protecting both the privacy of the victims and the sanctity of the high-profile case.

THE PUBLIC'S RIGHT TO KNOW VERSUS THE VICTIM'S RIGHT TO PRIVACY

The question of where a society's right to know ends and an individual's right to privacy begins is one of journalism's thorniest ethical dilemmas (Thomason and Babbili 1988).

This double-edged sword has serious implications for victims and those who serve them. While the legal aspects relevant to the First Amendment are quite clear, ethical considerations that take into account the traumatic nature of victimization and related news coverage are much more complex.

There have been two precedent-setting decisions handed down by the U.S. Supreme Court relevant to the privacy rights of crime victims.

In *Florida Star v. B.J.F.*, a weekly newspaper in Jacksonville published a news article that identified the name of a sexual assault victim, violating its own policy of protecting the privacy of rape victims. The resulting appeals and ultimate Supreme Court decision rendered in 1989 were summarized in a 1990 *Mercer Law Review* article:

In Florida Star v. B.J.F., the Supreme Court invalidated a Florida statute proscribing the newspaper publication of the identity of sexual assault victims. In making its determination, the Court balanced the state interest of protecting the privacy of assault victims against the first amendment concerns of the free press. The Court did not focus on the privacy right of the plaintiff as much as it considered the inability of the statute to achieve its desired goal. Accordingly, the Supreme Court found the Florida statute unconstitutional primarily because of its failure to protect the privacy of assault victims effectively without an impermissible intrusion on the first amendment freedom of the press (Hughes 1990).

The constitutionality of a Georgia law that prohibited the identification of rape victims by the news media was called into question in a case involving a television station's reporting of the name of a deceased rape victim. When *Cox Broadcasting Corporation v. Cohn* (1975) was appealed to the U.S. Supreme Court, Justice White noted in the affirming opinion that the "commission of crime, prosecutions resulting from it, and judicial proceedings arising from the prosecutions . . . are without question events of legitimate concern to the public and consequently fall within the responsibility of the press to report the operations of government" (p. 493).

There are several arguments adopted by journalists in support of identifying victims of crime and, in particular, victims of sexual assault and rape. First, the public's right to know any information that is part of public record (i.e., law enforcement or court documents) is frequently cited. Next, some journalists believe that, in the name of fairness and equity, the victim's identity should not be protected when the name of the alleged assailant is published or broadcast, particularly when the defendant is found not guilty. Finally, some journalists believe that identifying rape victims will somehow eliminate or reduce the stigma that is often associated with sexual assault.

However, research clearly shows that crime victims, service providers, and American women in general strongly support protecting the privacy of rape victims. Key findings from *The*

National Women's Study, as reported in "Rape in America: A Report to the Nation," include the following:

- 84% of rape victims do not report to the police.
- 50% of rape victims would be "a lot more likely to report" to police if there was a law prohibiting the news media from disclosing their name and address, with 16% indicating they would be "somewhat more likely to report" rapes to the police.
- 86% of American women felt victims would be less likely to report rapes if they felt their names would be disclosed by the news media.
- An overwhelming majority of American women (75%), rape victims (78%), and rape service agencies (91%) favor legislation that would prohibit media disclosure of rape victims' names (Kilpatrick, Edmunds, and Seymour 1992).

Surveys of American newspaper editors have shown that most do not routinely publish the names of rape victims. In 1982, Oukrop reported that 68% of the editors she surveyed believed names of rape victims should not be published (p. 21). Winch (1991) surveyed editors in 1990 and found that 9.6% said rape victims should never be named; 39.6% said they should be named only with the victim's permission; and 43.6% said they should be named only in exceptional cases.

Furthermore, more news media today are addressing the issue of rape than ever before. In "Newspaper Coverage of Rape: Editors Still Reluctant to Name the Victim," the following data were revealed:

- The topic of rape coverage had been discussed in respondents' newsrooms, with 57.5% noting that their paper had seriously re-examined policy on rape identification, and 55.2% saying that they had re-examined policy on rape coverage in general.
- More than 40% believed their own newspaper is more sensitive toward rape victims than five years ago, and more than 50% said they believed newspapers as a whole are more sensitive.
- 22.6% disagree with the idea that routine printing of the names of rape victims would remove the stigma of rape.
- Only 24.3% agreed that not printing names of rape victims was a violation of the public's right to know.
- However, the editors indicated that the decision to withhold a name should be the newspaper's, not a result of legislation that keeps the name from the press. Almost three-fourths of the editors (71.8%) said those laws should be repealed because they violate the First Amendment (Thomason and LaRocque 1994, 11-12).

Clearly, the correlation between rape victims' fear of being identified and the fact that only 16% of rapes are ever reported to police should be a driving force behind the protection of the privacy rights of all sexual assault victims. While legislation mandating such protections has

been held unconstitutional by the U.S. Supreme Court, the news media should adopt policies that protect rape victims' right to privacy as a basic ethical premise of journalistic doctrine.

THE MAJOR CONCERNS OF CRIME VICTIMS AND SERVICE PROVIDERS

In addition to privacy protections, the National Center for Victims of Crime has identified fourteen significant concerns that crime victims and service providers have in regard to the news media's coverage of crime and victimization (Seymour and Lowrance 1988, 5-7).

- *Interviewing at inappropriate times.* "Inappropriate times" for interviewing victims include immediately following a crime, at funerals, in hospital settings, and during trials when the judge or prosecutor has issued a gag order to witnesses. It is during these periods that a victim's trauma and distress tend to be extremely high; dealing with the news media can create a secondary victimization that compounds the victim's tragedy caused by the violent crime.

A 1992 study of homicide survivors found that 92% of respondents felt that "it is *not* appropriate for a television news reporter and camera crew to approach a grieving individual immediately following a death" (Fritz 1992, 91). The feelings of many victims at the crisis stage following a crime were summed up by the mother of a murdered daughter:

You're in such a state of shock, you're not thinking in terms of newspapers . . . You're not prepared for this . . . I thought I'd come home by myself and cry my eyes out, but there already were 500 people waiting when I got home. We're not ready. We're numb. We don't know what's going on (Grotta 1986, 10).

- *Using euphemisms to describe victims and offenders.* Euphemisms are often utilized by journalists and, in particular, newspaper headline writers to capture the essence of a violent act in a brief, memorable manner. However, in doing so, the identity of the victim can be demeaned and even lost. Most Americans remember the notorious "Preppie Murder" in Central Park in the 1980s, but how many people can recall the name of the victim, Jennifer Levin?
- *Glamorizing the offender.* The following words were used at various times to describe a well-known criminal: "handsome," "intelligent," "rape crisis center volunteer," and "law school student." The man who was so described was Ted Bundy, one of our nation's worst serial murderers. While such descriptions may be essential to a news story, what often adds insult to the victim's injury is the lack of such detail in describing the victims of such heinous criminals.
- *Exhibiting aggressive behavior toward victims, survivors, and their advocates.* The pressure to obtain a news story, often under a tight deadline, can lead some journalists to be overly aggressive to victims, their loved ones, and victim service providers. A television photographer illuminated this problem when he noted:

I think at times we don't take into consideration what these people have been through. There is pressure there, someone breathing down your back to go out and get that story, get that interview.' We should be more sensitive to these people's feelings. Sometimes I think we're a bit too aggressive (Grotta 1986, 7).

- *Ignoring victims' and survivors' wishes.* The issues of control and decision-making are essential to a victim's reconstruction following a crime. Since victims do not choose to be victimized, their ability to make decisions and have some degree of control over their lives following a violent crime is very important. Crime victims' wishes relevant to the news media's coverage of their cases should be respected and followed.
- *Filming and photographing scenes with bodies, body bags, and blood.* Many victim service professionals believe that the steady diet of gory crime scenes, often involving murdered victims, body bags, and blood, portrayed in broadcast and print media contributes to individual and collective desensitization to violence and the personal tragedy it wreaks on victims and survivors of crime.
- *Repeatedly using crime scene footage as a "lead-in" to newscasts.* When a broadcast medium chooses to show crime footage as the "lead-in" prior to a newscast, it can re-victimize anybody who was involved in that specific crime. One victim told of watching the evening news and seeing a body bag containing her husband:

There was no warning to the family that this was upcoming. You look up and there's his body. That's offensive. You can't be any more offensive than that (Grotta 1986, 7).
- *Reporting hearsay.* The "double-edged sword" wielded by the media who cover crime is often evident when victims, their loved ones, and law enforcement officials refuse to be interviewed for reasons including the need for privacy, or to preserve the sanctity of the criminal investigation or case. In such cases, some media rely on interviews with third parties, including neighbors and people who may, or may not, have known the victim, to obtain details about the victim and/or alleged perpetrator. However, such hearsay interviews often cannot be relied upon for accuracy and can invoke additional trauma for victims.
- *Interfering in police investigations.* The need for cooperation among law enforcement, other criminal justice officials, and the news media is essential to criminal investigations and prosecutions. Often, details that journalists consider key to a good story are also details that must be kept confidential in order to successfully complete a criminal investigation.
- *Referring to drunk driving crashes as "accidents."* The public awareness generated over the past two decades by Mothers Against Drunk Driving, Remove Intoxicated Drivers, and other victim advocacy organizations has successfully educated citizens about the dangers of drinking, drugging, and driving. There is nothing "accidental" about a person who chooses to drink and drive, resulting in a crime that injures or kills another human being. Many journalists have begun referring to such tragedies as "crashes" or "crimes," which more accurately describes the criminality of driving under the influence of alcohol or other drugs.
- *Failing to cover a crime at all.* Societal biases in America are sometimes reflected in news reporting. The length of news copy and scope of broadcast coverage tend to vary based upon the victim's race, where they live, socioeconomic status, and other factors that have nothing to do with the crime committed against them. These issues were elaborated upon in an article by the associate editor of a large metropolitan daily newspaper:

When city editors get calls from the crime reporter, often the first question asked is "Where did it happen?" The news team's reaction to the crime is often predicated on where the crime occurred. If

it's at one of the projects in predominantly black and Hispanic West Dallas, we call in a brief; if it's in white, fashionable University Park, we roll a reporter or two. That attitude is unlikely to change (Sotomayer 1987).

Such institutional biases can only be changed with continual training on cultural sensitivity, particularly as it relates to the coverage of crime.

- *Identifying child victims.* The criminal justice system goes to great length to protect the privacy of child victims, recognizing that any public identification of children's emotional, physical, or sexual assaults can have devastating consequences. The media should similarly respect the privacy rights of child victims, and should avoid all reporting that in any way contacts or identifies victims of child abuse. In cases of incest allegations or convictions, journalists should not identify perpetrators if the child victim is in any way at risk of also being identified.
- *Attempting to interview survivors of homicide victims prior to official death notifications by law enforcement.* In homicide cases, the news media should always ascertain whether or not surviving family members of the victim have been notified of their loved one's murder. One victim recalled driving his car on a Florida freeway and hearing a radio report of his brother's brutal murder at the hands of a high-profile, and yet unidentified, killer. The shock and grief associated with the news media's reporting of violent deaths prior to sensitive death notification comprise a second tragic victimization that can easily be avoided with communication and cooperation between law enforcement and the media.
- *Inaccurate reporting.* Accurate media coverage of details of a crime, however minute, are very important to crime victims and survivors. For example, inaccurately reporting of the age of a homicide victim can have traumatic consequences on that victim's surviving family members. Factual reporting of all details associated with a crime is critical not only to the media's underlying philosophy of accuracy, but also to a victim's efforts to reconstruct his or her life following a crime.

GUIDELINES FOR VICTIMS WHO CHOOSE TO DEAL WITH THE MEDIA

A brochure published by the National Center for Victims of Crime in 1987 entitled *Victims' Rights and the Media* offers valuable guidelines to crime victims whose cases are covered by print and broadcast news media. While the "rights" enumerated in this brochure are not mandated by statute or policy, they should be considered guiding principles provided by all service providers to crime victims prior to dealing with the news media.

YOU HAVE THE RIGHT TO:

1. Say "no" to an interview.
2. Select the spokesperson or advocate of your choice.
3. Select the time and location for media interviews.
4. Request a specific reporter.

5. Refuse an interview with a specific reporter even though you have granted interviews to other reporters.
6. Say "no" to an interview even though you have previously granted interviews.
7. Release a written statement through a spokesperson in lieu of an interview.
8. Exclude children from interviews.
9. Refrain from answering any questions with which you are uncomfortable or that you feel are inappropriate.
10. Know in advance the direction the story about your victimization is going to take.
11. Avoid a press conference atmosphere and speak to only one reporter at a time.
12. Demand a correction when inaccurate information is reported.
13. Ask that offensive photographs or visuals be omitted from broadcast or publication.
14. Conduct a television interview using a silhouette or a newspaper interview without having your photograph taken.
15. Completely give your side of the story related to your victimization.
16. Refrain from answering reporters' questions during trial.
17. File a formal complaint against a journalist.
18. Grieve in privacy.
19. Suggest training about media and victims for print and electronic media in your community (Seymour and Lowrance 1988, 7-10).

GUIDELINES FOR TELEVISION TALK SHOWS AND CRIME VICTIM GUESTS

In the past two decades, television talk shows have emerged as a powerful genre to address various issues of importance to the public, including crime. While such programs can have a powerful impact on promoting victims' rights and needs, they can also be traumatic to victim guests whose cases are sensationalized, or who are treated in an insensitive manner.

Recognizing the need for accountability from television talk shows, the National Center for Victims of Crime (NCVC 1994) developed guidelines for talk shows and crime victim guests that promote victim sensitivity and reduce opportunities for "re-victimizing victims."

- Television talk shows should use only those victims who have had the benefit of counseling and guidance from a trained victim counselor, professional, or advocate.
- Crime victims should not appear in the immediate wake of their victimization, particularly if they have not had the advantage of counseling by professional victim advocates and service providers.
- Child victims should not be guests.

- A professionally trained victim advocate or crisis counselor should be on hand at all times.
- Crime victims should be treated with dignity and respect at all times.
- Crime victims should always be fully informed about the format of the show; how their story will be told; who else will appear (in person or otherwise such as from a remote location); and what subjects will be discussed with each guest. Whenever possible, victims should be provided with copies of the producer's notes on each guest.
- If an offender (any offender) is to be physically present in the studio or elsewhere in the facility, the victim should be given notice of the specific facts and asked what arrangements can be made in the studio to make the victim feel comfortable and safe if he or she chooses to be a guest. Every precaution should be taken to prevent the offender and the victim from "crossing paths" before, during, and after the show.
- Victims should be offered the opportunity to get comfortable with the set by allowing them to arrive early, or even the day before the actual taping.
- Victims should always have the right to view pictures, video/audio tapes, and graphic or other depictions that will air as part of the show.
- Victims should be informed in advance of the option to protect their anonymity by whatever means are necessary such as silhouette screens, disguises, electronic voice alteration, pixel and fog screening, etc.
- When the victim desires, no information should be presented that would disclose the location of their home, place of work, or whereabouts.
- Victims should have the right to request that their show not air in certain markets if there are safety concerns.
- Victims should have the opportunity to request that disclosures which compromise their anonymity or safety be edited from the broadcast program.
- Victims should be informed of when the original show will air and when the show will be re-broadcast.
- Victims in the viewing audience may experience a crisis reaction while watching a show about crime victimization experiences. It is strongly advised that producers provide a disclaimer at the beginning of the show cautioning viewers of the content.

CODE OF ETHICS FOR VICTIM ADVOCATES IN DEALING WITH THE NEWS MEDIA

In 1988, the National Center for Victims of Crime published a suggested code of ethics for victim advocates in the media. With adherence to these recommended guidelines (which were updated in 1995), victim advocates can ease the trauma of the news media's coverage of crime and victims and, at the same time, assist the news media in their attempts to focus public attention on crime in our nation:

I SHALL ALWAYS:

1. Honor the victim's wishes relevant to any news media coverage of their tragedy.
2. Protect the privacy of any victims who do not wish to have contact with the news media.
3. Provide victims with guidelines on how to deal with the news media.
4. Help victims, upon request, prepare for print or broadcast media interviews.
5. Inform victims that they have the right to refuse an interview with the media.
6. Accompany crime victims, upon request, to media interviews and press conferences.
7. Review with reporters, producers, and talk show hosts exactly what questions they can and cannot ask the victim.
8. Reserve the right to end any interview if the victim shows signs of trauma during the course of an interview.
9. Discourage the participation of children in any interviews or talk shows.

I SHALL NEVER:

1. Force a victim into an interview against his or her wishes.
2. Provide any information about the victim without his or her explicit consent (Seymour and Lowrance 1988, 15).

**THE ROLE AND RESPONSIBILITIES OF THE VICTIM ADVOCATE
IN HELPING VICTIMS DEAL WITH THE NEWS MEDIA**

Advocacy for crime victims in the media has become a specialized discipline within the field of victim advocacy. Victim service providers who assume this immense responsibility must do the following:

- Be knowledgeable about how the news media operate.
- Be knowledgeable about victims' rights and issues in general, and about the specifics of the victim and case at hand.
- Develop solid relationships with news media professionals who are known to be sensitive to crime victims and victims' rights issues.
- Consider the needs and desires of the victims they represent, especially privacy concerns, as foremost among their responsibilities.
- Be sensitive to the specific needs of the victim and/or the victim's family and friends, as well as to the parameters of the criminal investigation, criminal or juvenile justice system, and criminal or juvenile case (when applicable).

- Be available twenty-four hours a day, seven days a week for both the victim and the news media.
- Be aware of and prepared to protect victims' rights in the media.

ADVANCE PREPARATION

Victim service providers should have a roster of key media in their community that includes contact name, address, telephone number, fax number, Web site address, and e-mail address. A database that allows rapid distribution of information such as victim statements and press releases via fax, mail, or the Internet is helpful.

To know which media professionals have provided thorough, sensitive coverage of victims' cases, as well as those who have been less sensitive or intrusive, is helpful. If the victims asks for recommendations on specific media who have contacted them, this type of background information is useful.

HELPFUL TIPS

- Be well-versed about victims' rights in the media.
- Know all the facts of the case, including detailed, accurate information about the victim.
- Coordinate media outreach with relevant criminal or juvenile justice officials.
- Always separate fact from opinion.
- Always remember that a defendant is innocent until proven guilty, and is "alleged" to have committed a crime prior to conviction.
- Be aware that anything you or the victim say to the media may be used by the defense.
- Be professional and courteous at all times.

VICTIM ADVOCACY

In some cases, the victim service provider will be directly contacted by the victim or a family member or friend. In other cases, a telephone call to the victim, followed up with a personal note that provides the service provider's/agency's contact information for support and services (including media advocacy), is appropriate.

The role of the victim advocate in helping victims deal with the media may include the following activities:

- Determine if the victim wants to deal with the media and, if so, in what manner—lay "ground rules" for the news media.
- Provide to the news media the victim's wishes ("ground rules") both verbally and in writing.

- Provide victims with an answering machine if they do not have one that contains a message concerning the victim's wishes for dealing with the media and others.
- Explain how the media work and, in particular, how the media might cover the victim's case.
- Help the victim select a spokesperson, when applicable, and be prepared to fulfill this role upon request from the victim.
- Be prepared to develop a written statement, upon request from the victim, for dissemination to the media. A double-spaced statement that includes the spokesperson's contact information, limited to sixty seconds or less, is most appropriate.
- Protect at all costs the privacy of sensitive victims such as sexual assault victims, children and elderly victims, and victims with disabilities.
- Provide the media with contact information for the spokesperson selected by the victim.
- Coordinate interview guidelines and other release of information with the media throughout the duration of the case.
- Release only that information to the media that has been approved by the victim.
- Remember that the media are visually oriented.
- Provide copies of a photograph chosen by surviving family members in cases involving deceased victims, with the original photograph returned promptly to the family.
- Prior to the verdict, help the victim prepare two statements: one for a "guilty" verdict, and one for a "not guilty" verdict.
- Advise the victim that following a verdict, the news media will have access to persons who had previously been silenced during court proceedings.
- Be prepared to provide follow-up support and advocacy to victims following a verdict, regardless of what that verdict is.
- Maintain a log of media coverage of the case, including newspaper clippings, and audio/video footage of interviews.

CASE COORDINATION

- Determine key criminal or juvenile justice officials (such as the police public information officer, prosecuting attorney, or victim/witness coordinator) with whom media outreach should be coordinated.
- Coordinate any release of information with key criminal or juvenile justice officials.
- For cases involving trials or juvenile court hearings, determine a room in the courthouse where the victim can be guaranteed privacy. Also, determine alternative routes for the victim to enter and exit without being confronted by the media.
- Always keep in mind that pretrial publicity can result in a change of venue.

- Never speak about the case in any public situations and, in particular, anywhere in or around the courthouse.
- Coordinate victim privacy protection rules with the prosecutor and judge in cases involving trials, especially in cases in which cameras are allowed in the courtroom.
- Respect any orders issued by the judge relevant to the release of information, especially “gag orders.”
- Avoid any adversarial role with anyone involved in the case.
- Coordinate posttrial media activities with the prosecuting attorney and the victim.
- Prepare the victim for potential media inquiries on anniversaries of crimes or court decisions.

SIGNIFICANT ISSUES FOR THE MEDIA AND THE COURTS

At the National Conference of the Media and the Courts sponsored by The National Judicial College in 1996, ten key issues affecting judges, lawyers, and reporters were identified, many of which affect victims and those who serve them:

1. Encourage and establish continuing interdisciplinary educational opportunities and dialogue among judges, journalists, and lawyers to foster an understanding of each other's roles through journalism schools, law schools, and The National Judicial College.
2. Assume there is access to all court proceedings and records and place the burden of proof for closure on the entity seeking secrecy. Privacy issues may overcome the presumption in appropriate cases.
3. Refrain from imposing gag orders on the news media or attorneys. Courts should seek other remedies in lieu of gag orders except in extraordinary cases.
4. Establish and/or support bench/bar/media committees that will meet regularly in every community to address issues of mutual concern.
5. Establish guidelines for trial-press management in high-profile cases. Court officials should confer and consult with media representatives to avoid unanticipated problems and understand each other's legal constraints.
6. Consider professional standards for journalists that are nonbinding.
7. Assume that cameras will be allowed in the courtroom, including the federal court system, and that such access should be limited or excluded only for strong reasons.
8. Encourage judges to explain, on the record, the reasons for their rulings.
9. Determine when and if it is appropriate to compel reporters to testify or produce notes, tapes, etc., understanding that the media cannot serve as an arm of law enforcement.
10. Encourage media organizations to develop an ombudsman system to hear recommendations from the courts and the public wherever feasible.

THE MEDIA PERSPECTIVE OF CRIME AND VICTIMIZATION

Over the past decade, news media professionals have begun to examine their roles in the coverage of crime and victimization. The “double-edged sword,” involving the victim’s right to privacy versus the public’s right to know, has been debated among journalists, with such discussions often involving input and advice from victim service providers. While levels of sensitivity to victims’ rights and needs continue to vary among journalists, news media today, more than ever, are adhering to basic principles of fairness and sensitivity that ultimately benefit victims of crime whose cases they cover.

GUIDING PRINCIPLES FOR THE JOURNALIST

There are three guiding principles for journalists that are particularly applicable to their coverage of crime and victimization (Black, Steele, and Barney 1995).

1. *Seek truth and report it as fully as possible.*
 - Inform yourself continuously so you in turn can inform, engage, and educate the public in a clear and compelling way on significant issues.
 - Be honest, fair, and courageous in gathering, reporting, and interpreting accurate information.
 - Give voice to the voiceless.
 - Hold the powerful accountable.
2. *Act independently.*
 - Guard vigorously the essential stewardship role a free press plays in an open society.
 - Seek out and disseminate competing perspectives without being unduly influenced by those who would use their power or position to counter the public interest.
 - Remain free of associations and activities that may compromise your integrity or damage your credibility.
 - Recognize that good ethical decisions require individual responsibility enriched by collaborative efforts.
3. *Minimize harm.*
 - Be compassionate toward those affected by your actions.
 - Treat sources, subjects, and colleagues as human beings deserving of respect, not merely as means to your journalistic ends.
 - Recognize that gathering and reporting information may cause harm or discomfort but balance those negatives by choosing alternatives that maximize your goal of truth telling.

A MEDIA CODE OF ETHICS

Victim service providers should encourage media professionals, both print and broadcast, to adopt a code of ethics specific to their coverage of crime and victimization. Such a code can serve as a basic ethical foundation from which difficult decisions can be made, frequently within very short time periods.

The most comprehensive written policy on ethical considerations affecting journalists, including those affecting crime victims, was developed by the *St. Louis Post-Dispatch* in 1992. In the sensitive introduction to its "Guidelines on Privacy Issues," the following guiding statement was made:

As we consider the policies that will best serve the *Post-Dispatch*, we should bear in mind some broad principles:

The perceptions and perspectives of reporters and editors on the one hand, and readers and other members of the public on the other, are different. The news professionals are motivated chiefly by a desire to get the news and publish it. The others are more likely to react personally, imagining how they would feel as the subject of a story. In weighing matters of privacy, perhaps some effort should be made to bring that personal perspective into the equation.

Major changes should be approached with caution. The wind may seem to be blowing very strongly in one direction today, but could shift direction tomorrow.

No policy will cover every eventuality. The policy here enunciated (in the *Guidelines on Privacy Issues*) includes many exceptions, and must be augmented by the constant application of fairness, common sense, reasoned judgment, and a degree of compassion by reporters and editors all along the line.

When victim advocates consider proposing a code of ethics to media professionals, the following issues should be seriously considered.

The news media should—

- Present details about a crime in a fair, objective, and balanced manner.
- Recognize the importance of publishing or broadcasting information that can contribute to public safety and, at the same time, balance this need with the victim's need for privacy.
- Respect the privacy of individuals who choose to refrain from dealing with the media or who choose to address the media through a spokesperson of their choice.
- Provide a balanced perspective relevant to a criminal act that reflects the concerns of the victim and offender.
- Never report rumors or innuendoes about the victim, the offender, or the crime unless such information has been verified by reliable sources.
- In crimes other than homicide, identify the victim by age and area where the crime occurs, omitting street addresses and block numbers.
- Refrain from using information gained from private conversations of victims or their relatives who are in shock or distraught.

- Identify witnesses only when they volunteer to be named, and when there is clearly no danger that can be predicted through their identification by the media.
- Never publish the identity of a sexual assault victim without his or her prior consent, regardless of whether the case is in the criminal or civil courts.
- Never publish the identity of a child victim.
- Never identify alleged or convicted incest offenders when such actions could lead to the identification of the victim.
- In cases of kidnapping where it is determined that the victim has been sexually assaulted, stop identifying the victim by name once a sexual assault has been alleged.
- Never identify the names of victims of scams or other crimes that tend to humiliate or degrade the victim without the victim's prior consent.
- Refrain from photographing or broadcasting images that portray personal grief and/or shock resulting from a criminal act.
- Never publish photographs or broadcast images that could place the subject in danger.
- Refrain from showing photographs or broadcast images of deceased victims, body bags, or seriously wounded victims.
- Never publish photographs or broadcast images of funerals without the surviving family members' prior consent.
- Refer to drunk driving incidents as "crashes" or "crimes," not accidents, regardless of whether or not the use of alcohol has been determined as a factor.
- Approach the coverage of all stories related to crime and victimization in a manner that is not lurid, sensational, or intrusive to the victim and his or her family.

PROMISING PRACTICES

- In many jurisdictions, victim advocates provide training to journalists and journalism students about news media coverage of crime and victimization, utilizing this chapter as a resource for education. Often, victims participate in these programs in order to focus attention on the reality of victimization, their personal experiences with the news media, and how news media coverage can increase victim trauma.
- "Bench-bar-press" committees in many communities meet regularly to discuss past and pending criminal cases and related news media coverage. Participants include judges, defense attorneys, prosecutors, victim advocates, and journalists who collaborate on how to secure accurate, timely coverage of crime and victimization that is sensitive to both victims and the community.
- Panel presentations involving justice officials, victim service providers, and news media representatives can be sponsored to address the issues in this chapter. For example, in 1999, Washburn University in Topeka, Kansas, sponsored a forum on the news media

impact on justice policy, which resulted in an agreement among panel members to regularly meet and discuss issues of mutual concern.

- Victim advocates can offer debriefings and supportive services to journalists who cover crime and victimization to help them cope with vicarious trauma that might result from their jobs.
- Many journalism associations and news media outlets have developed codes of ethics to guide not only journalistic practices but also specifically the coverage of crime and victimization.

1. What is the Colorado/Oklahoma Resource Council media consortium?
2. Describe three of the major concerns that crime victims might have about dealing with the news media?
3. Describe three of the nineteen guidelines for victims who choose to deal with the news media.
4. What are two of the roles and responsibilities of victim advocates in helping victims deal with the news media?
5. What are the three "guiding principles" for journalists?

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ABSTRACT

The ultimate success of victims' rights and services is highly dependent on involvement and input from a wide variety of individuals and entities whose foci include public safety. Over the past three decades, numerous collaborative efforts and partnerships have effected significant, positive changes in the ways victims are viewed, treated, and served in the United States. This chapter will explore the concept of collaboration, along with recommended strategies for successful collaborative efforts to enhance public safety and improve victim services.

Upon completion of this chapter, students will understand the following concepts:

- Types of working relationships.
- Challenges to successful working relationships.
- Moving beyond "traditional" stakeholders for collaborative initiatives.
- The community as a partner in collaboration.
- The relationships among national, state, and local victim services.
- A checklist for successful collaborative efforts.

INTRODUCTION

Let us not be blind to our differences, but let us also direct attention to our common interests and the means by which those differences can be resolved. And if we cannot end now our differences, at least we can help make the world safe for diversity.
— John F. Kennedy, 1963

While the strength of America's victims' rights discipline is greatly derived from the commitment of victims who have been hurt by crime, and by victim advocates who serve them, many significant successes have been achieved through collaboration with other individuals and entities who share a concern for public safety. There is, indeed, strength in numbers, and when diverse interests converge for an agenda of victims' rights and services, the possibilities are endless.

In the early days of the victims' rights movement, there was often a pervading sense of "us against them," that is, victims and service providers struggling for dignity and acknowledgement against a variety of barriers: offenders' rights taking precedence over victims' rights; lack of understanding within communities about victim suffering and trauma;

a justice system that was not, in the early 1970s and 1980s, designed to protect the interests of victims nor involve them in key processes that affected their lives; limited laws that protected victims' rights and interests; and limited financial and human resources to support victim-related initiatives, to name a few. The pioneers of victims' rights looked to similar movements for guidance in how to build both an agenda and a constituency.

The lessons learned from women who fought for the right to vote and civil rights activists who struggled for equality proved to be invaluable. While many elements contributed to the success of these historical efforts, one common theme emerged: The ability to collaborate and find supporters who shared a common vision and goals was critical to success. Perhaps most important was to reach beyond the core constituencies affected by injustice (in these cases, women who could not vote and persons of color who were treated as second-class citizens) and build a powerful, diverse collaborative network of allies.

Also similar to earlier initiatives that strived for equal justice, crime victims had a significant weapon in their struggle for dignity, respect, and recognition: *the power of the personal story*. With hundreds of thousands of individuals in America personally hurt by crime, there was a core constituency of "real people with real pain" to whom many ordinary people could relate: the family whose grandparents were killed in a fiery drunk driving crash (which was not even considered a crime thirty years ago); the rape victim who was blamed and shamed for the violent assault committed against her; the mother whose teenage son was molested by his soccer coach who found limited protection under the law; and the countless families whose children were abducted, often found murdered, and sometimes never recovered at all. Some of the most crucial "networks" that resulted were victims helping victims by providing mutual support and validation. The network of victims and their collaboration with caring and concerned professionals joined to create an effective social activism that has come to change the face of how justice and public safety are viewed in America.

TYPES OF WORKING RELATIONSHIPS

There are many phrases utilized in the victim assistance community to describe efforts that bring people together with a common cause. George Keiser of the National Institute of Corrections (1998) describes these terms and their meanings:

Some recurring words are often used in a very cavalier fashion to describe types of working relationships. It is important to be clear about the depth of involvement contained in the meaning of these various words, and then to use the appropriate word for the relevant circumstances.

These words include cooperation, coordination, collaboration, and partnership.

COOPERATION

Cooperation does not require much depth of relationship from the parties involved. Typically, a couple of people identify how what they are doing in their organizations would benefit each other. They agree to share what they do, but are not required to do anything differently. The activities engaged in are very informal. No resources are transferred, and the life of those involved goes on much as it has. This may be

the initial point of developing relationships between the involved organizations. A key element for initiating cooperation is personal trust.

COORDINATION

Like cooperation, the depth of involvement between organizations is not required to be great. The relationship tends to be more definitive with specific protocols or conventions commonly being established. The business of the various organizations does not change significantly. The number of people involved in the process is increased, and the participants are more cognizant of how their independent activities can be integrated for common benefit, or can influence the work of another organization. This level of working together requires more discipline and more formal structure in following the established protocols. The importance of integrity of the various participants and their activities becomes more apparent.

COLLABORATION

Collaboration introduces the concept of organizations coming together to create something new, commonly a new process. Generally, the organizations bring a business they already know well and identify how, by joint actions, they can redesign a process to their mutual benefit. There must not only be trust and integrity as a foundation, but the parties now need to understand the perspectives of the other collaborators' self interest(s). This understanding suggests a greater depth of involvement between organizations. It is not merely exchanging information, but developing a sense of awareness for whom the other parties are, what motivates them, and what they need out of working together. Unlike cooperation or coordination, for the first time something new is being developed through the relationship of organizations. Even with the increased intensity of involvement, the various organizations retain their independent identities.

PARTNERSHIP

Partnership is the bringing together of individuals or organizations to create a new entity. This may be the extreme extension of collaboration. The depth of involvement is reflected by a commitment referred to as ownership. No longer are there independent organizations agreeing to work together on some initiative as long as it is convenient. Nor is this a group of organizations buying into someone else's plan. With a partnership, there is an agreement to create something new which, through joint ownership, requires that the partners make it succeed. One measure of success is whether the partnership makes all the partners successful (Keiser 1998).

Keiser also clarifies the nature of working relationships based on the following elements:

- Characteristics of the relationship.
- Nature of the relationship.
- Involvement.
- Resource investment.
- Control over resources.
- Authority to make decisions.

The chart below provides an overview of characteristics of working relationships on a continuum ranging from coordination to partnership.

TYPES OF WORKING RELATIONSHIPS

ELEMENTS	COOPERATION	COORDINATION	COLLABORATION	PARTNERSHIP
Characteristics of Relationship	Trust and Reliability	Integrity and Discipline	Understanding and Selflessness	Commitment and Ownership
Nature of Relationship	Informal, Ad-hoc	Semi-formal	Formal	Formal, Legal Incorporation
Involvement	As few as two people	Several, maybe horizontal organizational slice	Several, many horizontal and vertical organizational slices	New or refined organization
Resource Investment	Minimal	Moderate	Major	Major
Control over Resource	Unchanged original organizations	Modified original organizations	Shared or transfer to new unit	Legally binding
Authority to Make Decisions	Retained by original organizations	Retained by original organizations	Transfer to new unit	Create new structure

RECIPROCAL FORBEARANCE: A FRAMEWORK FOR WORKING RELATIONSHIPS

In Reciprocal Forbearance: How to Collaborate and Be Successful, Iowa's Sixth Judicial District Department of Correctional Services Director Gerald Hinzman describes the environment in which public safety professionals work (1994):

Who are our customers? Are they the people we help or are they the people who pay the tax bill? Who are our internal customers within the governmental system with whom we should be working and collaborating? Do we see those who need our services as the poor and needy, or do we see them as burdens on society? If we look at a group or family of people, do we all see them through the same set of eyes? What do human services agencies see? What do public service agencies see? Do private non-profits see this differently than publicly funded agencies? Does it or should it make a difference how we see our customers in order for us to collaborate?

This is what reciprocal forbearance is all about! We must understand that we have different missions and that we may have different philosophies, but within the framework of that understanding is the structure to collaborate to design programs that will have an effect on all the issues affecting the target populations that we jointly serve. Reciprocal forbearance means that we understand what makes us different from those who look like us, those who are not like us, and those we're not sure about, and we tolerate our differences so that we can jointly design a better future for our children and our children's children. . . .

In order to collaborate, we must remain open-minded. This is something else that bureaucratic agencies do not do well. Open-mindedness is something that also needs to be learned. The following illustration helps guide our thoughts on this.

There are basically four ways that we can react to another person presenting a thought or expressing an idea to us:

1. We like or respect the person or agency that is putting forth the idea, and we like the thought or idea that they are espousing.
2. We like or respect the person or agency that is putting forth the idea, but we don't like or question the wisdom of the thought or idea.
3. We don't respect the person or the agency that puts forth the message, but we agree that the thought or idea has merit.
4. We don't respect the agency or person, and we don't think there is much merit in the thought.

If we are close-minded, we are only able to do number one and number four above. If we are open-minded, we can and should process all four options so that we can make wise choices.

Now answering the original question as to whether or not we all have to see our customers through the same set of eyes, the answer is "no." We all do need to see our missions as compatible. As we redefine the critical issues, do capacity building, and collaborate, we have the flexibility to continue on our own mission and see more clearly how we are all part of the overall solution.

CHALLENGES TO SUCCESSFUL WORKING RELATIONSHIPS

Whether victim advocates cooperate, coordinate, collaborate, or partner with allied professionals, volunteers, and communities, there are ten common challenges that can hinder the success of these important working relationships:

1. *Lack of a shared vision or mission.* When people work together toward a common goal, it should be clearly understood, easily communicated, and shared by all involved parties. If a vision or mission is pre-established by an individual or a small faction of a larger group, it may not achieve "ownership" that is needed by the whole group to ensure success. It is crucial to take time and process through a shared vision or mission with all stakeholders and establish goals and objectives that are supported by all.
2. *Lack of agreement about the problem or issue to be addressed.* While diversity is one of the essential elements of collaborative efforts, it also results in differing and often unique perspectives about the basic issue that is being addressed. In developing good working relationships, stakeholders must seek a consensus that respects different views and opinions.
3. *Lack of incremental successes on the pathway to an ultimate goal.* Too often, people working together aim for one definitive goal that, in their view, connotes success. It is necessary to determine incremental, smaller successes that can help stakeholders ensure that they are headed in the right direction, and evaluate possible alternatives along the way to the ultimate goal if warranted.
4. *Egos.* The concept of "turf wars" is not foreign to most victim advocates. When such battles expand to incorporate even more stakeholders (and more egos), the results can be highly damaging to collaborative efforts. All interested parties must be willing to break

down turf barriers and “leave their egos at the door” in their mutual attempts to reach a common goal.

5. *Lack of diversity among group members working toward a common goal.* If it is true that “great minds think alike,” it is likely that “different minds think even better.” One of the greatest strengths of professionals and volunteers involved in public safety issues is their diversity—by gender, age, culture, sexual orientation, profession, socioeconomic status, and geography. The many different viewpoints and perspectives of victim advocates and allied professionals are a key asset to collaborative efforts and, without them, such efforts are doomed to failure.
6. *Not having the “right players” at the table.* In many public safety initiatives, often the victims and their representatives are missing from collaboration forums. It is helpful to adopt a “global” view of the problem or issue that is being addressed in terms of *all* the stakeholders who are affected: victims, offenders, the community, system professionals, public policy makers, and the like. If a person or group of people is affected by a problem, it is absolutely critical that they be involved in developing a solution!
7. *Lack of understanding and implementation of change management techniques.* Most working relationships seek change: in justice processes, service delivery, and community involvement, to cite a few examples. If the road to a solution does not address the specific changes that will occur as a result and institutionalize these changes for the future, the outcomes will not be successful in the long run. Managing change is one of the most difficult, yet most important, elements of collaborative efforts.
8. *Lack of resources.* If time, level of commitment, and human or financial resources are not adequate to achieve a shared goal, failure is likely. Considerable attention should be paid to what type of resources are needed, at what point, by whom, and for how long, throughout the collaborative process.
9. *Lack of measures to evaluate success.* As stakeholders in collaborative processes begin their joint efforts, evaluation must be a key tenet of all their activities. Stakeholders’ vision, goals, and objectives should all be measurable in concrete terms, and their plan should be flexible enough to accommodate changes that result from evaluative data that show a need to change course.
10. *Lack of understanding about victim trauma, rights, and needs.* While most collaborative efforts related to improving public and personal safety are well intentioned, some lack an overall understanding of how victims are affected by crime. It is important to incorporate training about victims’ rights, needs, trauma, and sensitivity into any collaborative initiative that addresses public safety issues. The involvement of crime victims as active participants or advisors to guide the planning and implementation of such initiatives is also helpful.

BEYOND TRADITIONAL COLLABORATION

In issues affecting crime and victimization, there are several conventional stakeholders: crime victims, service providers, and juvenile and criminal justice officials and agencies (from law enforcement through the appellate process). Today there are new and exciting partnerships forming between victims, their allies, and disciplines whose foci include issues relevant to crime and victimization. Victim advocates need to closely evaluate *exactly who resides in the orbit around victimization*. These partnerships, while surprising in some cases, offer new, important alliances in the fight against crime and efforts to aid victims. They are identified below:

- *Members of the clergy* are often professionals to whom victims turn following the crisis of victimization. As such, clergy members are important partners in any effort that seeks to help victims cope with trauma and loss. For example, clergy members were key partners in the Colorado-Oklahoma Resource Council (CORC) that was created to assist and support victims who attended the Oklahoma City bombing/murder trials in Denver, Colorado in 1998.
- *Mental health and public health professionals and agencies* possess expertise and resources that can assist victims of crime. When violence was cited as a major public health concern by the Surgeon General, a variety of partnerships emerged that combined the knowledge and practical experience of health professionals with professionals in public safety and victim assistance. In 1998, the Centers for Disease Control provided a five-year grant to a consortium of mental health and victimology researchers and practitioners to form the National Violence Against Women Prevention Research Consortium. The Consortium fosters interdisciplinary research and resources among researchers, practitioners, criminal justice agencies, and public health officials.
- *Public policy makers* have historically had a significant role in effecting changes in laws that define and protect victims' rights. In recent years, state legislators, state-level executive branch officials, and local elected officials have worked closely with crime victims and advocates to forge public policy agendas dedicated to victims' rights and public protection. In 1998, the Council of State Governments Northeast Region (with support from OVC) sponsored a regional symposium with representatives from ten states, including victims, service providers, legislators, and justice professionals, to develop public policy recommendations and action plans for their respective states, specific to improving victims' rights and services.
- *The news media* wield tremendous influence over public policy and program development in the disciplines of victim assistance and public safety. Timely information about trends in crime and victimization, model programs, and responsive public policy is available to concerned citizens, elected officials, justice practitioners and victim advocates through the news media. In a number of communities, informal partnerships have emerged through regular "bench-bar-press" sessions, in which the news media and justice professionals (which can include law enforcement, judges, prosecutors, defense attorneys, and victim advocates) meet to discuss media coverage of trials and public safety issues. These sessions often result in collaborative efforts to increase responsible news media coverage and create

avenues through which the media have access to timely, accurate information for their stories.

- *Researchers and practitioners in the field of substance abuse* have much to contribute to the discipline of victimology. Many crimes are committed while offenders are under the influence of alcohol or other drugs, and many victims (particularly of domestic violence) live in environments where substance abuse is pervasive. Numerous research studies have shown that some victims use alcohol, prescription drugs, and even illegal drugs following their victimization to cope with trauma. Unfortunately, alcohol and other drugs are the stress reducer of choice for professionals involved in high-stress occupations, such as victim services. Collaborative efforts focusing on substance abuse treatment, education about the devastating effects of alcohol and other drugs (particularly related to crime and victimization), and drug abuse prevention offer meaningful insights to the field of victim services.

These five examples are indicative of the types of natural allies who can join together to improve victims' rights and services. Collaborative efforts such as these can be developed at the local, state, and national levels as well as across these jurisdictions. If an individual or entity is in a position to further the cause of victims' rights and the provision of quality victim services, then they have a rightful and meaningful role in collaborative networks and coalitions.

SIGNIFICANT FEDERAL SUPPORT FOR COLLABORATION AND INTEGRATED SERVICES

The Office for Victims of Crime is currently sponsoring and funding an ongoing demonstration project, *Victim Services 2000 (VS 2000)*. The greater Denver, Colorado area, the state of Vermont, and Medina County, Ohio are all developing and implementing an integrated victim service system to improve the range, quality, and accessibility of services for crime victims. The goal of the grants is to support the development of an integrated victim service system that will provide an on-going vehicle for planning and implementing comprehensive, coordinated, and accessible services to the victims of crime. The sites are intended to be mentors for other communities, providing on and off site technical assistance.

Denver VS 2000 is in its third year. Its leadership group is well established, and twenty-three agencies are VS 2000 members, representing both governmental and non-profit agencies in the Denver metropolitan area. Based on the results of various community and victim surveys and focus groups, Denver has been involved in addressing major issue areas/goals:

- *Technology*. Apply relevant technologies to improve the delivery of services to victims by developing an online Resource Directory; a Technical Assistance Center on the VS 2000 Web site for all technical assistance materials, and an online case management system for use by member agencies.
- *Model Network Development*. Develop policies and procedures to implement a case management system across member agencies; train agency personnel on the case management system; develop a memorandum of understanding for joint agency outreach

initiatives, and establish Community Advocates in several communities with high underserved populations. The Advocates will inform victims of their rights and the services available and to be a link between victims, service providers and the criminal justice system.

- *Training and Education.* Institutionalize training in all aspects of delivery of service to victims of crime by developing a cross training plan within victim service agencies, and standardized training for professional groups and schools, including spiritual communities, law enforcement and law schools.

Medina County, Ohio is beginning its second year; Vermont is completing its first year. Both have completed their planning and assessment process from which they have identified issues and goals similar to Denver's. Each of the three sites has developed slightly different systems tailored to their respective jurisdiction to provide on-going planning and implementation.

THE COMMUNITY AS A PARTNER IN COLLABORATION

A theory that is gaining much credence across America is that when neighborhoods or communities are *given the opportunity* to be involved in measures to prevent crime, intervene with at-risk youth, and assist victims, they will take advantage of that opportunity. It makes great sense that people who are most affected by a problem are the ones who have the greatest stake in developing effective solutions.

Joseph Lehman, the Secretary of the Department of Corrections in the state of Washington, said in 1997 that "the community must own justice." This sense of ownership not only of the problems related to justice, but also to potential solutions, has provided a strong foundation in many communities that have involved their members in collaborative measures to combat crime and help victims. The recent trend toward community policing, community prosecution, community courts, and community justice has resulted in strong partnerships among justice practitioners, community members, and neighborhood groups. Victim service providers can have a significant role in such collaborative endeavors. To do so, they need to develop contacts with allied community groups and professionals (where applicable) and seek avenues of involvement.

The U.S. Department of Justice, Bureau of Justice Assistance *Bulletin* "Working as Partners With Community Groups" points out

. . . [W]orking in partnership with community members and groups is an effective and productive way to address a community's problems and needs. This effectiveness can translate into less crime, less fear of crime, and a greater sense of community power and cohesion. Law enforcement officers have long known that they cannot successfully deal alone with the twin issues of responding to crime, and correcting the conditions that generate crime. Partnerships to prevent crime can get something done about an immediate problem, build a base for dealing with future problems, gain new resources for action, and increase or sustain the community's social and economic health. They are among the most promising assets in the ongoing struggle against violence and other crimes" (National Crime Prevention Council 1994).

This *Bulletin* also offers an excellent example of how partners in public safety are identified:

Potential partners will come from among those groups directly affected by the current problem, those who must deal with its aftermath or consequences, and those who would benefit if the problem did not exist. For example, if graffiti are the problem, those directly affected include business owners and home owners, other area residents, and highway and park departments. Those who must deal with the consequences include insurers, residents, traffic control personnel, elected officials, and law enforcement. People who would benefit if the problem did not exist include realtors, the chamber of commerce, neighborhood residents, and school and youth programs that could use funds otherwise spent on cleanups. All these people are potential partners (Ibid.).

When this approach to forming partnerships is applied to “who is affected by crime and victimization,” the list of potential partnerships is seemingly endless. Literally *everybody* has a stake in individual and community safety and, as such, everybody has a similar stake in ensuring that people who are hurt by crime have comprehensive, quality services to assist them.

THE RELATIONSHIP OF VICTIM SERVICES: NATIONAL, STATE, AND LOCAL

Many important issues and common interests unite the various jurisdictions of victims' rights and services. When this discipline is closely examined in its entirety, there are both clear distinctions as well as significant connections among national, state, and local victim service providers and allied professionals.

NATIONAL LEVEL: FEDERAL AGENCIES

The federal government has provided outstanding leadership to the field of victim services. The Office of Justice Programs, U.S. Department of Justice, infuses victims' rights and services into the bureaus and offices under its control. These entities often join in cooperative agreements that combine both human and financial resources to benefit crime victims and those who serve them.

Most notable is the Office for Victims of Crime (OVC) which, among other contributions, provides support for the National Victim Assistance Academy. OVC manages the Victims of Crime Act (VOCA) funding, which provides support for federal, state, and local victim services as well as victim compensation at the federal and state levels. These funds come from convicted federal offenders, not from taxpayer dollars. Through its discretionary dollars, OVC funds extensive training and technical assistance initiatives that have had a far-reaching effect on improving the scope and quality of victim services across the nation. In addition, OVC has a Resource Center and Training and Technical Assistance Center that strengthens the capabilities of victim service providers, criminal and juvenile justice agencies, and allied professionals to provide comprehensive victim services.

Other OJP offices that provide guidance and resources to support victims' rights and services are the following:

- *Bureau of Justice Assistance (BJA)*, which makes direct discretionary grant awards to states, units of local government, and private nonprofit groups for the support of state and local criminal justice system initiatives, including victim assistance services. Examples of BJA initiatives include funding for judicial training through the National Judicial College, support for Chicago's Family Violence Intervention Program, and trial security expenses for the capital murder trials of the murderers of James Byrd, Jr. in 1999.
- *Bureau of Justice Statistics (BJS)*, which supports initiatives that improve the collection and automated maintenance of criminal history information, data on crime and victimization, and statistics on crime and justice.
- *Community Oriented Policing (COPS) Office*, whose programs often include supportive services, timely interventions, and assistance for victims and communities affected by crime, as well as numerous crime prevention initiatives that are accomplished through partnerships between law enforcement and neighborhoods and communities.
- *Corrections Program Office (CPO)*, which has collaborated with OVC on improving rights and services for victims in the postsentencing phases of their cases within institutional corrections.
- *Drug Courts Program Office*, which administers the discretionary drug court grant program to plan, establish, or enhance state and local drug courts that provide specialized treatment and rehabilitation for certain nonviolent substance abusing offenders.
- *Executive Office of Weed and Seed (EOWS)*, which administers a discretionary grant program that supports multidisciplinary community-based initiatives for law enforcement, crime prevention, victim assistance, and community revitalization.
- *National Institute of Justice (NIJ)*, the "research arm" of the Justice Department which supports research, program evaluation, and demonstration projects. Some of NIJ's initiatives have provided significant insights into child abuse, fraud, sexual assault, domestic violence, stalking, and homicide. NIJ also emphasizes the importance of partnerships between researchers and practitioners to improve the nation's response to crime and victimization and crime prevention.
- *Office of Juvenile Justice Delinquency and Prevention (OJJDP)*, which provides leadership and resources to improve America's juvenile justice system. Its victim-related initiatives include programs that address missing and exploited children and child protection issues.
- *Violence Against Women Grants Office (VAWGO)*, which provides leadership and funding for federal, state, and local programs dedicated to assisting victims of family violence and sexual assault. Special initiatives sponsored by VAWGO focus on encouraging arrest policies in domestic violence cases, rural domestic violence and child abuse enforcement assistance, and discretionary grants to address violence against women in Indian Country and rural jurisdictions.

In addition, other federal agencies have sponsored victim-related initiatives in research, evaluation, program development, training, and technical assistance. Examples include the Centers for Disease Control, Department of Education, National Institute of Mental Health, and Health and Human Services. OVC has also sponsored cooperative programs that benefit

victims with agencies such as the Department of State, Department of the Treasury, and all branches of the armed forces. National training conferences sponsored every other year by OVC bring together federal victim assistance personnel to share information, resources, and program development ideas that enhance victims' rights and services.

NATIONAL LEVEL: NONPROFIT ORGANIZATIONS

In 1999, nearly fifty national organizations exist whose mission and goals include the enhancement of victims' rights and services. The Victims' Assistance Legal Organization, National Center for Victims of Crime, National Organization for Victim Assistance, National Crime Victims Research and Treatment Center, Mothers Against Drunk Driving, Parents of Murdered Children, National Center for Missing and Exploited Children, National Coalition Against Domestic Violence, Family Violence Prevention Fund, National Coalition Against Sexual Assault, and Concerns of Police Survivors (among others) focus primarily on improving rights and services for victims of crime. These organizations offer resources that include organizational and program development, information and referral, training and technical assistance, research and evaluation, public policy development and implementation, and community outreach and public education.

Allied professional organizations, such as the National Criminal Justice Association, International Association of Chiefs of Police, National District Attorneys Association, National Judicial College, National Council of Juvenile and Family Court Judges, Association of State Correctional Administrators, American Correctional Association, American Probation and Parole Association, and Association of Paroling Authorities, International, incorporate victims' rights and concerns into their public policy, training and technical assistance, and research initiatives. Most of these membership associations now have Victim Committees and Advisory Boards that keep them informed of and involved in key collaborative issues related to victims' rights and services. They have a significant role in keeping their constituencies aware of the need for, and current trends in, victims' rights and services, and they work closely with national, state, and local victim assistance programs to enhance victim assistance efforts in their respective areas of interest.

STATE LEVEL: VICTIM ASSISTANCE

Every state and U.S. territory has agencies that oversee planning and distribution of federal funds authorized by the Victims of Crime Act (VOCA), Violence Against Women Act (VAWA), Byrne Memorial Funds, and Department of Health and Human Services (specific to domestic violence, child protection, and child abuse). In some states, these roles fall under the jurisdiction of a single agency. Every state and territory also has a victim compensation program that oversees the remuneration of victims for losses suffered as a result of violent crime, which is derived from a combination of VOCA funding; state funding; and fines, fees and assessments paid by convicted offenders.

In 1999, over thirty-five states also have state-level coalitions that are dedicated to improving victims' rights and services through collaboration with victim assistance, criminal and juvenile justice, and allied professional entities. State-level efforts include research, training and

technical assistance, information and referral, and collaborative observances of commemorative weeks such as National Crime Victims' Rights Week in April, and National Domestic Violence Awareness Month in October. State coalition efforts have also contributed to public policy development and implementation that benefits victims, which has resulted in the passage of over 30,000 state-level statutes that define and protect victims' rights.

Similar to national justice and allied professional associations, many state-level associations have initiated victim committees and advisory boards that incorporate victims' rights and concerns as a core component of their public safety, community protection, and crime prevention initiatives. In addition, some state-level agencies have incorporated victims' rights and services into their overall missions. For example, the California Youth Authority (CYA) established an Office of Prevention and Victim Services in 1992. CYA has infused victims' concerns into both the agency and work site level, and has led the nation in developing proactive programs that provide victim notification, restitution, protection for victims, and the nationally recognized "Impact of Crime on Victims" program for youthful offenders that help them recognize the effects of their delinquent actions on their victims, their own families, their communities, and themselves.

LOCAL LEVEL: VICTIM ASSISTANCE

It is estimated that in 1999, over 9,000 victim assistance organizations operate in both the public and private sectors.

Public sector programs work primarily within the parameters of the criminal and juvenile justice systems to promote victims' rights and provide direct victim services. In some jurisdictions such as Memphis, Tennessee, the public and private sectors have joined forces in collaborative efforts through the Shelby County Victim Assistance Center (which receives both private and government funding and provides a wide range of services to victims of all types of crime).

Private sector programs comprise what is widely recognized and respected as the "grass roots" of the victims' rights discipline. Thousands of nonprofit organizations provide support and comprehensive services to victims through crisis intervention, victim support groups, advocacy for victims' rights within the criminal and juvenile justice systems, training and technical assistance, and information and referral. These groups have increasingly forged important alliances with system-based justice professionals and civic leaders to maintain victims' rights as a public policy priority in communities large and small, urban and rural, across the nation.

COLLABORATING FOR VICTIMS' RIGHTS AND SERVICES

There are a number of ways that crime victims, service providers, and allied professionals work together at the local, state, and national levels, as follows:

- *Fiduciary relationships* primarily involve financial support from government sources for victim services from the federal level to the states and localities, and from states to local jurisdictions.
- *Public policy initiatives* have led to the passage of over 30,000 federal and state victims' rights statutes. Often, good ideas for laws cross over jurisdictional boundaries. For example, when California passed the nation's first anti-stalking statute in 1990, the other forty-nine states followed suit within eighteen months. The strength of America's grass roots victims movement has also been instrumental in organizing to support key federal initiatives, most notably the proposed federal constitutional amendment, and the successful passage of the Victims of Crime Act of 1984 and the Violence Against Women Act (VAWA) of 1994.
- *Implementation of victims' rights* helps ensure that no matter where a victim lives or what type of crime he or she has been hurt by, help is available. With over 9,000 victim assistance programs operating in the public and private sectors, and advocacy services provided by numerous national organizations, collaborative efforts have strengthened crime victims' ability to understand and seek implementation of their rights.
- *Research initiatives* are increasingly involving partnerships between researchers and victim assistance practitioners. National and regional public opinion surveys, research of specific victim populations, and focus groups have been conducted by national, state, and local practitioners, with the results guiding the development of innovative and effective approaches to victim services.
- *Training and technical assistance*, with substantial leadership provided by OVC, to develop curricula and training tools help increase professionals' and volunteers' knowledge of victims' rights and services. Standardized training programs have been developed for law enforcement, the judiciary, prosecutors, institutional and community corrections, and juvenile justice professionals as well as for allied professionals such as mental health and public health practitioners, the clergy, and educators.
- *Information and referral services* constantly cross jurisdictional boundaries to provide timely resources and referrals to victims in every region of the nation. The use of the Internet, national toll-free telephone numbers, and the U.S. Department of Justice-sponsored Resource Centers have greatly enhanced the ability to provide information and referrals to crime victims and concerned citizens.

COLLABORATION: A CHECKLIST FOR SUCCESS

While this chapter has offered a broad overview of the core elements of successful collaboration, they can be easily summarized in the following twenty points:

1. The problem(s) or issue(s) of concern is clearly defined.
2. All potential stakeholders and key leaders/change agents have been invited to participate in the collaborative initiative:

- People who live with the problem.
 - People who have power to change the problem.
 - People who have the technical expertise to address the problem.
3. Diversity among stakeholders is sought and respected as a key tenet of collaboration.
 4. A mission or vision statement that identifies the critical problems or issues and possible collaborative solutions is developed and shared by all key stakeholders.
 5. The problem or issue is analyzed to develop theories about why it is occurring and what can be done to change the situation.
 6. Possible strategies or solutions are brainstormed among key stakeholders, with consensus built around the most sound approaches to problem solving or intervention.
 7. The consensus strategy is divided into strategic goals and measurable objectives.
 8. Goals and objectives are assigned an order of priority, with a sense of urgency given to the highest priority issues.
 9. Responsibilities for action are developed and assigned to the relevant stakeholders, with clear understanding of the interrelationships among goals and objectives.
 10. A time schedule for completion of goals and objectives is developed that includes tasks, persons responsible, deliverables, and deadlines. This should be flexible, depending upon ongoing evaluation results (see # 14).
 11. If necessary, memoranda of understanding and/or interagency agreements are drafted to clarify roles, responsibilities, and interrelationships needed to accomplish the goals and objectives.
 12. A list of resources needed for success is developed, which may include research, evaluation, training, technical assistance, marketing, funding, public policy development, direct outreach to core constituents, public education, media relations, and technology enhancements.
 13. Stakeholders involved in the collaborative effort assume responsibility (often jointly) for developing and/or providing resources that have been identified as critical to success.
 14. Significant attention is paid to evaluation measures that can delineate success or failure. Flexible approaches are in place to allow for revision of original goals and objectives, based upon evaluation results (this is an ongoing process).
 15. Methods of ongoing communications and regular meetings for status reviews are institutionalized.
 16. A commitment to managing the change that results from the collaborative initiative is institutionalized, with consensus on how stakeholders will each educate their professional peers and volunteers about the positive aspects of the change and help them adjust to new policies, procedures, and/or programs that result.

17. Small successes and achievements are celebrated, and barriers to success are viewed as surmountable challenges.
18. An assessment of the overall collaborative effort is conducted, with participation of all key stakeholders.
19. Recommendations for revising or "fine-tuning" ongoing strategies for success, based upon the overall evaluation, are developed.
20. Efforts are made to identify other initiatives that could benefit from the collaborative efforts of the key stakeholders involved in this initiative.

THE POWER OF COLLABORATION

The power inherent in positive collaborative efforts cannot be underestimated. Perhaps the most appropriate perspective on this power is offered by Margaret Mead:

Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.

Her observations are a fitting description of, and tribute to, the many collaborative efforts that have resulted in positive change for victims of crime since the inception of the victims' rights discipline.

As discussed throughout this chapter, collaboration can occur on many various levels: national, state, and local, involving both private and governmental entities. With respect to successful implementation of and advocacy for the legal rights of crime victims, it is crucial for victim advocates to understand the necessity for (and all too often dearth of) collaboration between, among, and sometimes within criminal and juvenile justice system agencies. A recent study on the management and collection of court-ordered criminal restitution, a remedy traditionally minimized as, at best, a longshot for victims, showed that when jurisdictions employed effective and system-wide cooperative efforts, great improvements could be made in the management and collection of restitution (Burnley and Murray 1997). The following are key factors identified in implementing collaborative efforts:

- Victim involvement.
- Effective communication and cooperation among the criminal justice agencies and professionals.
- Clear definition and delineation of roles.
- Efficient and streamlined coordination of agency tasks.
- Routine and regular flow of information and data.
- Participation and accountability by all parties involved in the process.

Although many justice system officials still treat restitution as an “uncollectible debt,” increased systemic collaboration and cooperation have enabled some jurisdictions to make vast improvements to the collection of court-ordered restitution. While the above-mentioned study focuses exclusively on restitution, the principles involved are equally applicable to any and all legal rights of crime victims which are implemented through the traditional criminal justice system.

Another powerful example of victim collaboration, initially involving the efforts of private individuals, is the landmark emergence of Mothers Against Drunk Driving (MADD) in 1980. A young mother whose daughter was killed by a repeat drunk driving offender in California found solace and support from another young Maryland mother whose infant daughter had been turned into a quadriplegic (and eventually died) as a result of a fiery drunk driving crash. The shock of their personal tragedies were magnified by the shock of discovering that their respective state laws offered few remedies and absolutely no victims' rights in their cases. Working out of their homes, Candy Lightner and Cindy Lamb formed MADD. This initial partnership between two grieving mothers provided the foundation for what has grown to be one of America's most influential and respected social agendas: to prevent drunk driving and provide rights and services for its victims.

Early MADD activists recall a seemingly uphill struggle to change attitudes about drunk driving which was, at that point, one of the most common crimes in the nation. Initial attention from the news media spread the word about their infant movement; slowly, concerned policy makers and insurance companies joined their cause, followed by highway safety advocates and civic organizations. The community-by-community, state-by-state effort slowly grew into a national initiative, which culminated in MADD's introduction of the “21 drinking age bill” in Congress in 1984.

A victim advocate involved in this effort recalls the collaborative strategy that ensued:

We flew to Washington, D.C. planning to conduct a rally at the U.S. Capitol for our “Save Our Students” (SOS) campaign. Once on-site, I remember going through the telephone book, identifying folks who might support our efforts by looking under “associations” in the Yellow Pages. In just a few days, we lined up over 50 national groups—from the Junior League to major insurance companies—to support SOS. As our efforts gathered steam, Congress did as well, garnering support for legislation with incentives and penalties to encourage states to raise their drinking age to 21, which would ultimately save thousands of lives a year.

Through daily meetings of key stakeholders and lots of media coverage, our little rally turned into a major public policy success when then-Secretary of Transportation Elizabeth Dole called us late the night before our event. The White House placed its solid support behind “21” and the rest, as they say, is history! In just five weeks, with local and state MADD chapters working hand-in-hand with the Washington, D.C.-based team, National MADD staff and its new allies, the National Minimum Drinking Age Act of 1984 was passed by Congress. It was, indeed, collaboration at its finest.

The lessons of this early collaborative initiative are clear. When the power of the personal story of victims is combined with grass roots organizing and public policy leadership, the end result can be a powerful, collaborative avalanche of widespread support for positive change. Close relationships and commitment among national, state, and local entities representing both the public and private sectors are essential and valuable elements.

1. Name the four “types of working relationships.”
2. Describe in detail one challenge to successful working relationships.
3. Identify one stakeholder group that you consider to be “beyond traditional collaboration,” and briefly describe why/how they can be engaged and involved in victim issues.
4. Describe one way that victim service providers and allied professionals work together at the local, state, and national levels.
5. Identify three core elements of successful collaboration from this chapter’s “checklist for success.”

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CHAPTER 20 SUPPLEMENT **PROFESSIONALIZING THE DISCIPLINE OF VICTIM SERVICES**

In September 1999, the Center for Child & Family Studies at the University of South Carolina has received a grant from the U.S. Department of Justice, Office for Victims of Crime to research and make recommendations concerning issues of standards and credentialing for victim service professionals. As a component of this project, a national Consortium has been selected and convened, comprised of a multidisciplinary group of victim service professionals with a broad range of experience, including direct service, nonprofit advocacy, and governmental/public policy. One of the goals of the Consortium is to build collective expertise on training and practice in victim services.

The Consortium is a cooperative working group, and each member brings unique interests and philosophies to the table. An important concern for the Consortium is development of an inclusive approach based on shared service goals. Professional standards must provide accessibility to persons from diverse backgrounds, including the victim-survivors, grassroots advocates, and volunteers who for so many years have defined the workforce. The Consortium will be vigilant to the number of ways that experience and training prepare practitioners to provide quality service. Together, the varied professionals who comprise the Consortium will draft recommendations on program standards, training development, and professional competency (including ethical standards) for persons who work with victims of crime.

As a means of gathering input from the grassroots components of the victim assistance field, a series of “town hall” meetings were held in four diverse geographical locations: Augusta, ME; Boulder, CO; Topeka, KS; and Austin, TX. These meetings had a blended format—between a traditional town hall and a traditional focus group meeting—to provide a base for the Consortium’s thinking. Because much has already been done in the field of victim services to examine roles and perspectives in the field (e.g., *New Directions from the Field*), the meetings were not intended as exhaustive surveys of the field, but rather as an opportunity to gather an inside view of practitioner concerns regarding training, standards, and other professional development issues.

The Consortium will consider a number of resources in making recommendations for the development of individual and program standards, including: findings from the town hall meetings; academic research pertinent to the development of standards within professions; historical development and evolution of the field of victim services; development of standards in other service-oriented professions; and existing state-based credentialing and other training programs for victim service professionals. Contact: Dr. Dana DeHart, Project Director, National Victim Assistance Standards Consortium (803-777-7867) or dana.dehart@sc.edu.

ABSTRACT

As an occupation, victim assistance is characterized by a variety of organizations and agencies with a wide range of functions, as well as by a variety of practitioners with diverse backgrounds, qualifications, and perceptions of practice. This diversity provides a challenge to the conceptualization and realization of victim assistance as a professional discipline.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- The dynamic concept of professions.
- Characteristics of professions, especially as they pertain to victim assistance.
- Barriers to the professionalization of victim assistance.
- Professionalism as exhibited in fields other than victim assistance.
- Practical applications in crime victim services.

INTRODUCTION

The Office for Victims of Crime (OVC) describes the occupation of victim assistance as “a full-fledged advocacy and service field dedicated to meeting the physical, financial, and psychological needs of victims and their families” (OVC 1998, 153). This broad description provides a general definition of the purpose and activities of both organizations and individual practitioners.

Organizations may choose to be comprehensive and serve all types of crime victims (such as prosecutor-based programs) or be selective and serve only certain types of crime victims (such as rape crisis/sexual assault centers). Organizations may be government-based, private, or a combination of the two. Service delivery may be local, state, regional, national, or cross two of more of these jurisdictions.

Individual service providers range from full-time paid employees to part-time volunteers; from those with advanced degrees in social services, criminal or juvenile justice, health care, and other disciplines to those with no formal education; from those whose life history does not

include personal criminal victimization to those who have survived the trauma of criminal victimization committed against them or a loved one.

The diversity of organizations and individuals who serve crime victims presents a challenge to *the field's emergence as a profession*. The task for the emerging profession of victim assistance is to define the components and aspects of the profession, assess the extent of professionalization already achieved, and develop strategies to achieve further progress.

THE PROFESSIONALIZATION CONTINUUM

In the early study of professions, scholars identified a set of specific criteria that could be applied to occupations in order to determine their status. In a time when society was served by relatively few professions—i.e., medicine, law, and religion most noted (Carr-Saunders 1966; Wilensky 1964), the identification of a cluster of traits or stages was appropriate. As society became more economically and socially complex through industrialization, urbanization, and bureaucratization, the study of professions shifted from this rigid, static concept of essential components towards recognizing professionalization as a dynamic process in which an occupation could strive towards the ideal of a profession. Instead of asking “whether . . . any particular group is ‘really a profession,’ . . . it is much more fruitful to ask ‘how professionalized,’ or more specifically ‘how professionalized in certain identifiable respects’ a given occupation may be” (Vollmer and Mills 1966, vii).

The concept of professionalization as a dynamic process suggests a continuum with various occupations distributed between the two extremes. There is a constant push from occupational groups to become more professional and to claim public recognition as a profession. The essence of these emerging or marginal professions is that the occupation is in a transitional state between non-professional and professional (Barber 1963).

Placement on the continuum is not stagnant. Professions evolve due to the interactive effects of increasing specialization and the necessity for professional association with one another. Evolution is further accelerated by complexity in society and by an ever-expanding knowledge base (Houle, Cyphert, and Boggs 1987). The concept of professionalization as a dynamic process allows for consideration of the extent or degree of professionalization that an occupation has achieved based on various characteristics.

Cyril Houle (1980) suggests three groups of characteristics that reflect the professionalization of an occupation: conceptual, performance, and collective identity.

CONCEPTUAL CHARACTERISTIC

A profession must state and define its mission and foundations of practice. This definition may not, however, be congruent with the realities of practice. That is, what a professional actually does may not be consistent with the stated mission of the profession. This situation may be due to organizational dynamics or a response to changing societal needs.

Historically, professionals were free agents and practiced independently. In modern society, however, they are increasingly employed by bureaucratic organizations, which can place important restrictions on the autonomy of the professional. The functions and values of these two institutions—the profession and the organization—may create conflicts between the professional and the organization.

Evolving societal needs also affect the mission of a profession. Professional knowledge is “pluralistic, socially constructed, contextually defined, and constantly altering” (Baskett 1993, 15). The public perception of a profession’s mission and purpose evolves over time as social circumstances change. Social perception, however, may conflict with that expressed by the profession.

The stated mission of the victim assistance discipline offered by OVC is broad enough to include all types of victim service practitioners. However, the mission may not always operate in complete congruence with the values or priorities of the employing organization or the community.

PERFORMANCE CHARACTERISTICS

These characteristics refer to the knowledge and skills base of professional practice and personal development. There are four characteristics in this group: mastery of theoretical knowledge; capacity to solve problems; use of practical knowledge; and self-enhancement.

Mastery of theoretical knowledge. Theory and philosophy provide a guide to describe and understand the problems and circumstances of the world as they apply to the particular occupational area. A profession need not have its own unique theoretical foundation; newer professions in particular draw upon existing theoretical fields in order to understand the unique features of practice. Young (1993) notes that there is “growing acceptance of the theoretical underpinnings of the field of victimology and victim assistance” (p. 397). Victimology as a discipline is typically considered within the realm of criminology. The field of victim assistance, though, draws from many disciplines, including sociology, psychology, biology, and education.

Capacity to solve problems. Houle (1980) proposes that “the ultimate test of the success of a professional is the ability to solve problems (or decide that they cannot be solved), and those problems usually involve vital and deeply significant outcomes” (p. 43). The problems faced by professionals tend to be characterized by uniqueness, uncertainty, or value conflict. “How one frames professional problems and the range of solutions available are what differentiates an expert from a novice” (Bennet and Fox 1993).

Problem solving is a primary function of victim assistance. The role of victim assistance in “helping victims assess where they are, where they want to go, and how to get there” (Friedman and Tucker 1997) reflects the dynamic of problem solving. Regardless of the type of offense or whether there are numerous victims associated with one crime, such as the 1995 bombing of the Murrah federal building in Oklahoma City, each and every victimization brings

unique circumstances that do not necessarily follow a predictable and orderly model or respond to a specific technique of intervention.

Use of practical knowledge. A professional area should have a substantial body of knowledge and techniques that reflect the practical application of the field. Practical knowledge is the techniques and strategies, based in theoretical inquiry, that have been found useful through experience. The increased presence of victim assistance literature, including academic journals, books, newsletters, Web sites and listserv discussion groups, is evidence of the applied literature and resources that help to expand practitioners' skill base.

Self-enhancement. Finally, Houle promotes the value of self-enhancement as a professional characteristic. Self-enhancement refers to the continued pursuit of knowledge and understanding in those areas of study and interest not directly related to the occupation. This is valuable not only for the insights, perspectives, and creativity gained by rounded learning, but also for self-preservation and personal vitality. A balanced self is critical for effective victim assistance practice which, by nature, is characterized by unique stressors that may lead to ineffective practice.

COLLECTIVE IDENTITY CHARACTERISTICS

The professionalization of an occupation depends on the establishment of a collective identity through structures and systems that foster and maintain the conceptual and competency characteristics. Houle identified nine collective identity characteristics: formal training, credentialing, creation of a subculture, legal reinforcement, public acceptance, ethical practice, penalties, relations to other vocations, and relations to users of the service.

Formal training. This characteristic refers to the “formal processes for the transmission of the explanatory theories, doctrines (systems of values), applied theories, and practice theories” (Harris 1993, 34). Education—characteristically formal, university-based programs of study—is seen as one of the key determinants of all other professional characteristics. Formal training is considered a lifelong endeavor for the professional and, as such, includes continuing professional education. Houle (1980) notes that “the necessity to keep on learning throughout life seems so obvious to the leaders of most professions that they believe its self-evidence will cause it to be internalized within the value system and pattern of actions of every practitioner” (p. 85).

Formal university-based pre-service programs, though limited in number, do exist in the field of victim services. A review of victim assistance education programs (DeHart 1998) found that half of the existing programs were at least connected to universities. The others identified were state- or private-based programs not associated with an academic institution. Many of the education programs reviewed could be considered continuing education programs, university-based and otherwise.

Credentialing. Credentialing is a mechanism for setting standards of competency. It is the formal means of identifying individuals by occupational group. There are variations of credentialing that reflect different levels of requirements and oversight. The Office for Victims of Crime (1998) recommends the development of national certification standards for victim assistance. Universities, state agencies with regulatory authority, and professional associations currently offer varying aspects of credentialing in victim services (DeHart 1998).

Creation of a subculture. A profession should nurture a subculture of attributes that distinguishes it from other occupations. This subculture promotes a professional identity that enhances the field's uniqueness. The formal institutions of the universities, professional associations, and work organizations serve as venues for the socialization of the professional subculture. Furthermore, continuing professional education also enhances the sense of professional affiliation and identity.

A dynamic of victim assistance that affects the professional subculture is the grass roots nature of the field. Historically, victim services were started and rendered by “predominantly lay people: volunteers and former victims” (Davis and Henley 1990, 163). The subculture of victim assistance includes an awareness of the relatively brief history of the field through the literature (OVC 1998; Young 1990), pre-service education, and continuing education. Job titles continue to be a source of variability and confusion. Practitioners lack a common identifying job title and clear and required standards for entering the field. Even the terminology reflects the diversity of approaches such as the often impassioned discourse on the term “victim” versus “survivor.”

Legal reinforcement. Professions should seek legislative, judicial, and administrative support or rulings to protect the rights of practice, such as the right to practice the profession and the right to maintain confidentiality. According to one perspective, professions vie for exclusivity or monopoly of practice. In order to do this, an occupation must develop a special relationship, a regulative bargain, with the state that is conditioned and approved by the political power network.

Privileged communication or confidentiality is one of the most important of professional privileges and is owed in return for the trust that a client places in a professional. In many cases, though, the relationship between a victim advocate and a victim is *not* protected under law. Approximately one-half of all states have some type of law established in the area of victim protection concerning disclosure of confidential information shared with counselors and advocates.

Victim assistance has gained little in the way of legal reinforcement of professional activities. Many of the practice elements may be considered within the domain of other occupational areas; thus, “the multiple and competing professional organizations may be divisive” (Hall 1968) and may resist the professionalization and legitimization of victim services.

Public acceptance. The general public should be made aware of a profession's value to society. "The inception of a new occupation implies that certain specific work activities are valued enough such that those activities become distinctively differentiated from others and publicly recognized" (Moore 1970, 52). Thus, in order to attain professional status, an occupation must engage in image building to increase its social prestige.

Victim assistance has been proactive in public education about violence and victim rights issues. National Crime Victims' Rights Week, for example, is a time when victim service organizations across the nation focus on public awareness and victim outreach. "Increasing public awareness of victimization is critical to ensuring that victims receive the services they need and that victim assistance programs continue to be supported" (OVC 1998, 184). While public education activities may not be exclusively focused on victim assistance as a profession, they do promote awareness of the field's contributions to society.

Ethical practice. Professions should develop guidelines or codes for ethical practice. A professional code of ethics is part informal and part formal, and essentially describes the terms of relations to the client, other professionals, and society. Houle (1980) advises that a code should be "a broad summary of the moral behavior that is expected of every practitioner and that becomes a guiding though constantly reinterpreted tradition, somewhat like the American Bill of Rights" (p. 65-66).

Victim assistance struggles with ethical obligations. For example, most practitioners would identify the victim as its chief client. But practitioners may also be obliged to serve the justice system, which may be in conflict with the needs of the victim as a client. Practitioner competence is another area. Obligated to "undertake only those tasks that are within their competence . . . the determination of what counts as sufficient or minimally adequate competence . . . is a complex problem" (Ozar 1993, 169). At what point during the provision of comprehensive services to victims should/can a practitioner refer to another profession and what is the availability of service by that profession?

The Office for Victims of Crime has recommended a code of ethics for victim service providers (OVC 1998). The National Organization for Victim Assistance (NOVA) and Mothers Against Drunk Driving (MADD) are two national organizations that have developed codes of ethics.

Penalties. Professional members who are incompetent or who act in an unethical manner may face penalties that include financial sanctions, exclusion or expulsion from certain areas of practice or from special privileges, and, the ultimate sanction, termination of the right to practice. Professional associations or the state may serve as formal disciplinary bodies.

Though there are state and specialty variations, victim assistance as a field is not unified under a national governmental agency or professional association. While governmental and national entities support initiatives for professionalization, they do not have the authority to establish firm standards for individual practitioners or sanctions against incompetent or unethical

practitioners. The Office for Victims of Crime has, however, recommended the development of a means of accountability along with the development of a code of ethics (OVC 1998).

Relations to other vocations. There is a need to define and maintain role relationships among the allied occupations. As an occupation becomes professionalized, “a complex and usually ambivalent relationship grows up between them and each of the occupational groups with which they work, particularly those which are more highly professionalized than they are” (Houle 1980, 67). As the technical and social complexity of professional practice evolves, professions may split off into specializations or they may subprofessionalize, that is, the “spinning off to subordinates of professional duties that do not require full professional training” (Moore 1970, 174).

Victim assistance practitioners interact with an array of other professions, most of whom can be considered farther along on the scale of professionalization. Many of the victim assistance tasks may be considered subspecializations of law, mental health, and other fields. However, crime victimization is a unique event (Young 1990) and, as such, the focus on the victim client requires unique knowledge and skills. The challenge for victim assistance is to develop and define its role in collaboration—not conflict—with allied professions. The Office for Victims of Crime has issued a series of recommendations for effective and responsive victim service for all criminal and juvenile justice professions, as well as the professions of health care, mental health, law, education, the faith community, business, and the news media (OVC 1998).

Relations to the users of service. The final characteristic is the formal relationship between practitioners and the people who use their professional services. There are several general models of the professional-client relationship. An interactive model is when both parties have “unique and irreplaceable contributions to make in the decision-making process” (Ozar 1993, 167). This ideal of the professional-client relationship is common to most interactions in modern society. This model is consistent with the view of the professional-client relationship from a reflective practitioner model in which the professional agrees to “help the client understand the meaning of the professional’s advice and the rationale for his actions, while at the same time he or she tries to learn the meanings his actions have for his client” (Schon 1983, 297).

While victims do not choose to be victimized, they do have choices in their interactions with the professions. For example, considering that only 38 percent of all crimes are reported to law enforcement (USDOJ 1997), victims exercise fundamental choices about whether to interact with the criminal or juvenile justice system. Since individual needs and responses to victimization vary greatly, services for recovery should be individualized accordingly. Thus, the interactive model of the professional-client relationship is most appropriate.

BARRIERS TO PROFESSIONALIZATION

As presented in the discussion of the characteristics of professionalization, victim assistance as an occupational field has only minimally accomplished many of the characteristics. Houle (1980) cautions, however, that the characteristics presented cannot “ever be completely and finally achieved . . . but as an occupational group raises the level of its performance of various characteristics, its right to call itself a profession increases, as does its right to expect society to view it as one . . . a professionalizing vocation must strive towards many goals, and therefore they try to achieve some or all of the characteristics suggested here as well as others that may be unique to their particular work” (p. 74).

As a field, victim assistance must strive to reduce the barriers to professionalization. These barriers include addressing the conflicts among the various service agents regarding consensus of mission or purpose and the lack of occupational identity. The field must address external conflicts with closely related occupations. As an emerging profession, victim assistance must strive for collaboration, not competition. Finally, victim assistance must establish its unique knowledge, expertise, and skills so that professional autonomy may be exercised within the various bureaucratic organizations. The more an organization depends on adaptation and innovation for its survival, the more it will invest itself as a learning organization (Senge 1990) and will encourage professional problem solving.

COMPARISONS TO OTHER PROFESSIONS

LAW ENFORCEMENT

Attempts at professionalization of law enforcement were first undertaken in the 1800s and continue to this day. Reformation of American policing was a reaction to corruption that was rampant both in city halls and the hallways of many major police departments. Starting in the late 1800s, reforms were initiated within police departments across the United States. One reform was the establishment of police commissions as a way to remove elected officials from control of the department. The imposition of civil service exams was another reform. The use of these exams was an effort to remove favoritism in the selection and promotion of officers within the department. This approach to selection of officers did eventually improve the quality and professionalism of departments across the nation.

The second major phase of reforms within the police community occurred during the first half of the 1900s through the late 1960s when police administrators begin to demand that police officers conduct themselves as professionals. This approach involved accepting the position that police officers were knowledgeable and honest and that departments could be effectively administered. This second wave of reform was far more effective than its earlier counterpart, and as a result, police chiefs gained more control over their officers and departments (Wallace, Roberson, and Steckler 1995).

Reform continues to the present day as police chiefs and the departments they run more readily accept the principle that they are a microorganism of the society they serve. Law enforcement

officers typically go through an intensive training or academy program, and increasingly, departments require, or at least give preference to, applicants with college degrees. Police departments have also been more active in connecting with the public through community policing initiatives and community/citizen review boards, thus enhancing public acceptance of and involvement with the profession.

EDUCATION

Like victim assistance practitioners, educators work in a variety of settings and with different and diverse populations. They work in public schools, correctional institutions, and workplace organizations. They work with the very young and the very old; with individuals who are highly competent and motivated and with individuals with limited skills. Also similar to victim services, there are many volunteers.

This diversity of educators tends to segment the field into various groups, such as educators of children and educators of adults. As a profession, most educators have had formal university-based training. In most settings, educators are required to have some level of credentials, often a combination of an academic degree and some level of state licensure or certification.

Public acceptance of education as a value to society is relatively high. Educators do tend, and in some states are required, to participate in continuing education; a positive correlation has been found between continuing education and professionalization of the field of education (Jackson 1970; Childers 1993).

LAW

Each state regulates the training and qualifications of those who desire to practice law. Attorneys are regulated by state or federal statutes that define their duties and responsibilities. Additionally, state, federal, and national bar associations have informal or nonbinding rules that most attorneys follow. An example is the American Bar Association.

Most states or jurisdictions require a formal period of study or internship followed by an examination before a person may practice law. Many states also require attorneys to keep their skills or knowledge updated. These requirements are known by a variety of names, but all involve some sort of formal educational process. For example, in California, attorneys must complete thirty-six hours of education every three years. Eighteen of these hours must be in a formal educational or participatory setting and the other eighteen hours may be self-study that can be accomplished on an individual basis.

A person admitted to the bar in one state must apply for admission to practice in another state. Some states allow attorneys who have been admitted to practice law in another state to “waive” the requirements of a formal examination, assuming a formal application process is made and certain other requirements are met. However, the majority of states require attorneys from other states to pass some sort of examination in order to practice law in their jurisdiction.

PRACTICAL APPLICATIONS IN CRIME VICTIM SERVICES

A variety of skills are necessary to enhance the ability of victim service providers to do their jobs well, make a difference in the lives of traumatized victims, and collaborate with allied organizations and the community. There is a wide range of victim services, from basic (very limited) to comprehensive. Typically, the job description of the victim assistance provider is defined by the employing organization. And just as typically, a victim service provider's duties often extend far beyond his or her job title and duty statements.

Victim assistance staff serve in various disciplines, such as child advocacy, domestic violence, sexual assault, law enforcement, prosecutor's programs, community and institutional corrections, juvenile justice system, and emergency assistance. The field of victim services includes volunteers, interns, survivors, caseworkers, administrative staff and social workers. Some victim practitioners have extensive formal education, while others have little or none.

Why do victim service practitioners need to continue their education and skills development in victim services? While advocates are not expected to be "experts" in all areas of service, it is helpful to have basic knowledge of the discipline, as well as requirements of victim advocacy, because:

- Victims, survivors, employers, co-workers, allied professionals and the general public expect competence, integrity and protection from further harm.
- Skilled practitioners become more valuable to employers and the community, and demonstrate their skills through the development of quality programs.
- Practitioners need to forge professional relationships with other experienced and highly skilled professionals to enhance the profession, to collaborate in efforts that mutually benefit victims, and to promote public safety.

The old adage that "victim service providers wear a lot of hats" is an understatement. Victim advocates have traditionally been considered "generalists," with *a little knowledge about a lot of topics*. Service providers are often asked, "What type of background do you have that prepared you to become a victim advocate?" While the answers are varied, from people who have strong academic credentials to survivors of crime who became advocates to effect positive change, one thing is often true: Victim advocacy is a developing profession that has a great deal of "on-the-job training." Little can prepare an individual for the many challenges that victim service providers face in their daily work. Education, experience, commitment, empathy, listening skills, and plenty of courage are assets that are common to, and necessary to affect change in the lives of crime victims and to assume the professional responsibilities of victim advocates across the nation and abroad.

It is important to note that the field of victim advocacy has become *very specialized*, with professionals developing a great deal of expertise in specific topical areas, particularly in assisting different types of victims, or working within the community non profit area or with government based programs. These specialties are addressed elsewhere throughout the

Academy text. *This section seeks to describe specific skills and attributes that are common areas of expertise and skills applicable to many victim service practitioners, regardless of their particular discipline or specialty area.*

The following is a list of fifty skills and responsibilities that victim service providers find “common” to the practice of victim assistance, their agencies, the community and their colleagues. These are intended to provide a “snapshot” of the wide variety of skills and capabilities that contribute to effective victim advocacy and service.

1. *Advocacy for victims’ rights.* When gaps are identified that affect the provision of comprehensive, quality victim assistance, victims’ rights advocacy addresses such deficiencies. This can include advocating for an individual victim, a group of victims, or significant changes in laws through public policy development and implementation.
2. *Case management.* Maintaining accurate, current data about clients served, and the ability to generate cumulative reports about overall cases, are important skills for victim advocates. It requires juggling multiple cases representing many different victims’ needs at the same time, as well as knowledge of allied professional services that can ensure that victims’ cases are managed in an efficient and collaborative manner.
3. *Client assessment.* While victim advocates should not be expected to be “experts” in mental health, social services, medicine, and other allied professions, they should be knowledgeable about how to effectively assess victims to identify their most salient needs, and then work to meet them. A number of client assessment tools are utilized across the nation to determine the most urgent and critical needs of victims.
4. *Change management.* As a rapidly evolving discipline, victim services are subject to constant change due to our ever-evolving public policy legislative changes, and increasing public awareness of the issues that affect crime victims. This ongoing dynamic can result in confusion, turmoil, and stress if not well managed. Change management incorporates skills that help professionals predict and better cope with change, and reinforces change as a positive factor that enhances the discipline of victim services as a whole, and individual victims and service providers specifically.
5. *Community crisis response.* The protocols pioneered by the National Organization for Victim Assistance include critical skills for many victim assistance providers and organizations who may be called upon to respond to crimes or disasters that affect a large number of victims and/or entire communities. Examples include the Oklahoma City bombing and murders, recent assaults and murders of children in schools at the hands of classmates, and terrorism involving mass destruction at U.S. embassies and other sites abroad.
6. *Civil litigation.* When some victims feel they have not achieved “justice” through the criminal or juvenile justice system, they can pursue civil remedies. Victim advocates should be aware of the various avenues of civil litigation available to victims, and be able to make appropriate referrals to legal professionals.
7. *Coalition building.* A critical strength of America’s victims’ rights discipline has been its ability to make victim issues and concerns a priority for literally everybody, from allied

professionals to public policy makers to members of the community. The ability to forge alliances with potential partners to further the cause of victims' rights is a true asset for any victim service provider.

8. *Community organizing.* When the late Speaker of the House of Representatives of the U.S. Congress Tip O'Neill said "all politics are local," he could have been describing the field of victim services. With a strong grassroots foundation, this evolving discipline has, and will continue to, rely upon the "power of the personal story" and the commitment of community-based activists to organize and effect positive change that benefits victims. In addition, the community's investment in justice, which results in individual and neighborhood safety and protections, has become increasingly clear.
9. *Conference and seminar coordination.* Many advocates coordinate training for their staff, allied professions, communities and regions. Due to the high cost of travel and the limited training funds available, it is becoming more common for professional victim assistance associations to develop and coordinate their own training programs.
10. *Conflict management.* As in any discipline, conflicts abound between and among individuals, agencies, and jurisdictions, to name a few. The ability to help understand, manage, and resolve conflict (while not adding to the dissension) is a critical skill for professionals and volunteers who assist victims.
11. *Continuing education.* A significant component of a victim advocate's professional development is continuing education. Opportunities are available through the National Victim Assistance Academy (and increasingly, through state-level academies), state/regional/local coalition training efforts, higher education, and other opportunities. Participation in allied professional associations at the local, state and national levels also offers good venues for continuing education, particularly in specialty areas of victim assistance and criminal or juvenile justice.
12. *Counseling.* The capacity to effectively assess victims' needs for counseling and provide appropriate referrals and/or counseling services is a basic skill that must be possessed by all victim assistance professionals.
13. *Crisis counseling and intervention.* A comprehensive knowledge of victim trauma and additional stressors likely to produce crisis reactions, along with appropriate communication, listening, crisis response, and intervention skills, are necessary.
14. *Cross-cultural services.* In the "melting pot" that is America, knowledge about different cultures, their values and beliefs, and culturally appropriate responses is a core skill necessary to provide basic victim assistance services. Outreach to a variety of different cultural and ethnic groups is becoming a mainstay of victim assistance in communities large and small, urban and rural across America and abroad.
15. *Crime scene cleanup.* Many victim assistance providers assist with the clean up of vandalized property, homicide and violent crime scenes and assist in cleaning property examined by law enforcement for fingerprints.
16. *Criminal and justice system knowledge.* Knowledge of and familiarity with the criminal justice process are critical for advocates. It is important to know what criminal justice

services are available locally on a state, as well as federal, level so as to make appropriate referrals and help victims navigate this process.

17. *Death notification.* Knowledge of the extensive, profession-specific guidelines for death notification developed by Mothers Against Drunk Driving is necessary for any victim advocate whose job responsibilities include providing services to surviving family members and loved ones of homicide, drunk driving, manslaughter, or mass victimizations resulting in death.
18. *Education and partnerships with academia.* In order to prepare the “next generation” of victim advocates, it is crucial to create a strong academic foundation in institutions of higher education. Through the development of baccalaureate, masters, and doctorate programs in victimology, as well as curriculum infusion of victims’ issues and victimology theory into existing departments, the discipline of victim assistance will increase its professionalism, as well as broaden the scope of individuals who seek to become victim advocates. The National Victim Assistance Academy is an excellent example of partnerships with academia that promote professional development.
19. *Grant writing.* The capability to identify resources for grants, and develop successful proposals for research, evaluation, demonstration programs, program development, innovative partnerships, training and technical assistance has become a basic skill crucial to many victim advocates.
20. *Historian.* As the discipline of victim assistance rapidly approaches its fourth decade of service to America, it is essential for service providers to understand and appreciate the rich history of victims’ rights and, in particular, the significant contributions made by crime victims themselves. The heartbreaks, struggles and frustrations that marked the early days of victims’ rights and services have provided the foundation for an era where quality victim services abound, collaborative efforts among justice and allied professions are becoming more common, and victim trauma and losses are recognized. Through the pioneering efforts of countless individuals who were hurt by crime, and who were determined to prevent others from enduring the indignities they did, as well as leadership from the U.S. Department of Justice Office for Victims of Crime and thousands of victim assistance organizations, the field of victim services is shifting from a “movement” to a respected and valued professional discipline.
21. *Information and referral.* There are over 9,000 national, state and local victim assistance programs, and countless allied professionals agencies and organizations whose services are relevant to victims. Knowledge of these resources is an important asset to victim service providers. The information contained in the annual *National Crime Victims’ Rights Week Resource Guide* (VALOR 1995–1999) offers comprehensive referral resources, as does the Internet (by utilizing a search engine with the phrase “crime victims” as a guide). It is also important to ensure that referrals are existing and appropriate, which can be accomplished by making an initial screening call to determine a referral agency’s location, existence, and capabilities for victim assistance.
22. *Information technology.* Technological innovations have expanded the possibilities of victim assistance beyond anyone’s vision or imagination thirty years ago. Use of the Internet (including e-mail, web sites, and discussion groups), management information

systems, automated victim notification and restitution systems and services, and other technological resources have proven extremely valuable to victim service providers who seek to streamline information and referrals, case management, implementation of victims' rights, research, and continuing education opportunities.

23. *Intervention on behalf of victims.* Many victims require direct intervention with employers, creditors, insurance companies, teachers, and justice or allied professionals, among others. Often, a simple telephone call, letter, or e-mail can resolve a stressful situation for a victim.
24. *Justice system expertise.* Knowledge about laws, policies, procedures and protocols involved in the criminal, juvenile, federal and civil justice systems is a basic (and often vital) aspect of victim advocacy. Through collaboration and cross training with allied justice professionals, victim service providers can promote understanding of and sensitivity to victims' rights and needs, from crisis intervention at the time of the crime, through assistance at parole hearings and the appellate level.
25. *Nonprofit management.* Approximately half of America's victim assistance programs are nonprofit and community-based. This distinction requires knowledge of and adherence to laws and policies that guide nonprofit organizations, as well as strong resource development skills to ensure a continuous base of funding.
26. *Professional development.* This is an ongoing process that provides exciting opportunities for victim advocates to keep apprised of techniques, trends, innovations, and creative programming ideas that can enhance their personal and professional development. Many skills are derived from victim-specific training programs and state and national conferences. Other training opportunities are offered through inservice training and also through the process of listening and learning from others on a regular basis. As one victim advocate said, "With each victim I help, I become better prepared and more able to assist victims in the future."
27. *Program administration.* Responsibilities such as financial management, staff/volunteer recruitment and management, program development and management, strategic planning, board development, and developing collaborative initiatives with allied professions are among the many core elements of administration. A knowledge of people, training, quality services and innovative program development is necessary.
28. *Program development.* Most victim assistance organizations must develop programs "from scratch" with minimal amount of funding, while competing with other agencies who are also constantly seeking ways to augment and enhance their activities. Program development includes assessing needs, staff training, resource development and information seeking initiatives. Model programs using innovative and creative strategies are considered "promising practices" for replication. This area requires a basic knowledge of program evaluation and quality programming.
29. *Program evaluation.* The ability to measure the effectiveness and success of victim services is very important and critical to an agency's continued success. Program evaluation is often considered "the weak link" in victim services. No program or activity should be continued unless it can be substantiated and measured as effective.

30. *Property repair.* Some victim assistance providers provide services to domestic violence victims and burglary victims in the form of property repair and installation of deadbolt locks and peepholes (security devices and appliances). Frequently, this repair work restores a sense of security and safety to the victim that was significantly compromised by the crime. Some victim compensation programs actually pay for the locks that are installed for the safety of crime victims. In some communities, crime repair crews comprised of nonviolent offenders under careful supervision of a probation officer perform this function as well.
31. *Public policy and implementation.* The majority of crime victims' rights have a local, state or federal law to support them. Since the passage of the first victims' rights law to provide victim compensation in California in 1965, there have been over 30,000 laws passed that define and protect victims' rights (NCVC 1998). Knowledge of existing laws, and skills in organizing coalitions to promote legislative education and the implementation of laws, are considered core skills for victim advocates.
32. *Public relations and media outreach.* Victims and members of the community may be unaware of victims' rights and services and public protection initiatives. Therefore, they may not access services or become involved in community safety programs. Basic skills in marketing, media relations, community and public outreach are rapidly becoming elements of the basic job description of a victim advocate.
33. *Public speaking.* Comfort in addressing small and large groups in order to provide information and resources about, and encouragement to support, victim assistance initiatives, is a basic attribute of victim advocacy.
34. *Research.* While victim advocates are not required to be researchers at an academic level, they can achieve professional advancement by being familiar with the core principles of research and evaluation. In addition, many victim service programs partner with researchers and academicians to co-sponsor "research-to-practice" initiatives. Basic research relevant to victims' rights and services can also be achieved through good case management (data collection and analysis), conducting focus group and victim satisfaction surveys, and participating in advisory capacities to research projects.
35. *Resource development.* Nonprofit victim organizations, as well as some public sector agencies, rely on external funding sources to support their programs and services. As such, many victim advocates find themselves organizing special events, writing grants, pursuing cause-related marketing opportunities, and developing direct mail funding appeals (among other fund-raising activities) as part of their duties. There are myriad resources to help victim service providers hone their fund-raising skills, including electronic information on the Internet and local training programs geared specifically toward nonprofit fund-raising.
36. *Specific needs victims assistance.* Victims who are young or old, or with mental or physical disabilities, or who reside in highly urban or extremely remote jurisdictions (among others), require services that are sensitive to their unique situations. While technological enhancements can enhance the provision of victim services to specific needs populations, a basic understanding of challenges and barriers such victims face is an

important asset to victim service providers, especially to meet such victims' needs within the criminal and juvenile justice systems.

37. *Strategic planning.* The victims' rights discipline on the edge of the millennium is a culmination of decades of planning and vision. As this field becomes more visible, viable, specialized, and focused, the need for ongoing strategic planning that promotes partnerships with allied professionals and volunteers is essential to develop a productive path for the future.
38. *Stress management.* As this list of recommended skills for victim advocacy is reviewed, one's stress level is likely to rise! Victim service providers work in some of the most stressful environments imaginable, and dealing with the emotional trauma of victimization can take its toll. The ability to identify sources of stress, and develop positive skills to cope and manage both stress and potential burnout, can be a career-saving skill for victim advocates.
39. *Substance abuse and addiction assessment and interventions.* Too many victims fall prey to abuse of alcohol and other drugs as a means to cope with the pain and trauma they endure. And too many victim advocates use alcohol and other drugs as a means to cope with the acute and chronic stress of their jobs. An understanding of why victims and advocates might use or abuse alcohol and other drugs, treatment options, and the importance of forging alliances (and sponsoring cross training) with substance abuse professionals, is a vital skill for victim advocates.
40. *Support group facilitation.* Since the inception of the victims' rights field in the United States, mutual support groups have been at the very foundation of victim services: victims helping other victims cope with the trauma and pain of their victimization, and providing greatly needed support that can facilitate healing. Often, victim advocates help organize and facilitate support groups, frequently with support from mental health professionals who have education credentials and backgrounds specific to victim trauma and grieving.
41. *Training.* "Each one, teach one" could be the mantra of America's victims' rights discipline. The incredible advancement in both victims' rights and services has been accomplished largely through efforts to train, and cross-train, professionals and volunteers whose duties involve victim assistance. General and specialized training curricula and programs relevant to victim assistance have forged a path of growth and development throughout this emerging profession.
42. *Translation and interpretive services.* More and more advocates work with specific populations such the deaf and non-English speaking victims. Many of these individuals would be even more isolated without the support of services that facilitate their active participation in justice processes, and ability to access support and assistance.
43. *Technical assistance.* When a victims' rights/services program or initiative is proven to be effective, it should be replicated in other jurisdictions. Technical assistance provides ongoing means of providing guidance, advice and support to allied professionals and helps reduce the isolation that providers feel in the field.
44. *Trauma intervention and response.* A very specialized field called traumatology has emerged that focuses specifically on responses, interventions, services and treatment of the

grief, loss and suffering endured by crime victims. Trauma training is a critical component of victim advocacy in order to be able to identify and meet the mental health needs of victims. This is an area where partnerships between researchers and practitioners have reaped considerable useful information to delineate trauma reactions, responses and interventions that are helpful to victims. A number of new therapies have been introduced as a means to help victims reduce stress and reactions to victimization and trauma.

45. *Victim activism.* Many victims who feel that justice was not served in their particular cases seek measures to change and improve justice processes, societal attitudes, and even the provision of victim services. It is important for victim advocates to be able to provide “avenues for activism” to victims who are looking for ways to speak out and effect change on a local, state, and/or national level.
46. *Victim/offender programming.* As restorative justice and community justice initiatives emerge to identify and involve victims, offenders and the community as “clients” of justice processes, there has been an increase in the numbers of victim/offender programs across the nation. Victim/offender mediation or dialogue, victim impact panels, family group conferencing, sentencing circles, and victim impact panels are examples of programs where victims define the harm caused by crime, and encourage offenders to confront and take responsibility for their actions and the consequences to their victims, their own families, their communities, and themselves. Victim/offender programs require strong partnerships with allied professionals to effectively and compassionately respond to victims. They also should carefully screen crime victims to determine if they are ready for, and/or appropriate for, participation in such programs on a strictly *voluntary* basis.
47. *Victim compensation.* In most states there is financial assistance available from state victim compensation programs. It is mandatory in states that receive VOCA funds for victim service providers to help victims apply for compensation. They also educate justice and allied professionals about victim compensation in order to create a seamless web of information and resources that can help victims seek financial remuneration in accordance with federal and state laws.
48. *Victim restitution.* Perhaps the most difficult of all victims’ rights to enforce, victim restitution holds offenders financially accountable for their criminal and delinquent actions. Victim advocates must forge crucial partnerships with court administrations, prosecutors, probation and parole agencies, and correctional agencies to make victim restitution a collaborative priority and value of all involved entities, and to create effective systems that result in the ordering, collection, dissemination and overall management of restitution.
49. *Violence prevention.* As a victim in the early 1990s observed, “the best victim is no victim.” Attention to crime prevention directly reduces the number of crime victims in communities across America. Important partnerships have formed among prevention specialists, victim service providers, justice professionals, and community volunteers that focus on empowering neighborhoods to promote the personal safety of their inhabitants, intervening with at-risk youth to prevent potential victimization and/or delinquency, and involving community members as volunteers for both violence prevention and victim

assistance initiatives. This is, indeed, an area in which victim service providers have a clear interest and stake in preventing future victimization.

50. *Volunteer management.* Volunteers created most victim assistance programs started in the early 1970s. The thousands of volunteers gain vision, direction, management, encouragement, and recognition from victim assistance and allied organizations that benefit from the volunteers' countless hours of service. It is common for many victim advocates to supervise individual volunteers, or manage entire volunteer programs or initiatives that support their agencies.

PROMISING PRACTICES

- Certification or the credentialing of practitioners is receiving increasing attention in the field of victim assistance. One of the recommendations made in OVC's *New Directions from the Field* (1998) calls for a national commission to develop certification and accreditation standards. Some states have already addressed this issue through educational programs that offer some level of formal recognition. For example, the Florida Attorney General's Office has developed a Victim Services Practitioner Designation Program that VOCA recipients are encouraged to attend. The Oklahoma District Attorneys Council has contracted with a university to offer a certificate program that VOCA recipients are encouraged to complete.
- Standards also apply to programs not just practitioners. The National Organization for Victim Assistance (NOVA) has established eight basic elements of service standards for programs.
- Victim services are increasingly becoming a recognized academic area by universities. California State University-Fresno is currently developing the first doctorate in victimology.
- Arizona is the only state that has passed laws making consultation between a crime victim and an advocate a privileged communication, giving all victims of crime this protection.

1. What is meant by the conceptual characteristic of a profession? What is the conceptual characteristic of victim assistance?
2. Identify one example of performance characteristics and illustrate how it applies to victim assistance.
3. Identify one example of collective identity characteristics and illustrate how it applies to victim assistance.
4. Identify one barrier to victim assistance professionalization.
5. Describe one of the fifty practical applications in crime victim services that is a priority in your job.

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ABSTRACT

The Information Age holds tremendous promise for victims of crime and those who serve them. Innovative technologies are being utilized to streamline criminal and juvenile justice processes; create a “seamless” delivery of services to constituents, including victims; and strengthen our nation’s capabilities to assist and serve victims. The wide-ranging potential offered by the Internet provides up-to-date information and resources online, including many from the U.S. Department of Justice, to victims and victim service providers.

LEARNING OBJECTIVES

Upon completion of this chapter, students will understand the following concepts:

- The current status of technology’s use for administration, case management, and victim services for victim assistance organizations.
- How technology enhances information services for victims and service providers.
- The benefits of and barriers to using innovative technologies for justice and victim service agencies.
- The resources available through the “Information Superhighway,” as well as how to access them.
- Victim assistance and criminal justice resources available online from the U.S. Department of Justice and allied federal agencies.
- Promising practices in using technology to benefit victims.

INTRODUCTION

Information is power. With the explosion of the Information Age, and the expansion of the “Information Superhighway,” victims and service providers have multiple opportunities to augment their individual and collective power by accessing and sharing information electronically. Information forms the foundation upon which many victims’ rights and services are based, such as the following:

- Victims’ rights mandated by statute and case law.
- Victim services available locally and at the state and national levels.

- Case and offender status.
- Case and program management and evaluation.
- Research that documents trends in crime and victimization.
- Personal support and resources available to help victims reconstruct their lives following a crime.

Since 1995, virtually *all* of these types of information are available online to any victim or service provider who has a personal computer, telephone line, and modem.

The growth in technological applications to manage the expansion and development of victim service organizations, enhance case management and tracking information for both victims and offenders, and simplify and expand communications through the worldwide “Information Superhighway,” holds great promise for the discipline of victims’ rights and services. Knowledge about and use of existing and emerging technologies can save greatly needed time, money, and human resources for victim advocates and crime victims (Seymour 1995, 1).

The primary purpose of the victim service discipline is to help crime victims obtain three basic objectives: rights, recovery, and respect. Yet victims are often barred from securing these objectives by ignorance, misimpressions, and lack of information. In a very real sense, *information is the key that allows access to victims’ rights, recovery, and respect*. Unless victims are made aware of their rights, as well as how and when to exercise them, such rights have no meaning or usefulness. Simply put, *information is the means to victim service providers’ ends*. Indeed, it is the stock and trade of the victim service discipline and the driving force behind most services for victims of crime. How victim advocates are able to gather, synthesize, analyze, expand, distribute, and dispense this precious commodity has a direct impact on the success of the victims’ rights movement (Beatty 1995, 1).

TECHNOLOGY ASSESSMENT OF THE VICTIMS’ RIGHTS DISCIPLINE

A key component of the “Promising Strategies and Practices in Using Technology to Benefit Crime Victims” project sponsored in 1997/98 by the National Center for Victims of Crime (NCVC), with support from the Office for Victims of Crime, was a nationwide assessment to establish a “benchmark” of how and/or if victim service organizations utilize technology to enhance administrative, case management, and victim service processes. A total of 6,100 surveys were directly mailed to potential respondents, with 1,345 surveys returned to the NCVC.

The survey assessment examined agencies’ hardware configurations, operating systems, and Internet and online services. The findings provide an important and useful “snapshot” of technological applications in victim services.

HARDWARE CONFIGURATIONS

Over one third of victim service organizations (34%) have a network installed within their agencies. One-half of responding organizations (51%) utilize laptops, and over one-half (52%) use modems (with an average of 1.3 modems per organization).

The overwhelming majority of organizations (69%) have laserjet printers. A surprisingly high percentage of victim service agencies (27%) have color printers.

TOTAL NUMBER OF:	NUMBER (N=1,345)	% OF TOTAL RESPONDENTS
Organizations that have a network installed.	455	34%
Organizations using a PC(s)	1,159	86%
PCs used in the responding organizations (an average of 9.5 per organization).	12,719	N/A
Macintoshes used in the organizations.	393	29%
Laptops used in the organizations.	688	51%
Staff per PC (average).	4.17	N/A
Organizations that use a modem.	702	52%
Modems used in the organizations (an average of 1.3 per organization).	1,758	N/A
Modems with fax capabilities (N = 1,758).	575	33%
Daisy wheel printers.	81	06%
Ink jet printers.	575	43%
Laserjet printers.	925	69%
Color printers.	362	27%

OPERATING SYSTEMS

Over one-third of survey respondents (37%) utilize Windows 95 as their operating system. When one stops to consider that the 95 version of Windows was relatively new when this survey was conducted, it is significant that over one-third of responding agencies possessed this upgraded version.

TOTAL NUMBER OF:	NUMBER (N=1,345)	PERCENTAGE
Organizations using Windows 3.0	46	03%
Organizations using Windows 3.1	529	39%
Organizations using Windows 95	504	37%

INTERNET AND ONLINE SERVICES

Although this survey was completed in July 1997, it is still somewhat surprising that only one-third (33%) of victim service organizations are connected to the Internet, either at the office, at home, or both.

TOTAL NUMBER OF:	NUMBER (N=1,345)	PERCENTAGE
Organizations that have <i>office</i> access to the Internet.	322	24%
Organizations that have <i>home</i> access to the Internet.	75	06%
Office <i>and</i> home access to the Internet.	47	03%
Total number with office and/or home Internet access.	444	33%

Of the 444 respondents that have office and/or home Internet access, 338 (33%) use Netscape Navigator, and 122 (27%) use Microsoft Explorer, as their search engine.

A surprisingly low number of the 901 respondents who *do not* currently have Internet access expressed an interest in doing so in the future. Specifically:

- 344 are interested in getting an Internet connection (38%).
- 130 are *not* interested in getting an Internet connection (14%).

Four out of ten (360) respondents with Internet connectivity are interested in developing a homepage for their organizations, while 169 respondents, or 38%, are not interested in developing a homepage (Seymour, Beatty, and Insko 1998).

THE VICTIMS' RIGHTS DISCIPLINE: AN INFORMATION AGE FOR VICTIMS AND SERVICE PROVIDERS

(This section is derived from the *Promising Strategies and Practices in Using Technology to Benefit Crime Victims* text, published in 1998 by the National Center for Victims of Crime, with support from the Office for Victims of Crime, U.S. Department of Justice.)

If the very core of America's victims' rights discipline (that is, what it takes to provide comprehensive, quality rights and services) had to be boiled down to one concept, or one word, it would quite possibly be this: *Information*.

Perhaps the greatest barrier over the past quarter century to the enforcement of victims' rights, and the empowerment of individual victims and witnesses, has been a systemic lack of information. At the genesis of this field, advocates struggled not only to interpret the various information needs of victims but also to create a nationwide system where information could be refined and disseminated. When the victims' rights movement strengthened in both numbers and sophistication, advocates focused on how to manage the vast amount of information that

grew on a daily basis about rights, services, and related resources. As this discipline matures, the challenge remains to *obtain, interpret, disseminate, and manage information* that can assist victims and those who serve them in the most *efficient, cost-effective, and accessible* manner possible.

Consider the plight of a sexual assault victim 25 years ago . . . It would have been a rare occurrence for a rape victim to receive information about her rights from a responding officer. Referrals to supportive services were very limited. Guidance about how to apply for and obtain victim compensation was infrequently provided. Provision of the most basic information about her case was uncommon. Assistance in understanding the “maze” of the criminal or juvenile justice process would have been very limited, if available at all.

Flash forward to the millennium, to a very different environment: A responding officer would be likely to provide information about rights, services, compensation, and support. Information about the justice process would be available in both paper-based and electronic formats. The management of her case throughout the justice process in many jurisdictions would be simplified by electronic case files, with information shared “virtually” with security protections across both agencies and jurisdictions. In some jurisdictions, information about the status of victim compensation claims could be electronically accessed. Information about confidential counseling and support groups would be available via the World Wide Web. In fact, today information about rape trauma, victims’ rights, and avenues for activism abound on the Internet.

The difference between information *then* and information *now* reflects not only a growth in both quality and quantity but also a more refined approach to how information is identified, managed, shared, and made available *to* and *about* victims, and to those who serve them. Access to information today reflects an advantage that has been significantly advanced by technology.

Victim-related information can be divided into six key categories:

1. Information about choices.
2. Access to information.
3. Information sharing.
4. Information management.
5. Information about advocacy.
6. Educational information.

INFORMATION ABOUT CHOICES

Nobody chooses to be a victim of crime. As such, the key tenet of helping victims reconstruct their lives in the aftermath of a crime is to provide them with choices and options.

Victims today can readily access information about rights, services, statutes, victim compensation, civil remedies, and other important resources through the World Wide Web. Criminal and juvenile justice and allied professionals, as well as victim service providers, are often linked to each other so victims know whom to turn to for information and supportive services. Victims' choices about *where to go* and *what to do* in the aftermath of a crime are tremendously expanded by the volume and quality of information available, in both paper-based and electronic formats.

ACCESS TO INFORMATION

The advanced technology age has revolutionized the accessibility of information to victims of crime. No longer are boundaries and barriers created by one's geographical location, physical ability, culture, or language. Innovative applications of technology have changed the ways victims can identify and retrieve information and services. These innovations range from simple to complex:

- More widespread use of TDD equipment has expanded information and services for hearing-impaired and deaf victims.
- Telemedicine electronically links medical and mental health experts to remote-rural regions and jurisdictions lacking needed expertise to provide consultation and review of victims' medical histories and cases.
- The proliferation of toll-free telephone numbers helps break barriers for victims who cannot afford a long distance telephone call to access information and services.
- Automated voice response technology makes victim notification and offender status information available twenty-four hours a day, seven days a week, in multiple languages and dialects.
- The World Wide Web has numerous sites devoted to victim information and assistance as well as sites providing access about the status of offenders in some states.
- In San Diego County, California, victim impact statements provided at the time of sentencing are videotaped and captured on CD-ROM, creating a "permanent record" for future review at hearings related to the release of incarcerated offenders.

A recent focus for information access is the accessibility of Web sites for individuals with disabilities. The Center for Applied Special Technology (CAST), founded in 1984, is a nonprofit organization whose mission is to expand opportunities for people with disabilities through innovative uses of computer technology. CAST's major initiatives include product development and applied research. Product development focuses on the creation of universally designed curriculum and software including network learning systems for elementary schools and colleges, and supported learning tools and curriculum in the areas of literacy, mathematics, science, and social studies. Research is conducted in classrooms, homes, community organizations, and the Internet.

CAST has developed a Web-based tool, called “Bobby,” that analyzes Web pages for their accessibility to people with disabilities. CAST offers Bobby as a free public service in order to further its mission. Bobby’s analysis of accessibility is based on the World Wide Web Consortium’s (W3C) Web Content Accessibility Guidelines. For example, to become Bobby approved, a Web site must:

- Provide text equivalents for all nontext elements (i.e., images, animations, audio, video).
- Provide summaries of graphs and charts.
- Ensure that all information conveyed with color is also available without color.
- Clearly identify changes in the natural language of a document’s text and any text equivalents (e.g., captions) of nontext content.
- Organize content logically and clearly.
- Provide alternative content for features (e.g., applets or plug-ins) that may not be supported.

The W3C Accessibility Guidelines address barriers in Web pages which people with physical, visual, hearing, and cognitive/neurological disabilities may encounter. Common accessibility problems on Web sites include:

- Images without alternative text.
- Lack of alternative text for imagemap hot-spots.
- Misleading use of structural elements on pages.
- Uncaptioned audio or undescribed video.
- Lack of alternative information for users who cannot access frames or scripts.
- Tables that are difficult to decipher when linearized.
- Sites with poor color contrast.

The guidelines are written for a variety of audience—people who design Web sites, people who check existing Web sites for accessibility, and organizations that wish to ensure that people with disabilities can access information on the Web. In order to have a Web site analyzed for conformity to the Guidelines, simply access the Bobby site at <www.cast.org/bobby/>, type in the URL of the site to be analyzed, and submit. Bobby will display a report indicating any accessibility and/or browser compatibility problems found on the page. Once a site receives a Bobby approval rating, it is entitled to display a Bobby Approved icon (CAST 2000).

INFORMATION SHARING

When integrated management information systems *within* and *among* justice agencies incorporate victim information, both the quality of and access to such information are significantly improved. Lost paper files and misplaced case information become a thing of the

past when victim-related case information is electronically attached, with appropriate security restrictions, to the electronic case file of the offender as it makes its way “virtually” through the justice process. Within victim serving agencies, basic networking in an office improves the veracity of victim-related data, as well as professionals’ ability to access information *when* and *where* it is needed.

In addition, the need to interview and re-interview victims to obtain the same information for different victim service and justice agencies can be significantly decreased. Case information captured at “one source,” such as law enforcement or prosecution, can be entered and consistently shared, eliminating the need for redundant data entry and multiple contacts with victims that are unnecessary and often traumatic.

In the *Juvenile Accountability Incentive Block Grants Program (JAIBG) Bulletin* entitled “Establishing and Maintaining Interagency Information Sharing,” a twenty-point prescription for the development of a comprehensive electronic juvenile justice information system was offered for juvenile justice system professionals. These recommendations outline key points in developing and maintaining an electronic information system that can support the sharing of information within and among agencies as well as meet specific informational needs of the juvenile justice system, e.g., confidentiality (Slayton March 2000).

1. Appoint an Information Management Committee composed of representatives from every agency in the juvenile justice system, funding agency officials, legislative staff, management information systems experts, community representatives, child welfare agents, and parents.
2. Determine the information collected and maintained by all the agencies.
3. Evaluate information needs.
4. Evaluate agency goals and identify those that are overlapping.
5. Determine the mission (overall goals) of the juvenile justice system.
6. Clarify reasons to share information.
7. Identify what specific information is to be shared and who needs access to each item of information.
8. Determine statutory record requirements about information collection and dissemination as mandated by federal, state, and local governments.
9. Determine exceptions to statutory requirements.
10. Draft an inter-agency agreement.
11. Fund the system.
12. Designate information management liaisons in each agency.
13. Build the system.
14. Prepare and/or revise policies and procedures.

15. Train staff.
16. Supervise confidentiality needs.
17. Review policies regularly.
18. Review needs regularly.
19. Revise system as necessary based on audits and system needs.
20. Repeat steps 14 through 19.

Although this checklist was developed for juvenile justice system information sharing, it can be easily adapted for criminal justice or other multiple-agency implementation.

INFORMATION MANAGEMENT

The benefits of technology when applied to information and case management are substantial. Databases can be designed to capture not only vital information about individual victims but also helpful data about case histories, relationships with offenders, and prior receipt of services.

In addition, basic organizational management is enhanced by information systems that expand an agency's capability to design programs, secure funding, and strategically plan for the future. See the following examples:

- Statistical information now provides valuable guidance about the scope and level of services provided to victims and offers valuable trending data that can be utilized for program planning.
- Some states provide for the electronic transfer of information related to VOCA grants, both for reporting and grant application purposes.
- Information about the status of victim compensation claims is being managed electronically in some states, thus eliminating the need to rely on paper-based files that are not always easily accessible.
- Basic statistical information about victim demographics is more easily managed and accessed by justice professionals today which, in turn, augments the ability of the United States to track important trends in crime and victimization.

INFORMATION ABOUT ADVOCACY

Many victims today seek opportunities to get involved in victim advocacy efforts and make a positive difference in others' lives through victim assistance, crime prevention, and public education activities. Visits to the Web sites of local, state, and national victim assistance organizations provide extensive information about opportunities for victim advocacy. "Electronic newsletters" contain timely resources related to current legislative and public outreach efforts. In addition, the increased use of "listservs" on the Internet can provide opportune information to multiple parties "at the press of a key."

EDUCATIONAL INFORMATION

Public awareness about and community involvement in victims' rights and services comprise a key goal of victim service and allied justice agencies. Many innovative applications (from computerized graphic design software packages, to basic electronic billboards, to the widespread use of the World Wide Web) have both complemented and simplified the presentation and transfer of information to interested parties about victims' rights and services. The speed of the transfer of information has resulted in community awareness and public education activities that are timely, matching the speed in which response and support from parties interested in victims' rights and services are needed.

BENEFITS OF INNOVATIVE TECHNOLOGIES FOR VICTIM SERVICE AND ALLIED JUSTICE AGENCIES AND THEIR IMPLICATIONS FOR VICTIM SERVICES

The National Center for Victims of Crime identified five significant benefits for victim service and justice agencies that utilize innovative technologies along with six implications relevant to improving victims' rights and services (Seymour, Beatty, and Insko 1998).

COST-EFFECTIVENESS

While most innovative technologies that benefit victims require an initial investment of money, sometimes a considerable sum, myriad data point to their overall cost-effectiveness. In today's traditional victim service agency, much time that could be spent providing direct victim assistance and support is consumed by work directly attributable to paper-based systems. Technology can enhance overall agency operations and the provision of direct services to victims and reduce the duplicative efforts that are caused today by both the lack of technology and the lack of adequate management information systems.

IMPROVED REPORTING

Victim-related data are essential for a variety of purposes for both community- and system-based victim service agencies. Some examples follow:

- Crime and victimization statistics.
- General demographics related to crime and victimization.
- Efforts to identify trends in victimization in a community.
- Establishing relationships between victims and offenders.
- Funding requirements (especially establishing the need to receive additional funding).
- Program evaluation.
- Program planning for the future.

For example, victim service providers in Wisconsin who receive VOCA funding can file their reports electronically to the Department of Justice.

Reporting requirements for victim serving agencies are driven by both internal need and external demand for information. Technology enhances an agency's ability to provide these data more quickly, efficiently, and accurately for both purposes.

IMPROVED CASE MANAGEMENT

Electronic databases enable victim service professionals to access information more quickly, enhancing both direct victim assistance and providing vital, and sometimes life saving, information to allied justice professionals. This is particularly true of victims' cases that involve either multiple victims/offenders or multiple case workers either within or among victim service agencies.

In addition, the security of victim-related information can be enhanced by technology. Specific information that can and should be shared with others can be made readily available to the proper authorities, while confidential data can be protected through a variety of measures such as security screens, personal identification numbers for victims, encryption, and "fire walls" on the World Wide Web.

ENHANCED PROGRAM EVALUATION

For victim-serving programs and agencies, program evaluation is essential for a variety of purposes such as follows:

- Measuring the quality and scope of services provided to victims.
- Measuring victim satisfaction with services provided to them.
- "Proving" the need to secure additional funding (from either public or private sector sources).
- Identifying new areas for increased service and/or specialized programs.
- Providing data that are vital to program planning for the future.

The beauty of technology today is that user groups at the "front end" of the development of new applications can clearly identify data that are essential to program evaluation. These elements can be easily incorporated into software programs to provide valuable data when and where they are needed.

ELIMINATION OF REDUNDANT DATA ENTRY

It is not unusual for data about a victim or offender to be entered into information systems twenty-five or thirty times throughout the duration of a case. Consider the many "points of entry" for victim-related information, from law enforcement through courts and corrections, including data entered by both system- and community-based programs. Then consider the amount of human resources and time that must be dedicated to such redundant data entry.

Shared management information systems allow vital case information to be entered *once*, where it will (when appropriate) cross agency and/or jurisdictional lines in an electronic format.

For victim service agencies, data that are applicable to case management, direct service, program evaluation, and funding, among other considerations, can *also* be entered only once. Today, innovative software applications organize and manage these often complex data in ways that can eliminate repetitive data entry by multiple professionals.

IMPLICATIONS FOR VICTIMS OF CRIME

“Filling in the cracks.” Victims have historically been subject to “cracks” in the justice system that sometimes appear to resemble the Grand Canyon. Vital information that is not shared *among agencies* or *within a single agency* can result in situations ranging from minor inconveniences to major tragedies.

Many innovative applications of technology today are designed specifically to “fill in the cracks” of a system and services that should be designed to protect victims. For example, victim case information can be electronically and confidentially attached to his or her offender’s electronic case file for easy access and rapid retrieval. Furthermore, victim case information within one agency can be accessed by legitimate and authorized staff, even in the event that a victim’s direct case worker is inaccessible at the time the information is needed.

The ability to create this “seamless web” of case information is perhaps one of the greatest contributions of technology to the victim’s discipline today.

Enhanced outreach to victims. From the use of simple word processing programs that create automated merge letters, to basic graphic design programs that simplify the production of victim-related newsletters, to the wealth of information available twenty-four hours a day, seven days a week on the World Wide Web, both the scope and quality of victim outreach has been vastly improved by technology. Access to information about victims’ rights and services, statutory and case law, and opportunities for victims to become involved in proactive efforts designed to help others and even prevent crime—all abound as a direct result of the Information Age.

Caution must be taken, however, to ensure the veracity of the information now available to victims. Particularly on the World Wide Web, there are legitimate concerns about “quality control” because bad information is worse than no information at all. Quality control is a crucial area that merits continued assessment and action on the part of victims and those who serve them.

Emphasis on diversity. The ability to disseminate victim-related information in multiple languages and dialects has grown considerably through technological applications. Addressing diversity is beginning to resolve a historical challenge that has consistently hampered the victims’ rights discipline because business was conducted primarily in the English language.

Many innovations have opened new and important doors to diverse populations:

- The growing use of TTY and TDD technology for hearing-impaired and deaf victims.
- The use of videotaped and audiotaped victim impact statements for victims who are illiterate or who live in areas located far from key justice system locations at which they have the right to have input and/or be heard.
- The use of satellite teleconferencing for hearings such as parole proceedings or the uplink developed specifically for the victims of the Oklahoma City bombing to “view” the Denver trial from a secured site in Oklahoma City.

These remarkable examples have made justice processes and related victims’ rights and services more wholly accessible to populations diverse by geography, culture, and physical ability.

Increased victim satisfaction. Any time an application of technology enforces victims’ rights or improves their access to greatly needed services, a possible outcome is increased victim satisfaction. A rich body of research correlates enforcement of victims’ rights with increased victim satisfaction. Such correlations are greatly enhanced with the use of technology that broadens opportunities for input, information, notification, restitution, and protection, among other significant victims’ rights.

Better enforcement of victims’ rights. Many innovative technologies are designed to ensure enforcement of victims’ rights:

- Automated restitution management programs provide timely, accurate information about the status of legal and financial obligations, including any remedies that victims may have.
- Voice-automated victim notification programs make offender release information available in two manners: by providing automated notification within a prescribed period of the actual release or by allowing victims to call a toll-free number at any time to access information about the status of the offender.
- Several state correctional agencies offer offender status information such as location and next release hearing and even photographs of inmates on the World Wide Web.
- CD-ROMs contain updated information, including photographs and locations, about convicted sex offenders thus offering valuable information to augment the safety of victims and communities.

These are just a few of the examples of how victims’ rights are being enhanced through innovative applications of technology.

New opportunities for crime prevention. The abundance of information about offenders and victims, relationships between offenders and victims, trends in criminal activity, and innovative solutions to crime prevention and intervention provides new and significant

opportunities to stop crime before it occurs. The increase in such data, along with the ability to manage information about complex data among individuals and activities in cases, have contributed to substantial improvements in prevention, early intervention, and reduction of criminal activity.

BARRIERS TO THE SYSTEMATIC USE OF INNOVATIVE TECHNOLOGIES

Through its national assessment of victim service programs' use of technology, an extensive literature review, and focused group discussions held at its 1998 technology symposium, the National Center for Victims of Crime (NCVC) identified twenty-one potential barriers to the use of technology in victim services (Seymour, Beatty, and Insko 1998). The barriers can be summarized in five categories:

1. Planning and implementation.
2. The "learning curve" among victim service agencies and professionals.
3. Internal agency issues.
4. Sharing resources.
5. Victim-specific concerns.

The NCVC, however, is quick to surmise that what many view as "barriers" are simply "challenges" to be addressed when planning and implementing technological applications to enhance victims' rights and services.

PLANNING AND IMPLEMENTATION

Funding. Technology is often not cheap.

This important fact aside, victim service agencies must consider the costs of implementing innovative technologies and compare them to the benefits that will be received. Cost/benefit analyses usually support the initial investment in hardware and software (along with the concomitant costs of research and development necessary to launch the desired technology) with the expectation that in the long run, substantial savings in human and monetary resources will result.

Many governmental entities have "seen the light" in terms of applying new technologies to both justice- and victim-related processes. In the early stages of the technology revolution, investments in technology were considered high risk. As evaluation data consistently point to cost savings, streamlined operations and improved services, these risks are mitigated by the benefits.

Some state agencies that provide victim services have successfully requested appropriations for funding innovative technologies to enhance and streamline such services from their legislatures

and executive branches. Key to these initiatives is a systematic evaluation of positive outcomes that result from this often substantial investment of taxpayers' dollars.

The U.S. Department of Justice has invested considerable dollars and human resources in technology that benefits victims of crime. Many program plans have designated dollars for technology applications or have emphasized the use of technology as a fundable factor for discretionary and demonstration dollars.

Converting from paper-based systems. There are still countless victim service agencies, both community- and system-based, that operate on a "paper basis." Case management information, client records and statistics, reporting systems, and information relevant to grant and other funding is maintained manually or, in some cases, using rudimentary technology such as basic word processors.

The transition from paper-based formats to electronic systems can be time-consuming, adding to staff and volunteer frustration and even resistance. In addition, electronic applications offer new approaches that, while significantly better than "the old way," require different formats and unfamiliar ways of organizing and accessing information.

Preserving the quality and accuracy of data as they become automated is another significant consideration. Quality control and measures to ensure accuracy of data are key factors when automating agency and/or service functions.

Potential agency/vendor liability. What happens when a technology designed to enforce a specific victims' right (such as notification, protection, or restitution) fails to accomplish its stated purpose? Who is responsible if a citizen is victimized or re-victimized as a direct result of the failure of technology, and/or the failure of professionals who are responsible for implementing such technology? Do individuals who are detrimentally affected by the failure of a technological application to adequately perform have a cause of action, against either the sponsoring agency or the private sector entity that helped develop it?

These questions require equally serious consideration in planning for new and innovative technologies. Liability may, indeed, be a significant barrier to the private sector's willingness to even enter into certain areas of research and development, fearing that the high costs of liability insurance and litigation are prohibitive.

Lack of victim/service provider involvement in planning and implementation. Many technological applications that are geared toward victim services and public safety fail to involve victims and those who serve them in the planning process: One-third of the technology submissions received by the NCVV project did *not* involve victims in the early stages of product development.

Who knows better what victims need, and what concerns them the most, than victims themselves? Victim-related technologies can benefit from input and guidance from victims and

service providers throughout the research, development, planning, implementation and evaluation stages. Involvement of user groups and advisory entities can be very beneficial to governmental agencies, nonprofit organizations, and the private sector as they seek innovative approaches to using technology to benefit victims and witnesses of crime.

Lack of program evaluation. One of the key components in proving the success of new technologies (including cost effectiveness, victim satisfaction, savings of time and human resources, and overall efficiency) is program evaluation. The ability to show positive, measurable outcomes can lead to additional funding for and support of further technology applications.

As many states and other jurisdictions move toward performance-based evaluation measures, innovative technologies will be pressured to provide tangible means of measuring their success. Evaluation must be directly tied to planning efforts. Although costly, external evaluations by professional entities provide objective opinions of whether or not the application fulfills its proposed goals.

In addition, technologies that are service-oriented and/or provide information to users should make every effort to offer opportunities for user feedback. Client surveys and user groups are simple approaches to maintain ongoing, helpful communications with “customers” who utilize the technology.

Managing complex relationships among data elements. New technologies offer endless opportunities to manage data in ways never dreamt possible just a few years ago. Data that were accumulated and maintained in separate and distinct databases are today being organized and managed for a variety of purposes:

- Statistical analysis.
- Determining criminal and victim histories.
- Establishing relationships between and among victims/offenders, offenders/offenders, and offenders/types and patterns of crimes.
- Establishing relationships among victims and/or offenders across jurisdictional lines.

While the possibilities of managing these, and other, complex relationships are almost endless with today’s technologies, they also pose challenges to planning and implementation efforts. Many agencies and professionals have historically operated “within the box” whose sides were held together by a lack of resources, technology, and knowledge. Innovative applications of data management systems require professionals today to think and go far “beyond the box,” and create a vision where technology can be utilized to its full extent for not only victim assistance, but crime prevention, interdiction, and early intervention.

THE “LEARNING CURVE”

“Technophobia.” Fear of the unknown is one of the greatest barriers that humans face in life. It is ironic that while technology today opens up vast new horizons of information and opportunities, at the same time it can be formidable and frightening. As one victim advocate noted, “‘Technophobia’ doesn’t begin to describe my problem. ‘Techno-terror’ is more like it!”

Entities and professionals who offer technological solutions to problems facing victims today must be acutely aware of the fear of technology experienced by many victim service providers. All of the “barriers” described in this section add up to some very good reasons for some advocates’ hesitance to embrace new technologies. Education for end users as well as potential users is essential to address the consummate “technophobia” that affects much of America’s victims’ rights discipline today. Continuing training and technical assistance in how to use specific applications, and recognize the benefits of their use, are key to overcoming this barrier. An awareness of service providers’ limited time and resources must be taken into account, with clear and convincing evidence provided to them about how technology can make their jobs easier.

Lack of understanding of the nature of innovative technology. “You can’t see the forest through the trees if you’re standing at the foot of the ocean.” Often people fail to understand the nature of and opportunities offered by new technologies because *they lack adequate information to help them understand*. The solution to this challenge goes far beyond simply educating people. It requires an understanding of users’ most basic needs, job requirements, and expected outcomes. It demands the involvement of users in augmenting their human resources with technology in a partnership for progress. It needs an ongoing system of training, technical assistance, and user feedback that allows for two-way communication about problems and solutions. It means a commitment that involves *learning* and *listening* as a “two-way street.”

Staff “buy-in.” Victim service providers and allied professionals who are suspicious of new technologies will remain so until their suspicions and fears are either confirmed or denied. The best way to allay these predictable reactions from agency staff is to keep them informed and involved in *how* and *why* the new technology is being implemented, and *how* and *why* it can make their jobs easier. Such efforts should *not* occur after a technology is in place but in the initial planning stages and during implementation.

Some staff fear that their jobs will be replaced by technology. Still others fear an increase in workload due to the logical increases in information that can be managed through new applications. Both of these concerns must be directly addressed by providing concise and honest answers to the question “What’s in it for me?”

INTERNAL AGENCY ISSUES

Lack of time. The opportunities offered by innovative technologies are often tempered, in the minds of some staff, by the time required to implement them. Technology and time management are affected by many factors:

- Unrealistic time frames for implementing new technologies.
- Changes in workflow that require significant training and individual, personal adjustment.
- Personnel shortages.
- Technologically-savvy staff being hired away from government and/or nonprofit agencies by private industry.
- The need to input information instantly to meet legal mandates such as entering offender release information into a database within a specified, short period of time for victim notification purposes.
- The ability to manage more information through the use of technology can equate (at least initially) to more time and work for staff.

Need for revisions and/or enhancements in policies, procedures, and/or laws. As America's justice system and allied professionals move into the Information Age, the journey requires a thorough assessment of agency policies and procedures, related provision of victim services, and state laws that govern the management of information. The differences between existing guidelines and legal requirements that were developed for paper-based systems, and those that are partially or fully electronic, can be substantial.

The solution requires an ongoing partnership between technology experts and those responsible for jurisdictions' laws and agencies policies. Mutual understanding and cooperation is needed on an ongoing basis to manage the change associated with technological innovations.

Today many management information systems (MIS) seek to build in mechanisms that automatically change database requirements in accordance with changes in laws and policies. For example, states' victim notification systems should be flexible enough to automatically effect MIS changes related to sentencing, sanctions for specific violations of supervision, or the addition of new victims' rights related to notification.

Quality of data. The old adage "garbage in, garbage out" takes on added meaning within the context of new technologies. The information in information systems is only as good as the original data from which it is derived, as well as the competency of staff who are inputting it into new electronic databases. Human error can have costly ramifications for victim-related technologies. Agencies must institute measures of quality assurance to maintain the integrity and accuracy of their electronic information, especially as it moves from a paper-based format into electronic systems.

Information overload. Is there such a thing as “information overload”? According to some victim service providers and allied professionals interviewed through the NCVC project, the answer is a resounding “yes” if the information is not managed well. As part of the planning process, people need to carefully determine the following:

- Information needs.
- How the information will be used.
- Who will have access to the information?
- How the information will be managed—in single or shared databases, across agencies and/or jurisdictions, etc.
- Exactly how the information can be used to further victims’ needs, rights, and services.

The ability to amass tremendous amounts of data can easily lead one to gather information just “because one can.” Unless outcomes of information management are decided early in the planning stage and throughout the implementation process, agencies may fall prey to “information overload.”

SHARING RESOURCES

Information sharing. Professionals and agencies who view “information as power” may have misgivings about sharing that power. In justice- and victim-related processes, however, information sharing is vital to case management, criminal tracking, trending, and other critical planning and management issues. There are countless stories of victims who have “fallen through the cracks of the justice system” because case information was neither shared, nor passed on to the appropriate entity.

The sharing of information requires safeguards to make sure the information is utilized in lawful and appropriate manners. Concerns about victim and offender confidentiality can actually be addressed better *with*, rather than *without*, technology, as current applications offer considerable security protections.

However, fears of sharing information are very real and, as such, should be validated and addressed throughout any technology implementation.

Systems integration. It appears that when victim service and justice agencies began automating their processes over the past decade, few discussions were held among professionals regarding the hardware and software specifications that might eventually be integrated, across both agency and jurisdictional lines. The result is a wide variety of platforms and applications that, today, require significant interfaces to “speak” to each other.

In addition, many agencies today seek to upgrade somewhat archaic systems, rather than replace them with newer, faster systems with greater capabilities. While these decisions are cost-effective in the short run, it is questionable as to their efficacy in the future.

Systems integration is also challenged by the unwillingness of some agencies to share specific information (this issue is addressed below). However, there are few systems that, with today's advanced technology, *cannot* be integrated with seemingly disparate systems.

Inter-agency and inter-jurisdictional cooperation. Different agencies and jurisdictions often operate under different policies, procedures, and laws. Those who apply innovative technologies to benefit victims must research and understand the variances that will affect implementation.

In many jurisdictions, cross-agency and cross-jurisdictional task forces define *not only* user requirements for new technologies, but *also* the policies and laws under which they must operate. For some systems, flexibility is necessary to meet the various and ever-changing mandates required by agency policy and state or federal law.

Agreements must also be developed that determine who is responsible for some of the new and exciting outcomes made possible by technology. For example, if an offender under community supervision that includes satellite monitoring offends in a jurisdiction 250 miles away from his probation officer, who is responsible for his apprehension? Who is responsible for providing immediate, direct victim assistance? Are costs of both shared, or solely the responsibility of the jurisdiction in which the offense occurred? These and other questions are typical of the many concerns related to inter-agency and inter-jurisdictional cooperation.

Public/private partnerships. The inner workings of private industry can, at times, be quite different from those of governmental or nonprofit agencies. Private firms are concerned about profits, and public sector agencies are concerned about saving money. While these differences are by no means insurmountable, they can pose significant challenges to the implementation of new technologies.

Joint ventures require joint risks, as well as mutual understanding of expectations and outcomes. Some vendors feel that the public sector doesn't understand or appreciate the high costs of research and development necessary to launch a new technology. On the other hand, some professionals in the public sector feel that vendors need to gain a better understanding of the constraints they face in terms of time, human resources, and funding.

Accessibility to technological applications. The "Information Superhighway" may still be somewhat inaccessible for many victims and service providers due solely to the cost of a basic personal computer, modem, and Internet connection. The challenge posed by a lack of access to technology is as serious a concern as the barriers posed by victims who speak a language other than English or live in rural/remote communities. Similarly, justice and victim service agencies in jurisdictions that face budget deficits are likely to face deficits in access to technology and, as a result, access to information. While revisions in U.S. Department of Justice policies and state laws related to funding are beginning to change this disparity, an imbalance in access still exists.

VICTIM-SPECIFIC CONCERNS

Security of information. Victim confidentiality is a basic tenet of victim services. Valid fears about technology are most often directly related to the security of victim information, case files, and other data. The private sector has responded with innovative applications that utilize encryption, personal identification numbers, security screens that limit access, and “fire walls” on the World Wide Web. Yet these approaches must be augmented by comprehensive education of victim service providers and allied justice professionals who remain wary of anything that doesn’t equate to a confidential file in a locked file cabinet in a secure room.

The need to maintain “the human touch.” While technology can streamline and better organize the delivery of both services and information, it can never replace “the human touch.” No matter how well applied, technology is still impersonal to many victims and advocates. A human voice or personal meeting provides comfort; a computer does not. As such, technological advances should be considered only a *partial* solution to meeting victims’ needs. With careful planning and consideration, technology applications can (and in many cases, should) be augmented by “the human touch” such as follows:

- A fully-automated voice response victim notification system added operators twenty-four hours a day, seven days a week to help victims who might need assistance in accessing notification services and to provide additional information and referrals to supportive services, upon request.
- Numerous victim-related Web sites incorporate toll-free telephone numbers in the information and resources provided so that victims can speak to a victim advocate, as needed.
- More and more Internet sites offer links to further information and assistance based upon a user’s specific interests and needs, including many that provide direct telephone and in-person services.

Outreach to victims about the benefits of new technologies. Just as crime victims are beginning to be viewed as “clients” or “customers” of the justice system, they must be perceived as such by technology firms and those agencies who purchase their services. The success of technologies that benefit victims of crime will depend significantly on victim satisfaction with, and acceptance of, these new innovations.

Outreach can occur on several fronts:

- The development of articles about new technologies for submission to the publications of national victim service and allied justice organizations.
- Victim-specific pages on the Web sites of technology firms and agencies that provide any type of victim assistance (such as correctional agencies).
- Involving victims and service providers in an advisory capacity as jurisdictions consider the implementation of new victim-related technologies.

- Consideration of diversity issues in the research and development phases for new technologies to provide outreach to victim populations who are differently-abled, or who speak a language or dialect other than standard English.
- Offering training sessions at national, state, and local victim services conferences (an approach that is gaining wide acceptance among service providers and technology firms).
- Seeking victims' input about new technologies as they are being implemented and refined, through either user groups or surveys.

The more knowledge victims and advocates have about technologies that can help them, the more likely they are to support efforts related to planning, implementation, and funding of these technologies.

DEVELOPMENT OF VICTIM-RELATED WEB PAGES

Increasingly, criminal and juvenile justice agencies are developing victim-related Web pages for their Web sites that offer information about victims' rights and services. These Web pages are important not only because of their capability to expand victim outreach and assistance, but also because they effectively integrate victim services as a core component of the agency's overall mission and programs.

In developing victim-related Web pages, criminal and juvenile justice agencies should involve crime victims, as well as community- and system-based victim service providers, in planning and designing the page. The following questions should be considered when planning a victim-related Web page:

- What is the most important information about victims' rights and services that should be made available?
- Who are our principle "customers" and how can we design a page that meets their most salient needs in formats that are commensurate with their various levels of cognitive development, language, geography, and culture?
- How can the Web page be formatted to be "user friendly" and accessible to all clients.
- What type of electronic linkages (hypertext links) should be built into the Web page that provides victims with additional information and referral resources?

Basic information that could be included in a victim-related Web page includes:

- General information about the agency and its victim services, including location (with a map); hours of operation, and all contact information.
- An overview of the agency's mission, vision, goals and objectives specific to victims' rights and services.
- Summary of victims' constitutional and statutory rights in the criminal and juvenile justice systems (including notification, restitution, participation, victim impact statements, protection, and compensation).

- Overview of the criminal and juvenile justice processes.
- “Glossary of terms” most commonly used throughout these processes.
- Answers to “frequently asked questions”.
- Specific services available to victims from the agency/organization and how to access such services.
- Specialized units within the agency—such as domestic violence or juvenile crime—that includes a description of available services.
- Information about specialized programs—such as “Impact of Crime on Victims” classes or victim/offender dialogue.
- Victim information—including brochures and handbooks—that can be posted online.
- Calendars of victim-related events, such as commemorative day/week activities, training programs, and special programs.
- “Feedback forums” that allow Web page visitors to easily send e-mail communications or requests for further information.
- Listings of employment and volunteer opportunities.
- Hyperlinks to allied criminal and juvenile justice, victim service agencies, and national information clearinghouses for additional information and referrals.

Four examples of comprehensive victim services Web pages sponsored by criminal and juvenile justice agencies are:

- Los Angeles County District Attorney’s Office <<http://www.da.co.la.ca.us/vwap/>> .
- Cook County State’s Attorney Office: <<http://www.statesattorney.org/home.htm>> .
- California Youth Authority: <<http://www.cya.ca.gov/organization/opvs/info.html>> .
- Ohio Department of Youth Services: <<http://www.state.oh.us/dys/victimservices.html>> .

THE “INFORMATION SUPERHIGHWAY”

(The following section is derived from the “Promising Strategies and Practices in Using Technology to Benefit Crime Victims” text, written by A. Seymour, D. Beatty, and M. Insko, published in 1998 by the National Center for Victims of Crime, with support from the U.S. Department of Justice, Office for Victims of Crime.)

APPLICATIONS TO CRIME VICTIMS AND SERVICE PROVIDERS

The “Information Superhighway” has radically changed communications throughout the world. The speed and scope of human interactions have expanded considerably. Access to information through the World Wide Web today crosses jurisdictional, geographical, cultural

and linguistic lines. This remarkable progress holds great implications for victims of crime and those who serve them.

This section provides a basic overview of the World Wide Web and its applications to victims, service providers, and allied justice professionals.

CONFIDENTIALITY AND TECHNOLOGY

The issue of victim confidentiality encompasses three primary issues:

1. Ensuring safe electronic communications between and among sites.
2. Protecting stored data or application information.
3. Assuring the authenticity of the user or the server.

Encryption is the primary technology used to protect information as it is communicated across the Internet. This prevents victim-related or other confidential information from being observed and decoded as it moves across the public Internet. Encryption, which is built into most popular browsers, prevents listening by unauthorized persons. The need for encryption is substantially diminished by use of a private Intranet or Extranet.

Data stored at a particular site needs to be protected. This is typically done by using passwords to authenticate user privileges. Privileges to view or to edit information within an application on the Internet is usually multilayered. This means that different privileges attach to different users depending on their authority. For example, a victim might only be allowed to view his or her own information, while a counselor or other official might need to access his or her entire caseload. Likewise, the ability to edit the information might be limited based on the authorization granted to the user.

“Firewalls” also prevent access from outside sources into secure servers through the Internet. This is required when organizations place their Local Area Networks, and therefore their information and computers, on the Internet.

Authentication of users and servers is important so that information is not transferred to organizations pretending to be another site. The technology that accomplishes this feat is called public/private keys. The use of public/private keys assures users that they are transferring information to the intended site. For example, the victim, who is preparing to share personal information with a prosecutor’s site can be reassured that the site is authenticated as the site it purports to be. Likewise, a victim can be assured that on the prosecutor’s site, the user has been verified as the person he/she purports to be.

CONFIDENTIALITY OF VICTIM ADDRESSES AND OTHER CONTACT INFORMATION

A review of Internet resources reveals that there are multiple sources for personal information, including addresses and telephone numbers, about most individuals, including victims. There is little, if anything, that can be done about dissemination of this information. This makes it all

that much more important to maintain security and confidentiality of court-related data on the Internet involving victims, as discussed above.

INTERNET/INTRANETS/EXTRANETS

The Internet is generally described as the “network of networks.” The public Internet links hundreds of millions of computers into one global network. The Internet is made possible by a set of network protocols used worldwide. This standard makes many applications possible, including e-mail, the World Wide Web, Telnet, News Groups, FTP (File Transport Protocol), chat rooms, listservs, video viewers, audio players, database applications, and a limitless number of small applications called applets. The World Wide Web, and the many other innovations it has inspired, have propelled the Internet to unequalled prominence not just in computer technology, but also in modern life.

Some uses of the Internet that are applicable to victims and service providers might include the following:

- Victim notification and offender status sites (including sex offender registries).
- Restitution management.
- Victim/witness information.
- The private counseling of victims.
- Virtual victim support groups.
- Offender parole petitions.
- Training manuals for staff.
- Victim and public awareness information.
- The exchange of information related to VOCA and other grant programs.

Unfortunately this popularity creates problems of its own. The very ubiquity of the Internet exposes public Web sites to attack by hackers. This risk, in addition to the fact that much of the information an organization needs to share internally is *not* appropriate for the public Internet, substantiates the need for private networks that use the power of the Internet protocols.

Many organizations have used the same powerful and simple methods of the Internet to create their own private networks, called Intranets. These networks are used by organizations to share information and applications among their members such as training manuals and case files. Intranets look just like the Internet except that they are private to the organization. They can be used to link multiple divisions or departments of an organization together. For example, a state-level correctional agency might use an Intranet to share information about victims, or offender release dates. Typically, access to an Intranet network through the Internet is severely restricted with the use of a firewall. A firewall allows only one way access, namely *out to* the Internet, not *into* the Intranet.

Extranets are private networks shared by multiple organizations. An Extranet uses the same protocols and technology as the Internet. It simply restricts the network to certain organizations. A possible use of the Extranet might be to link courts, law enforcement, and prosecutor organizations in order to share information about victims or court notifications.

WEB BROWSERS

Web Browsers have clearly become the dominant application of the Internet. Not only are they used to read HTML (Hypertext Markup Language) pages, but they have also become vehicles for virtually every other stand-alone application. The two dominant browsers (with over 90 percent of the market), Netscape's Communicator and Microsoft's Explorer, are cases in point. Each browser now has incorporated e-mail, FTP (File Transfer Protocol), chat facilities, video viewers, audio players, and video conference/white board software. Perhaps more important, in the long run, both browsers have the facility to incorporate multiple applications into their framework using the programming language called Java.

DATABASE AND OTHER APPLICATIONS ON THE WEB

The greatest promise of the Internet/Intranet/Extranet may be the ability to allow universal access to databases and other applications through simple Web browsers. The advantages of this model are enormous. In the first instance, such a model significantly reduces the cost and difficulty of application deployment. It permits the use of very inexpensive computers by users. It also allows for very facile and painless upgrades of the software from a single central point. The promise of these now wide-ranging technologies might permit the seamless and appropriate sharing of information among law enforcement, prosecution, courts, corrections, victim service agencies and the general public.

HTML TO DATABASE SCRIPTING

The lowest common denominator of the Web is HTML, a simple scripting language that has made the Web as we know it today possible. A small group of firms have extended the use of HTML by using it as a script that will talk to databases. The power of these simple tools can be substantial. For example, it might securely permit victims to query and submit information to a prosecutor case tracking database from the Internet. These tools are also simple to use. They do, however, experience limitations as a result of the constraints of HTML.

JAVA

Major attention and effort have been directed to the creation of miniature applications that load through Web browsers to process data. The primary tool for this effort is the object-oriented language called Java. The promise of Java is that inexpensive computers will be able to process data using small programs instead of the expensive desktop software tools now used. DirectX, a product of software giant Microsoft, has a similar function. In addition to significantly lowering unit costs, a major advantage of Java or DirectX is that it would greatly simplify the deployment of Internet/Intranet/Extranet solutions. In fact, software updates would be accomplished each time a user visited the site. This would allow sophisticated and ubiquitous access to the information behind the Java application. For example, a victim or

service provider, using a Web browser, might view a spreadsheet (a Java applet) that shows restitution payments.

XML

The most recent enhancement to HTML is a scripting language called XML. The first attributes of this new Web protocol are just beginning to emerge from international standards bodies. XML will significantly extend the power of the World Wide Web. It is said that XML will give Java the data to work. It will permit Web pages to contain data that look the same to multiple computer programs regardless of their location, platform, or origin. For example, a case file might originate in a police department computer, be submitted to a prosecutor's database, and continue to a court management system without format change.

In effect, XML holds the prospect of allowing disparate computer systems in the criminal and juvenile justice systems to use the same information entered *once* through a Web browser. It is a major part of the puzzle allowing a truly integrated justice tracking and notification system, easily accessible to all with appropriate authority.

RULES NECESSARY FOR THE ACCOMMODATION OF TECHNOLOGY

Courts rule changes are necessary for the full integration of technology into the court system. Typically, rule changes are necessary to permit the automated filing of court documents or even the use of faxed documents for purposes such as automated submission for search warrants. Rule changes can be effected through local court rule changes or state-wide rule changes. Statewide rules are typically superior to local rules.

Clear policies are required by justice agencies to establish which types of victim-related information *will* and *will not* be released and/or shared. Although formulation of these policies does not generally appear to require legislative intervention, statutes have been used in specific instances.

CASE TRACKING MANAGEMENT INFORMATION SYSTEMS

Effective victim notification, restitution, and victim impact information tools require a case tracking information system as a base for their operation. Whether it is a local, state, or nationwide system, the first step is to maintain the case tracking information. It is this case tracking information that often drives victim information services.

Unfortunately, the case information required by victims usually comes from different entities within the criminal or juvenile justice system. Inevitably these organizations store and access important victim information in different ways. Because there are so few integrated justice automation systems, victim information must be entered separately by hand and cannot be exported directly from different automated systems. Technology allowing the integration of data, while maintaining separate systems in different agencies, is rapidly emerging (see the discussion of XML above).

SECURE NEWS SERVER

The Secure News Server is computer software that lets users create secure, private discussion groups for access over the Internet/Intranet/Extranet.

For example, the National Center for Victims of Crime (NCVC) has used its Secure News Server to develop communities of interest around victim-related issues and services on the Internet. NCVC's secure news server allows victim advocates to discuss *issues* relevant to victims in a secured virtual environment. Researchers and policy makers can review new legislation and regulations with a national, regional, or local interest group.

The Secure News Server improves collaboration and communication within workgroups, across agencies, and between/among remote sites around the country. These electronic discussion groups enable people to participate in a remote dialogue by posting and reading messages about topics of interest. Discussion groups support multiple conversations, or "threads," on a given subject, displaying postings in the context of the prior discussion. This allows a reader to follow an entire discussion from its inception, though they may also join well after the discussion has started.

E-MAIL

E-mail on the Internet makes ubiquitous electronic messaging possible. The popularity of Internet e-mail is second in popularity and functionality only to World Wide Web services. Anyone who has an e-mail account on the Internet can correspond and transfer computer files to anyone else on the Internet. Connection to the Internet requires nothing more than a telephone, modem, and computer. Standard messaging packages allow users to exchange files by attaching them to e-mail. This ability, in combination with the universal connectivity of e-mail, permits collaboration among users anywhere on the Internet.

LISTSERV

The Listserv is a computer program that automates the broadcast of e-mail across the Internet. Typically it is used by a discussion group whose members wish to share e-mail with everyone else in the group. A listserv is generally an informal ad hoc type of discussion group. As participation increases, it is often replaced by a News Group. Examples of victim-related listservs are the Victims' Rights Compliance listserv and the Victim Assistance E-mail Network.

The Victim Assistance E-mail Network—an e-mail based communications medium reserved for active members of victim assistance organizations, victim assistance specialists, professionals in related fields, and all interested in the field of victimology—has developed policies and rules to govern its application. They have been replicated by other victim-related listservs to enhance both security and member services, and include the following:

Policies and rules. The Network is designed to—

- Act as an aid to contact and communication between the many public, private, police, judicial, and governmental victim assistance organizations which exist worldwide as well as between individuals involved in the field.
- Serve as a bulletin board for announcements of meetings, conventions, seminars, and related educational opportunities in the victim assistance area.
- Serve as a forum for the discussion of ideas, problems, solutions, techniques, laws/legalities, and points of advocacy specifically related to this area of service.
- Allow victim assistance workers to seek peer support or gain new insights from the experience of others, while respecting case confidentiality and the right to privacy, which our clients expect and deserve.

Posting privileges. In order to keep discussions on the Victim Assistance Network on an appropriately professional level, and to help new members learn what kinds of postings are proper, three levels of membership have been established:

- ***Probationary.*** All new members will be placed on a probationary posting status. All posts from a person on probationary status are automatically sent to and reviewed by the Forum manager before they go to the list membership and may be rejected if deemed inappropriate. Inappropriate posts will be rejected, not edited. At the discretion of the Forum manager, a probationary member can be advanced to Full Member, or placed on No Posting status.
- ***No Posting.*** The member, due to his or her status as a student or interested third party, will receive Network messages, but will not be allowed to post messages.
- ***Full Member.*** Full posting privileges are granted. Messages posted are automatically broadcast by the Network system to all other members.

Network rules.

- Maintain a professional tone to your postings at all times; absolutely no inappropriate language or personal attacks will be tolerated. Intellectual discussion is encouraged. The occasional disagreement is inevitable, but a professional demeanor must be kept. Remember, your words are reaching hundreds of victim assistance scholars and professionals from around the world, including the heads of state/provincial, federal, government, and international programs. Personal attacks in any form will be grounds for sanctions, up to and including permanent removal from the list.
- No outside advertisements other than those of a victim assistance-related function are allowed.
- Please maintain confidentiality and prevent secondary victimization of our clients by not relating too much detail. If you wish to discuss a particular client/case, please do not give details which might identify the client.

- Messages sent to the Network are considered the property of the author. If you would like to use specific quotes from Network messages in classes, research, seminars, etc., please get permission from the author of the message.
- The direct forwarding or cross-posting of discussion threads from other forums to the Victim Assistance Network (and vice versa) is forbidden. Feel free to suggest new ideas or topics of discussion taken from other forums, and to pass on factual information from our list such as seminar dates, management concepts, schedules, etc., but the forwarding of posts or discussion threads wholesale will not be allowed.
- The following topics are forbidden due to their extremely controversial and disruptive natures, or because they do not relate directly to victim assistance: gun control, death penalty, "victims as advocates versus nonvictim advocates."

Sanctions. All postings to the list are monitored. At the discretion of the Forum manager, anyone deemed violating one or more rules can be subject to one or more of the following sanctions:

- Reduction to probationary status: A member can have his or her posting privileges reduced to the probationary level, with all future posts subject to review by the Forum manager. This sanction can be lifted at the discretion of the Forum manager.
- Loss of posting privileges (no posting): The member can receive messages, but is permanently barred from posting. This sanction, if used, is irrevocable.
- Removal from the Network: Normally used only in very extreme cases, a member who is removed from the Victim Assistance Network as a sanction is permanently barred from rejoining.
- The Victim Assistance E-mail Network requires applicants to complete an agreement and questionnaire that indicates their willingness to comply with the policies and rules noted above. For additional information about this Network, or its model rules and policies, please contact <assist@vaonline.org> (Randy McCall 2000).

ANONYMOUS E-MAIL SERVERS

Sometimes it is important for e-mail users to restrict knowledge about their identity. Anonymous e-mail servers permit users to forward e-mail through their special server, which then removes any indication of the originator's identity. Such a server can benefit crime victims who need information or support, but wish to remain anonymous. By the use of an anonymous e-mail server, crime victims might very candidly share personal information across the Internet with no fear that their privacy will be invaded.

FTP (FILE TRANSFER PROTOCOL)

FTP is a facility of the Internet that allows users to download computer files from other sites. It is often used to transfer software or recent updates to software. FTP abilities have been

largely incorporated into Web browsers, thereby making the necessity of separate FTP applications largely unnecessary.

TELNET

The Telnet utility allows Internet users to log on to remote computers and utilize them as though they were located locally. Although usually restricted by security considerations, Telnet allows remote users to utilize the information from large databases as though it were located on their desktop. The use of Telnet is largely restricted to advanced Internet users.

ICHAT AND CHAT ROOMS

Ichat and chat rooms are Internet facilities that allow individuals to participate in online, real-time computer conversations. As one user types messages, they can be viewed and responded to by others on the channel. Users can go offline publicly and restrict their conversations to only two participants.

These facilities can be used by victims seeking online counseling or help from a virtual support group. Like many other utilities, these two facilities have been largely incorporated into Web browsers.

ACCESSING INFORMATION: OFFICE FOR VICTIMS OF CRIME RESOURCE CENTER

(The following information was extracted from the *2000 National Crime Victims' Rights Week Resource Guide*, published in 2000 by the Victims' Assistance Legal Organization, Inc. (VALOR), with grant support from the Office for Victims of Crime, U.S. Department of Justice.)

VICTIMS' RESOURCES IN THE INFORMATION AGE

The development of new information technologies—most notably the growth of the Internet—has dramatically changed the way in which information about crime victims' issues is being made available to researchers, advocates, and practitioners. As recently as a dozen years ago, the availability of this information was greatly limited by the lack of centralized collection and distribution. Moreover, the form of the information was generally limited to paper documents that required considerable effort to locate and obtain. Today, victims and victim service providers can instantly access an enormous store of information specific to the entire range of their personal and professional concerns, including statistics; model programs and protocols; grant funding sources; and local, state, and national referrals to professional organizations in the victim-serving community. Importantly, this information is available wherever and whenever it is needed—in homes, shelters, and offices; in the middle of a trial; or in the middle of the night. For victims and victim service providers, this new information access begins with the Office for Victims of Crime Resource Center and the National Criminal Justice Reference Service.

Established in accordance with recommendations of the 1982 President's Task Force on Victims of Crime, the United States Department of Justice's Office for Victims of Crime (OVC) serves as the chief advocate for our nation's crime victims, promoting fundamental rights and comprehensive services for victims of crime throughout the United States. OVC's information clearinghouse, the Office for Victims of Crime Resource Center (OVCRC), a component of the National Criminal Justice Reference Service (NCJRS), is on the forefront of these new information technologies and is aggressively using them, as well as the NCJRS Catalog of publications and videotapes, to deliver timely and relevant information to the victim-serving community. Since coming "online" in 1994, NCJRS and OVCRC have developed a variety of online services to benefit the victim assistance professional—World Wide Web page; Justice Information (*JUSTINFO*) Electronic Newsletter; and E-Mail Information and Help Line. Together with other electronic access features—including telephone and online document ordering, and fax-on-demand—NCJRS and OVCRC have truly made a "quantum leap" forward in fulfilling their mission of "bringing the right information to the right people . . . right now."

ACCESSING NCJRS AND OVCRC ONLINE

NCJRS Online can be accessed in the following ways:

NCJRS World Wide Web homepage. The homepage provides NCJRS information as well as links to other criminal justice resources from around the world. The NCJRS Web page provides information about NCJRS and OJP agencies; grant-funding opportunities; full-text publications; key-word searching of NCJRS publications; access to the NCJRS Abstracts Database; the current *NCJRS Catalog*; and a topical index. The address for the NCJRS Homepage is <<http://www.ncjrs.org>>.

Justice Information (JUSTINFO) electronic newsletter. This free, online newsletter is distributed to your Internet e-mail address on the 1st and 15th of each month. *JUSTINFO* contains information concerning a wide variety of subjects, including news from all Office of Justice Programs (OJP) agencies and the Office of National Drug Control Policy; criminal justice resources on the Internet; criminal justice funding and program information; and announcements about new NCJRS products and services. To subscribe, send an e-mail to <listproc@ncjrs.org> with the message: *subscribe justinfo [your name]*.

E-Mail: information and help. Users requiring technical assistance or having specific questions on criminal and juvenile justice topics can send an e-mail to <askncjrs@ncjrs.org>. To place an order for publications, users may send an e-mail to <puborder@ncjrs.org>.

OTHER NCJRS ELECTRONIC INFORMATION SERVICES

Fax-on-demand. NCJRS has established a "fax-on-demand" service that allows the user to obtain copies of selected NCJRS documents directly through their own fax machine, using a toll-free telephone number. To access the fax-on-demand menu, simply call 800-851-3420, and follow the prompts.

CD-ROM and online access to the Abstracts Database. Users with CD-ROM capability can also obtain the NCJRS Abstracts Database on CD-ROM. This disc features citations and abstracts of more than 140,000 criminal justice books, research reports, journal articles, government documents, program descriptions, program evaluations, and training manuals contained in the NCJRS Research and Information Center library collection. The disc also contains search software that supports retrieval, using any combination of words to search individual fields or all fields globally. The disc can be searched using “free text” methods, or in combination with the National Criminal Justice Thesaurus. In addition, the NCJRS Abstracts Database is available on the NCJRS Homepage at <<http://www.ncjrs.org/database.htm>>. Details are available by calling NCJRS at 800-851-3420.

VICTIM-RELATED INTERNET SITES

Crime victims and victim service providers have witnessed a remarkable growth in the amount of information available to them, through the continued development of the Internet—especially the World Wide Web. Now, victim-serving agencies and advocacy organizations have the ability to reach around the corner or around the world with information about new issues, services, and promising practices designed to improve the welfare of victims of all types of crime. In an effort to present the most comprehensive and timely information available through this vast medium, the Office for Victims of Crime has substantially revised its World Wide Web homepage. OVC encourages crime victims and victim service providers alike to visit this comprehensive resource, located at <<http://www.ojp.usdoj.gov/ovc/>>.

Many other agencies and organizations are now providing victim-related information through the World Wide Web. The following is a list of sites on the Web that contain information on selected crime victimization topics. Please note that this list is intended only to provide a sample of available resources, and does not constitute an endorsement of opinions, resources, or statements made therein.

PROMISING PRACTICES

(Many of the following promising practices were identified through the “Promising Strategies and Practices in Using Technology to Benefit Victims” Project sponsored by the National Center for Victims of Crime. Their inclusion in this text does not construe an endorsement.)

- The National Coalition Against Domestic Violence (NCADV) has initiated a campaign to get people to donate their old cell phones for a worthwhile purpose. The Coalition will refurbish the phones and activate them so that women who are at risk for domestic violence can use them to call 911 (the only number that can be called) when help is needed. The criteria for donating a phone are: (1) The phone has to be in working order; (2) The battery must be included with the phone; and (3) The charger must also be included. Donors are provided with a receipt for IRS tax deduction purposes <www.ncadv.org>.

- The North Carolina Department of Correction Victim Services has developed a Web search engine that only searches Web pages directly related to victim advocacy. Sites that have been entered as part of the search engine include recognized federal, state, and local victim advocacy and government agencies. This allows the searcher to avoid having to look through pages of unrelated links that come up on a random search on the Web. The Web site address is < www.doc.state.nc.us/victimservices/ > .
- The *I-Pass/Unitz case tracking system* was developed by the Louisville, Kentucky-based Center for Women and Families in January 1998. The Center provides a wide variety of services to victims of domestic violence and sexual assault, including job search and retention services. The Center designed a client management/database to fit the demographics of the victims it serves to track not only vital statistics, but also incidences of abuse, weapons used, outcomes of court cases, etc.
- The *District Attorney Case Management System (DA-CMS)* is a case management application, with a victim services module, for use by Oregon's district attorneys. The application is an integrated local criminal justice information system that links law enforcement, jails, district attorneys, courts, and corrections with each other through a locally integrated database, and with regional and state partners through gateways to existing external systems. Victim advocates can track cases from intake through final disposition. A gateway to the state court system's statewide network automatically provides all event and disposition information. DA-CMS was developed in 1998 by the Willamette Criminal Justice Council and is currently being utilized in multiple counties in Oregon.
- The *Domestic Violence Inventory (DVI)* is an automated (computer scored) domestic violence offender assessment instrument. The DVI has 55 items, takes 30 minutes to complete, and has six scales (measures): truthfulness scale, violence (lethality) scale, control scale, alcohol scale, drugs scale, and stress coping ability scale. The DVI can be administered in four ways:
 - Paper-pencil test booklet format.
 - On the computer screen/monitor.
 - Optical scanner.
 - Human (audio) voice.

Client risk is determined for each of the six DVI scales independently based on the client's pattern of responding. It has a built-in proprietary database that facilitates ongoing database research and test program summary reports. Created by a private company, the DVI is utilized by courts, corrections, and community-based programs in hundreds of jurisdictions across the United States.

- In existence since September 1992, the *Massachusetts Registry of Civil Restraining Orders (RCRO)* is a first-of-its-kind, statewide, comprehensive database of domestic violence restraining orders issued by the Massachusetts Trial Court. Containing over 230,000 restraining orders, the Registry is integrated into the Trial Court's database of over two million people and 11 million cases. Considered a national model, this integrated system provides up-to-date criminal, delinquency, and domestic violence court history information

to judges for use in assessing dangerousness during bail, sentencing, and restraining order decisions.

The RCRO and other components of the Trial Court information systems are made available to the Massachusetts Criminal Justice Information System (CJIS) via electronic link. A strong relationship between the Massachusetts Trial Court and CJIS ensures that Trial Court data are made available twenty-four hours a day to state and local law enforcement for arrest and investigation purposes. The Registry, designed to support domestic violence prevention and enforcement activities, has also supported the development of many new practices. New domestic violence programs for offender monitoring and victim assistance have been developed in many local probation offices.

While initially created for criminal justice purposes, this statewide system incorporates the Superior, District, Boston Municipal, and Family Court Departments. In addition to Trial Court utilization, the RCRO is used by jails, houses of correction (prisons), and parole authorities to ensure that victim safety is maintained during custody and by human and social service agencies for use in child custody, foster care placement, and adoption determinations.

- The *Victim Notification Automated System (VNAS)* was developed by the Virginia Department of Corrections (DOC). Part I of the system entails an automated, toll-free telephone line for victims to call and speak with a staff person between 8:15 a.m. to 5:00 p.m., Monday through Friday. On evenings, weekends, and holidays, victims can receive offender status such as parole, location, projected release date, by using a PIN number to access the automated system. Part II of the system is a victim notification system that establishes a relational database between the victim database and offender database that allows letters to be automatically generated when an offender's status changes. Both applications were developed for Commonwealth-wide usage.
- *BANNER Courts* is a case and financial management software for courts of all jurisdictions in the United States and internationally. It includes case management for victim/witness information (including notification), and features an automated payment tracking system that can monitor restitution and child support payments. It was developed in 1994 by a private company and is currently being utilized in nine states.
- The *Court Ordered Payment System (COPS)*, developed by the Florida Department of Corrections (DOC) in 1991, is designed to receipt payments of fines and fees (including restitution) from offenders, apply the money to the offenders' victims'/payees' accounts, and quickly disburse checks within 72 hours of the offenders' payments to the various victims and payees. This is a statewide system that incorporates prison, probation, parole, and all twenty judicial circuits, so if the offender transfers anywhere in Florida, the same system is utilized (resulting in no need for "paper transfer" of records between supervising officers). The system is also utilized to notify victims and law enforcement of an inmate's release from prison.
- The *Domestic Violence Virtual Conference of Judges CD-ROM*, developed by the Family Violence Prevention Fund (FVPF) in 1996, is a two-disk multimedia, interactive CD-ROM program that features some of the nation's leading experts in domestic abuse. Users can make rulings in a hypothetical domestic violence criminal court case and compare their

rulings to those of their colleagues, interview a psychologist who works with both victims and perpetrators, find statistics on domestic violence, and take a “quiz” to test their knowledge. The program provides judges and judicial educators with an innovative and accessible learning tool that can be used individually or with other judges as an integral part of continuing education courses.

- The diagnosis of violence-related injuries most often depends on a visualization of the injuries. In 1997, in response to the need for immediate *visual* consultations in cases of child abuse and neglect, the Los Angeles County and University of Southern California Center for the Vulnerable Child/Violence Intervention Program (CVC/VIP) developed the first-of-its-kind *telemedicine program for providing immediate diagnostic support* to programs including rural clinics and emerging Child Advocacy Centers and Multidisciplinary Teams.

The telemedicine program is in daily use by satellite programs (High Desert Hospital and Olive View Medical Center in California; Alaska; and various Indian reservations). It is currently being expanded throughout Los Angeles County for use as peer review and continuing medical education. This program is used by centers with sophisticated technology or by programs that simply rely on 35mm or digital photography. The CVC/VIP is one of the largest comprehensive child abuse centers in the United States. The major focus of this program is to rely on a multidisciplinary team approach to intervene for children and families where child abuse has been identified as a problem. The CVC was the pioneer in developing the technology for the photo documentation of trauma associated with sexual assault, which is currently the standard of care accepted throughout the world.

- In recent years, several private technology firms have developed and made available to the general public various software programs, date equipment, and data systems regarding services for victims of crime, particularly relating to offender information and tracking. These new products include the following:
 - Continuous offender monitoring capability that permits automated real-time violation notification for offenders and advanced warning for victims (and potential victims) of crime. This comprehensive system is comprised of offender equipment, agency equipment, victim equipment, and a central data system. It has centralized authority at the a data center where the offender’s rules of release and off-limit areas are defined and stored. The system has autonomous execution because the offender’s PTD is loaded with the rules of release and off-limit areas, and will notify both the offender and the data center when the offender violates these rules.

Victims of crime can be provided with a notification interface using a pager and/or phone (cellular or land line). The agency is provided with a remote computer workstation interface for map displays, rules, administration, and reports. Law enforcement can also be provided with a remote computer workstation interface to perform crime scene correlation regarding offenders on the system.

- Victim information and notification technology that utilizes a centralized call center with both live operators and automated interactive voice prompts to provide crime victims and other designated groups with twenty-four hours a day access to select offender information via the telephone. Callers use basic offender information such as a name,

case or booking number to procure accurate inmate and case data, and then register using a self-selected PIN number to receive an automated telephone notification in the event that the status changes. A computer interface is established between the call center and on-site agencies such as the local jail, court, district attorney's office, or corrections/parole agency. Examples of information that can be monitored through such technology include custody status, court information, charge information, etc.

- An artificial intuition system that assists case evaluators in making high-stakes predictions of violence. This is a case management tool that brings expert opinion and research results to the management of situations that may escalate to violence. It asks questions and evaluates factors about a given case, and prompts the user to select from a predetermined range of answers.

Different systems can be used for different predictive challenges, including situations involving: predicting which domestic violence situations are most likely to escalate to homicide; screening of threats to senior officials (governors, members of Congress, mayors, agency heads, etc.) as well as threats to federal judges and prosecutors; evaluation of cases of possible violence in the workplace; determination of which abortion clinics are most likely to be targeted for violence; and determination of which cases of child abuse are most likely to escalate or reach a lethal level. Additionally, systems are being developed to help determine the "provability" of domestic violence cases so that prosecutors can better screen and manage the cases that are brought to them for review.

1. Describe two *benefits* of innovative technologies that can help victims of crime and victim service providers.
2. Describe two *barriers* to the development or use of technologies that could benefit victims of crime and victim service providers.
3. What is the World Wide Web?
4. Describe one program or service available electronically on the Internet from the U.S. Department of Justice.
5. Describe a promising practice utilizing innovative technologies to benefit victims (either one highlighted in this chapter or one used by your agency or in your community).

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The following is a list of sites on the Web that contain information on selected crime victimization topics. Please note that this list is intended only to provide a sample of available resources and does not constitute an endorsement of opinions, resources, or statements made therein.

FEDERAL AGENCIES/RESOURCES

Bureau of Justice Assistance (BJA)	http://www.ojp.usdoj.gov/BJA
Bureau of Justice Statistics (BJS)	http://www.ojp.usdoj.gov/bjs/
Community-Oriented Police Office (COPS)	http://www.usdoj.gov/cops/
Dept. of Health and Human Services Grantsnet	http://www.os.dhhs.gov/progorg/grantsnet/index.html
Department of Justice	http://www.usdoj.gov
Department of the Solicitor General	http://www.gov.nb.ca/solgen/index.htm
FBI Uniform Crime Reports–Statistical Data	http://www.lib.virginia.edu/socsci/crime
Federal Judicial Center	http://www.fjc.gov/
Government Information Online, GovBot	http://bacchus.fedworld.gov/Search_Online.html
Higher Education Center for Alcohol and Other Drug Prevention	http://www.edc.org/hec/
National Archive of Criminal Justice Data	http://www.icpsr.umich.edu/NACJD/home.html
National Domestic Violence Hotline	http://www.usdoj.gov/vawo/newhotline..htm
NCJRS Justice Information Center	http://www.ncjrs.org
National Institute of Corrections (NIC)	http://www.bop.gov/nicpg/niccd.htm/
National Institute of Justice (NIJ)	http://www.ncjrs.org/nijhome.htm
Nonprofit Gateway	http://www.nonprofit.gov
Office of Justice Programs (OJP)	http://www.ojp.usdoj.gov
Office of Juvenile Justice Delinquency and Prevention	http://www.ojjdp.ncjrs.org
Office for Victims of Crime (OVC)	http://www.ojp.usdoj.gov/ovc/
Office of National Drug Control Policy Information Clearinghouse	http://www.whitehousedrugpolicy.gov
THOMAS: Federal Legislation	http://thomas.loc.gov
U.S. Department of Education – Campus Security and Safety	http://www.ed.gov/offices/OPE/index.html
U.S. Parole Commission	http://www.usdoj.gov/uspc/parole.htm
Violence Against Women's Office (VAWO)	http://www.usdoj.gov/vawo/index.html
Violence Against Women Grant Office (VAWGO)	http://www.ojp.usdoj.gov/vawgo/

NATIONAL VICTIM-RELATED ORGANIZATIONS

American Bar Association Center on Children and the Law	http://www.abanet.org/child/
American Professional Society on the Abuse of Children	http://www.apsac.org/
Anti-Defamation League	http://www.adl.org/hate-patrol/main.html
Child Abuse Prevention Network	http://child.cornell.edu
Childhelp USA	http://www.childhelpusa.org
Childquest International	http://www.childquest.org/
Concerns of Police Survivors (COPS)	http://www.nationalcops.org
Family Violence Prevention Fund	http://www.fvpf.org/
Mothers Against Drunk Driving (MADD)	http://www.madd.org
National Alliance of Sexual Assault Coalitions	http://www.connsacs.org/alliance.htm
National Center for Missing and Exploited Children (NCMEC)	http://www.missingkids.org
National Center for Victims of Crime	http://www.ncvc.org

National Center on Elder Abuse	http://www.gwjapan.com/NCEA/
National Children's Alliance	http://www.nncac.org
National Clearinghouse on Child Abuse and Neglect Information	http://www.calib.com/nccanch
National Coalition Against Domestic Violence	http://www.ncadv.org
National Coalition Against Sexual Assault (NCASA)	http://www.ncasa.org
National Coalition of Homicide Survivors	http://www.mivictims.org
National Commission Against Drunk Driving	http://www.ncadd.com
National Court Appointed Special Advocates (CASA) Association	http://www.nationalcasa.org/
National Crime Victims Research and Treatment Center	http://www.musc.edu/cvc/
National Fraud Information Center	http://www.fraud.org
National Insurance Crime Bureau	http://www.nicb.org
National Victims Constitutional Amendment Network (NVCAN)	http://www.nvcn.org
National Organization for Victim Assistance (NOVA)	http://www.try-nova.org
National Victim Assistance Academy (OVC)	http://ojp.usdoj.gov/ovc/assist/vaa.html
National Victim Assistance Academy (VALOR)	http://www.nvaa.org
Neighbors Who Care	http://www.neighborswhocare.org
Parents of Murdered Children (POMC)	http://www.pomc.com
Safe Campuses Now	http://www.uga.edu/~safe-campus/
Security on Campus	http://www.campussafety.org/
Victims' Assistance Legal Organization (VALOR)	http://www.valor-national.org

NATIONAL CRIMINAL JUSTICE- AND PUBLIC POLICY-RELATED ASSOCIATIONS

American Correctional Association (ACA)	http://www.corrections.com/aca
American Correctional Health Services Association	http://www.corrections.com/achsa/
American Jail Association (AJA)	http://www.corrections.com/aja
American Probation and Parole Association (APPA)	http://www.appa-net.org
Association of State Correctional Administrators (ASCA)	http://www.asca.net
Center for Restorative Justice & Peacemaking	http://ssw.che.umn.edu/rjp/default.html
Correctional Education Association	http://metalab.unc.edu/icea
Council of State Governments (CSG)	http://www.csg.org
International Association of Campus Law Enforcement Administrators (IACLEA)	http://www.iaclea.org/
National Association of Counties (NACo)	http://www.naco.org
National Center for State Courts (NSSC)	http://www.ncsc.dni.us
National Conference of State Legislatures (NCSL)	http://www.ncsl.org
National Consortium for Justice Information and Statistics	http://www.search.org
National Council of Juvenile and Family Court Judges	http://www.ncjfcj.unr.edu/
National Criminal Justice Association (NCJA)	http://sso.org/ncja/ncja/htm
National Governors Association	http://www.nga.org/
National Judicial College	http://www.judges.org
National Juvenile Detention Association	http://www.corrections.com/njda/top.html
National Indian Justice Center	http://www.nijc.indian.com/
National Sheriffs Association	http://www.sheriffs.org/
Office of Correctional Education	http://www.ed.gov/offices.OVAE/OCE/
Restorative Justice Project	http://www.fresno.edu/dept/pacs/rjp.html
Southern Poverty Law Center	http://splcenter.org
Victim Offender Mediation Association (VOMA)	http://www.voma.org/

**STATE-LEVEL VOCA VICTIM ASSISTANCE AGENCIES AND
CRIME VICTIM COMPENSATION PROGRAMS**

Alabama	http://www.agencies.state.al.us/crimevictims/
Alaska	http://www.dps.state.ak.us/vccb/
Arizona	http://www.dps.state.az.us/voca/
Arkansas	http://www.ag.state.ar.us/crimevictims/
California	http://www.boc.cahwnet.gov/victims.htm
Colorado	http://cdpsweb.state.co.us/ovp/ovp.htm
Connecticut	http://www.jud.state.ct.us/
Delaware	http://www.state.de.us/cjc/index.html
Florida	http://legal.firn.edu/victims/index.html
Georgia	http://www.ganet.org/cjcc
Hawaii	http://www.cpja.ag.state.hi.us
Idaho	http://www2.state.id.us/iic/index.htm
Illinois	http://www.ag.state.il.us/
Indiana	http://www.state.in.us/cji/
Iowa	http://www.state.ia.us/government/ag/cva.html
Kansas	http://www.ink.org/public/ksag/contents/crime/cvcbrochure.htm
Louisiana	http://www.cole.state.la.us/cvr.htm
Maine	http://www.state.me.us/ag/victim.htm
Maryland	http://www.dpscs.state.md.us/cicb/
Mississippi	http://www.dfa.state.ms.us/crime/letter/letter1.html
Missouri	http://www.dolir.state.mo.us/wc/dolir6f.htm
Montana	http://www.doj.state.mt.us/whoweare.htm
Nebraska	http://www.nol.org/home/crimecom/
New Hampshire	http://www.state.nh.us/nhdoj/index.html
New Jersey	http://www.state.nj.us/victims/
New Mexico	http://www.state.nm.us/cvrc/
New York	http://www.cvb.state.ny.us/
North Carolina	http://www.nccrimecontrol.org/vjs/
Ohio	http://www.ag.ohio.gov/crimevic/cvout.htm
Oklahoma	http://www.dac.state.ok.us/
Oregon	http://www.doj.state.or.us/CrimeV/welcome1.htm
Pennsylvania	http://www.pccd.state.pa.us/
Rhode Island	http://www.state.ri.us/treas/vcfund.htm
South Carolina	http://www.state.sc.us/governor/
South Dakota	http://www.state.sd.us/social/cvc/cvc.htm
Tennessee	http://www.treasury.state.tn.us/injury.htm
Texas	http://www.oag.state.tx.us/victims/victims.htm
Utah	http://www.crimevictim.state.ut.us/
Vermont	http://www.ccvs.state.vt.us/
Virginia	http://www.dcjs.state.va.us/victims/index.htm
Washington	http://www.wa.gov/lni/workcomp/cvc.htm
West Virginia	http://www.legis.state.wv.us/coc/victims/main.html
Wisconsin	http://www.doj.state.wi.us/cvs/cvc.htm
Wyoming	http://www.state.wy.us/~ag/victims/index.html

FEDERAL AND STATE CORRECTIONS

Federal Bureau of Prisons	http://www.bop.gov
Alaska Department of Correction	http://www.correct.state.ak.us/
Alabama Department of Corrections	http://agencies.state.al.us/doc/
Arizona Department of Correction	http://www.adc.state.az.us:81/
Arkansas Department of Correction	http://www.state.ar.us/doc/
California Department of Correction	http://www.cdc.state.ca.us/
Colorado Department of Correction	http://www.state.co.us/gov_dir/DOC_dir/index.html

Connecticut Department of Correction	http://www.state.ct.us/doc/
Delaware Department of Corrections	http://www.state.de.us/correct
Florida Department of Correction	http://www.dc.state.fl.us/
Georgia Department of Correction	http://www.ganet.org/corrections
Hawaii Department of Public Safety	http://www.hawaii.gov/icsd/psd/psd.html
Idaho Department of Correction	http://www.corr.state.id.us/
Illinois Department of Correction	http://www.idoc.state.il.us/
Indiana Department of Correction	http://www.ai.org/indcorrection/
Iowa Department of Correction	http://www.sos.state.ia.us/register/r4/r4corre2.htm
Kansas Department of Correction	http://www.ink.org/public/kdoc/
Kentucky Justice Cabinet	http://www.jus.state.ky.us/
Louisiana Commission on Law Enforcement & Criminal Justice	http://www.cole.state.la.us/
Maine Department of Correction	http://janus.state.me.us/corrections/homepage.htm
Maryland Department of Correction	http://www.dpscs.state.md.us/doc/
Massachusetts Department of Correction	http://www.magnet.state.ma.us/doc/
Michigan Department of Correction	http://www.state.mi.us/mdoc/
Minnesota Department of Corrections	http://www.corr.state.mn.us/
Mississippi Department of Corrections	http://www.mdoc.state.ms.us/
Missouri Department of Corrections	http://www.corrections.state.mo.us/
Montana Department of Corrections	http://www.state.mt.us/cor
Nebraska Department of Correctional Services	http://www.corrections.state.ne.us/
Nevada Department of Corrections	http://www.state.nv.us/inprog.htm
New Hampshire Department of Corrections	http://www.state.nh.us/doc/nhdoc.html
New Jersey State Department of Correction	http://www.state.nj.us/corrections
New Mexico Department of Correction	http://www.state.nm.us/corrections/
New York State Department of Correctional Services	http://www.docs.state.ny.us/
New York City Department of Correction	http://www.ci.nyc.ny.us/html/doc/
North Carolina Department of Correction	http://www.doc.state.nc.us/
Ohio Department of Rehabilitation and Correction	http://www.drc.ohio.gov/
Oregon Department of Correction	http://www.doc.state.or.us/
Oklahoma Department of Correction	http://www.doc.state.ok.us/
Pennsylvania Department of Correction	http://www.cor.state.pa.us/
Rhode Island Department of Correction	http://www.doc.state.ri.us/
South Carolina Department of Correction	http://www.state.sc.us/scdc/
South Dakota Department of Correction	http://www.state.sd.us/state/executive/corrections/corrections.html
Tennessee Department of Correction	http://www.state.tn.us/correction
Texas Department of Correction	http://www.tdcj.state.tx.us/
Utah Department of Correction	http://www.cr.ex.state.ut.us/home.htm
Vermont Criminal Justice Services	http://170.222.24.9/cjs/index.html
Virginia Department of Correction	http://www.cns.state.va.us/doc/
Washington State Department of Correction	http://access.wa.gov/
West Virginia Division Of Corrections	http://www.state.wv.us/wvdoc/default.htm
Wisconsin Department of Correction	http://www.wi-doc.com/
Wyoming Department of Correction	http://www.state.wy.us/~corr/corrections.html

STATE COALITIONS AND RELATED RESOURCES

Iowa Organization for Victim Assistance (IOVA)	http://www.netins.net/showcase/i_weaver/iova/
Michigan Crime Victim Rights	http://www.gop.senate.state.mi.us/cvr/
Missouri Victim Assistance Network	http://www.mova.missouri.org/
New York: Victim Services Agency	http://www.victimservices.org
North Carolina: Citizens Against Violent Crime (CAVE)	http://www.webserve.net/iandi/org/cave
South Carolina Victim Assistance Network	http://www.scvan.org/
Texans for Equal Justice	http://www.tej.lawandorder.com/index.htm

OTHER VICTIM RESOURCES

Action Without Borders – Nonprofit Directory
Alliance for Justice
American Humane Association
APA – American Psychological Association
Trauma-related Stress

Cecil Greek's Criminal Justice Page
Children's Institute International
Communities Against Violence Network
(CAVNET)
The Compassionate Friends
Corporate Alliance to End Partner Violence
Elder Abuse Prevention
International Society for Traumatic Stress
Studies
Jewish Women International
Justice for All
MSU Victims and the Media Program
National Coalition of Homicide Survivors
Out of the Blue (Domestic Violence in the
Jewish Community)
Post Trauma Resources
Rape, Abuse, and Incest National Network
(RAINN)
Rape Recovery Help and Information
Safe Campuses Now
Search Yahoo for Victims' Rights

Sexual Assault Information Page
The Stalking Victim's Sanctuary
Stephanie Roper Committee and Foundation
Victim Assistance Online
Violence Policy Center
Workplace Violence Research Institute

<http://www.idealists.org>
<http://www.afj.org>
<http://www.americanhumane.org>
<http://www.apa.org/>
<http://www.apa.org/ptsd.html>
<http://www.apa.org/kids.html>
<http://www.fsu.edu/~crimdo/law.html>
<http://www.childrensinstitute.org/>

<http://www.asksam.com/cavnet/>
<http://www.compassionatefriends.com/>
<http://www.caepv.org/main.htm>
<http://www.oaktrees.org/elder>

<http://www.istss.org/>
<http://www.jewishwomen.org/>
<http://www2.jfa.net/jfa/>
<http://www.journalism.msu.edu/victmed/>
<http://www.mivictims.org/nchs/>

<http://members.aol.com/blue10197/index.html>
<http://www.posttrauma.com>

<http://www.rainn.org/>
<http://www.geocities.com/HotSprings/2402/>
<http://www.uga.edu/~safe-campus/front.html>
[http://www.yahoo.com/Society_and_Culture/Crime/
Victims__Rights/](http://www.yahoo.com/Society_and_Culture/Crime/Victims__Rights/)
<http://www.cs.utk.edu/~bartley/salInfoPage.html>
<http://www.stalkingvictims.com/>
<http://www.stephanieroper.org>
<http://www.vaonline.org>
<http://www.vpc.org>
<http://www.noworkviolence.com/>

LEGAL RESEARCH/RESOURCES

Findlaw
State Law and Legislative Information
U.S. Supreme Court Decisions

<http://www.findlaw.com/>
<http://www.washlaw.edu/>
<http://supct.law.cornell.edu/supct/>

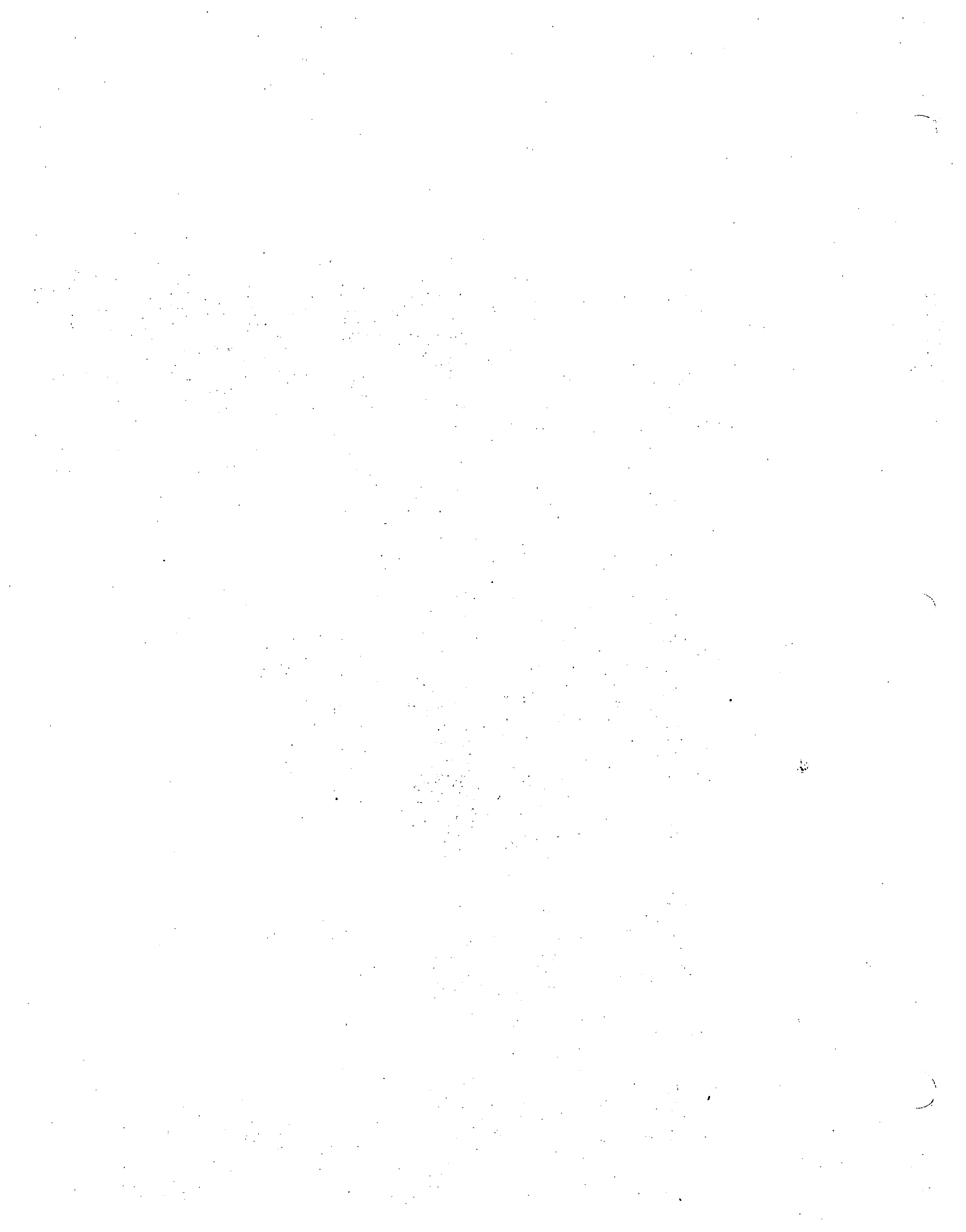
NEWS RESOURCES

Am. Journalism Review Newslink
News Index
Newspapers Online

<http://www.newslink.org/>
<http://newsindex.com>
<http://www.newspapers.com>

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Hate and Bias Crime



SECTION 1, HATE AND BIAS CRIME

STATISTICAL OVERVIEW

- The Federal Bureau of Investigation reports that 7,755 hate crime incidents were reported to law enforcement agencies nationwide in 1998. The 7,755 incidents involved 9,235 separate offenses, 9,722 victims, and 7,489 known offenders (FBI 17 October 1999, 58).
- In 1998, racial bias represented the largest percentage of bias-motivated offenses. Of the 9,235 reported offenses, 5,360 were motivated by racial bias (Ibid.).
- Crimes against persons accounted for over 68% of hate crime offenses reported. Crimes against property accounted for over 31%, and fewer than 1% were crimes against society (Ibid., 60).
- Of the hate crimes against persons, intimidation accounted for 55%, while simple assault and aggravated assault represented 27% and 17%, respectively (Ibid.).
- Of the 7,755 hate crime incidents reported, 4,321 were motivated by racial bias; 1,390 by religious bias; 1,260 by sexual orientation bias; 754 by ethnicity/national origin bias; 25 by disability bias; and 5 by multiple biases (Ibid., 58).
- In 1998, 65% of the 9,722 victims were targets of crimes against persons, as opposed to property or society. Nearly six of every ten victims were attacked because of their race, with bias against blacks counting for 38% of the total (Ibid., 60).
- Of those offenses motivated by bias by ethnicity/national origin, over half of the incidents were reported as anti-Hispanic (Ibid., 58).
- Of those offense motivated by bias against religious orientation, over three-fourths were based upon anti-Jewish bias (Ibid.).
- Fifteen percent of all victims of hate/bias crimes were victims of crimes motivated by bias against sexual orientation; 67% of these were victims of specifically anti-male homosexual bias, and 18% specifically anti-female homosexual bias (Ibid.).
- In terms of incidents in 1998, 2,901 were anti-black, 792 were anti-white, 1,081 were anti-Jewish, 293 were anti-Asian/Pacific Islander, 52 were anti-American Indian/Alaskan native, 850 were anti-gay men, and 223 were anti-gay women. (There were no Hispanic numbers in this year's report.) (Ibid.).
- Of the known offenders, 66% were white and 17% black (Ibid.).
- Law enforcement agencies reported 7,489 known offenders associated with the 7,755 incidents recorded in 1998. Of the known offenders, 6,474 were connected with crimes against persons, and 1,376 were associated with crimes against property (Ibid., 60).

- Thirty-five percent of the 7,489 known offenders were involved with the offense of intimidation (Ibid.).
- A February 1999 Gallup poll reported that one in four nonwhites are concerned about being the victim of a hate crime, while one in eight of all Americans polled believe they could be the victim of a hate crime. Seventy percent of those polled favor state hate crimes legislation that provides for harsher penalties for crimes motivated by hatred of certain groups than for the same crime not motivated by hatred. Seventy-five percent believe that hate crime laws should be expanded to include racial minorities, religious and ethnic minorities, women, and homosexuals (Gallup Poll 1999).

RECENT INITIATIVES

(Portions of the following section are summarized from *Addressing Hate Crimes: Six Initiatives That Are Enhancing the Efforts of Criminal Justice Practitioners*, Bureau of Justice Assistance, February 2000, Washington, DC, NCJ 179559.)

The Bureau of Justice Assistance (BJA) of the U.S. Department of Justice (DOJ) has developed four pilot programs to enhance the ability of law enforcement and prosecutorial agencies to recognize, respond to, investigate, prosecute, and prevent hate crimes. Each program includes material to assist in the development of victim sensitive hate crime scene response, and victims' assistance and support throughout the criminal justice process.

National hate crime training initiative. A working group of prosecutors, law enforcement, victim services, and training agencies brought together by the Department of Justice has developed four training curricula on hate crimes, each designed for a different level of law enforcement: patrol and responding officers, investigators and detectives, supervisors and command officers, and an audience of all levels of law enforcement professionals. Each curriculum provides trainers with lesson plans and training materials for an eight-hour course that covers the following topics:

- History of hate crimes.
- Identifying hate crimes: definitions, bias crime indicators, and offender typology.
- Legal issues.
- Guidelines for an effective response.
- Investigative strategies and guidelines for collection and preservation of evidence.
- Victim trauma.
- Community strategies and relationships.
- Case studies.

A national initiative has been developed and implemented to train teams of trainers who commit to conducting a minimum of four hate crime training events within their states. In total, seventy-eight teams were selected from fifty states and the District of Columbia; this has resulted in the training of more than 4,000 law enforcement and other criminal justice professionals.

In an effort to address the training needs of officers who do not receive the eight-hour training on hate crime investigation, BJA developed two other resources for learning the basics of hate crime response: BJA's *Roll Call Video* and the International Association of Chiefs of Police (IACP) publication, *Responding to Hate Crimes: A Police Officer's Guide to Investigation and Prevention*, which was funded by BJA and OVC (see below).

Roll Call Video: Responding to Hate Crimes. This twenty-minute film covers major areas of hate crime investigation and response, including training on the identification of bias indicators; appropriate first responses to potential hate crimes; investigative procedures for potential hate crimes; evidence collection and presentation; understanding and responding appropriately to victim trauma; maintaining positive community relations when responding to hate crimes; and resources available to officers. Every state, county, and municipal law enforcement agency in the nation will receive a copy of the video, along with an instructor's handbook that provides answers to frequently asked questions about hate crimes.

Responding to Hate Crimes: A Police Officer's Guide to Investigation and Prevention. This IACP publication consists of two training tools: a twelve-page in-depth guidebook that covers major components of an effective response to and investigation of hate crimes, and a pocket guide on investigative procedures. The guidebook has a written checklist that covers the essential components of an effective response to hate crimes, including a definition of hate crimes; an explanation of the difference between hate crimes and bias incidents; key indicators of bias motivation; steps to take at the scene of a possible hate crime; sensitive, effective approaches to assisting victims of hate crimes; and strategies that police departments and officers can take in their communities to prevent hate crimes. The pocket guide addresses the key issues an officer faces at the scene of a hate crime, e.g., effective hate crime response, actions to be taken at the crime scene, key indicators of hate crimes, and ways to meet the needs of hate crime victims. The IACP, with funding from BJA and OVC, will print and distribute 450,000 copies of the publication to police departments and victim advocates across the nation.

Resource Guide for Prosecutors. Currently in development, the American Prosecutors Research Institute's (APRI) *Resource Guide for Prosecutors* will provide prosecuting offices with a comprehensive resource guide for responding to hate crimes. It will also highlight model protocols and procedures from around the nation to help prosecutors' offices develop policies and procedures relevant to handling hate crime investigations and prosecutions. The material covers issues that arise during hate crime prosecutions, including procedures for working with outside agencies and organizations; case screening, investigation, assignment and preparation; victim and witness impact and support; trial preparation; sentencing alternatives;

and prevention efforts. APRI will distribute a copy of the resource guide to all 3,100 local and state prosecutors' offices in the country.

PROMISING PRACTICES

- *www.stopthehate.org*. Members of the Massachusetts Student Civil Rights Project designed this Web site for students in high schools, colleges, and communities as an educational and reporting resource. Students and student victims can report (anonymously if they choose) hate crimes and bias-motivated incidents directly through the Web site. There is also resource, historical, and creative content. In the "Youth Voices" section, students can share information about hate crimes, civil rights, and diversity issues. "Creative Change" is a page that allows students to express themselves through poetry and art on the subject of race and bias. "Heritage" offers an introduction to civil rights history in the U.S., with links to other sites for those who want to learn more. Opportunities for involvement are offered through listings of internships, jobs, and volunteer possibilities. There is also a resource database of organizations doing anti-bias work. The Student Civil Rights Project is a model program initiated by the Massachusetts Governor's Task Force on Hate Crimes in April 1998. The Student Civil Rights Project consists of a diverse group of high school and college students from across Massachusetts who came together to identify, explore, review, and design curricula and resources that school communities can use to combat violence and hatred. Governor's Task Force on Hate Crimes, c/o Executive Office of Public Safety, Programs Division, 1 Ashburton Place, Suite 2110, Boston, MA 02108 (617-727-6300).
- "*Hateful Acts Hurt Kids*." The U.S. Department of Justice *KidsPage* has an interactive Web site called "Hateful Acts Hurt Kids," that teaches children from kindergarten through fifth grade about hate and bias crimes. The Web site aims to promote discussion among children, parents, and teachers about prejudice, discrimination, and related issues; sensitize elementary school-age children to the unfairness and pain of prejudice; give children who may be victims of prejudice problem-solving skills; and show children what they can do when they find themselves in the role of bystanders to help prevent or de-escalate hurtful acts based on prejudice. Children read about other children who have experienced prejudice in a variety of familiar settings: homes, schools, lunchrooms, playgrounds, and neighborhoods. <<http://www.usdoj.gov/kidspage/bias-k-5/parents.htm>> .

SECTION 1, HATE AND BIAS CRIME**ABSTRACT**

Hate and bias crimes are motivated by hatred against a victim based upon his or her race, religion, sexual orientation, ethnicity, or national origin and pose unique challenges for victim service providers. The victim and, indeed, the entire community are detrimentally affected by hate and bias crimes. The unique needs of hate and bias crime victims require heightened sensitivity from victim service, law enforcement, and criminal justice professionals.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The definition of hate/bias crime and the government's policy in addressing hate/bias crime.
- Types of hate/bias crime offenders.
- The impact of hate/bias crimes on victims and the community.
- Hate/bias crime indicators for law enforcement.
- The unique features of hate/bias crimes that differentiate them from other crimes.
- Meeting the needs of hate/bias crime victims.
- Promising practices and recommendations that improve the response to hate/bias crimes.

STATISTICAL OVERVIEW

- The Federal Bureau of Investigation reports that 8,049 hate crime incidents were reported to law enforcement agencies nationwide in 1997. The 8,049 incidents involved 9,861 separate offenses, 10,255 victims and 8,474 known offenders (FBI 1998).
- Crimes against persons accounted for almost 70% of hate crime offenses reported. Crimes against property accounted for over 30% while less than 1% were crimes against society (Ibid.).
- Of the hate crimes against persons, intimidation accounted for 55%, while simple assault and aggravated assault represented 26% and 18%, respectively (Ibid.).

- Of the 8,049 hate crime incidents reported, 4,710 were motivated by racial bias; 1,385 by religious bias; 1,102 by sexual orientation bias; 836 by ethnicity/national origin bias; 12 by disability bias; and four by multiple biases (Ibid.).
- In 1997, 67% of the 10,255 victims of hate/bias crimes were victims of crimes against persons as opposed to property or society. Nearly six of every ten victims were attacked because of their race, with bias against African-Americans accounting for 39% of the total (Ibid.).
- Of those offenses motivated by bias by ethnicity/national origin, over half of the incidents were reported as anti-Hispanic (Ibid.).
- Of those offense motivated by bias against religious orientation, over three-fourths were based upon anti-Jewish bias (Ibid.).
- Of all victims of hate/bias crimes, 14% were victims of crimes motivated by bias against sexual orientation; 66% of these were victims of specifically anti-male homosexual bias; and 17% specifically anti-female homosexual bias (Ibid.).
- In terms of incidents in 1997, 3,120 were anti-African-American, 993 were anti-white, 1,087 were anti-Jewish, 347 were anti-Asian/Pacific Islander, 36 were anti-American Indian/Alaskan native, 760 were anti-gay men, and 188 were anti-gay women. (There were no Hispanic numbers in this year's report.) (Ibid.)
- Of the known offenders, 63% were white and 19% African-American (Ibid.).
- Of those victims of gender and anti-lesbian/gay violence, 62% were gay men, 30% lesbians, and 8% were either gay/lesbian institutions or unknown (FBI 1995).
- The number of arrests for anti-Semitic crimes reported in 1994 was double those reported in 1993. Of these crimes, arson and vandalism increased more substantially than any other reported anti-Semitic crimes (Anti-Defamation League 1994).

INTRODUCTION

Hate/bias attacks on targeted minorities are not new to American culture, but the dominant adult majority has had, until recently, only limited direct exposure to its negative effects. Many find themselves both dumbfounded and often incapacitated by the intensely destructive nature of these crimes that wreak considerable havoc in this country. What has stunned society, however, is the random objectification and subsequent persecution of individuals, such that in the 1999 massacre at Columbine High School in Littleton, Colorado, a Caucasian star athlete, an African-American computer whiz, and a devout Christian were equally vulnerable to attack. All evoked the hatred of two teenage killers. As the cultural plane subject to hate/bias attack continues to expand, social psychologists have intensified their investigations of its recent origins and the motivations of its perpetrators.

Caricatures like the card-carrying Klan member who attacks African-Americans and the skinheads who prey on gays do little to explain the complex social, economic, and

psychological characteristics that have given rise to hate/bias abuse. While it is clear that some individuals and groups who victimize people and destroy property act out of a perverse sense of entitlement and superiority, many others are obsessed by their fear, insecurity, and limited ability to provide for their families, combined with an overwhelming urge to hurt those whom they have designated as scapegoats to explain their own powerlessness or failures. A deeper understanding of the wide-ranging origins, motivations, and psychoses that generate hate/bias crime can help law enforcement professionals better identify offenders and protect the communities that potential offenders have targeted for attack.

More importantly, researchers of hate/bias violence have turned their attention to the special needs of hate/bias crime victims who experience not only physical injuries and/or property damage, but also are faced with their inevitable vulnerability as members of a targeted group and the often associated social and psychological consequences. It is this vulnerability due to membership in a specific population or targeted group that can lead to a sense of helplessness or even hopelessness for victims of hate/bias crime. In many instances, the group membership that is targeted by racists is an inherent characteristic of the victim, i.e., one that cannot be changed. To be targeted because of one's ethnicity, religion, gender—personal characteristics that should inspire only pride and should offer an individual a sense of affiliation, belonging, and support—is nothing less than an assassination of one's own sense of self. This sense of vulnerability can lead to pervasive fear that can also prevent victims of hate/bias crime from associating with other members of the targeted group for fear of increasing their odds of being victimized.

Today, policymakers, law enforcement, criminal justice, and victim assistance professionals are reviewing their protocols in dealing with the unique needs of victims of hate/bias crime and forming multi-agency task forces that can respond sensitively to the victimization, investigate quickly and thoroughly, and prevent repetition of these assaults. Victim advocates and allied professionals are beginning to understand the devastating impact of hate crime in targeted communities. By analyzing and coming to terms with their own inherent biases, they are learning to communicate more effectively with the hate crime victim population. Advocates should make every effort to assist victims of hate/bias crime to obtain the services they need but to which they have often had little or no access.

HATE/BIAS CRIMES: GOVERNMENT POLICY AND PRACTICE

DEFINITION OF HATE/BIAS CRIMES

The Hate Crime Statistics Act of 1990 defines that hate/bias crimes “manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, arson, and destruction, damage, or vandalism of property.” According to *A Policymaker's Guide to Hate Crimes* (BJA 1997), fewer than half of the states have adopted the federal definition while some have added other victim categories such as physical disability, color, creed, ancestry, mental disability, and gender.

It is important to note that Massachusetts, one of the earliest states to tackle the hate crime issue, defined hate crimes as “criminal acts that are motivated in part or whole by bias or bigotry directed at a victim due to that victim’s race/ethnicity/national origin/religion/sexual orientation or handicapped status.”

Universally there are distinctions made regarding bias motivated *crimes* and bias motivated *incidents* (noncriminal acts). In spite of federal and state laws that have since been enacted, there is still confusion over the definition of hate and bias crime victims. The definition of hate and bias crime in the Federal Hate Crimes Statistics Act of 1990 should provide direction to the field on what constitutes hate/bias crimes. The Act states that hate/bias crimes are crimes motivated by “hatred against a victim based on his or her race, religion, sexual orientation, ethnicity, or national origin.”

GOVERNMENT POLICY IN ADDRESSING HATE/BIAS CRIME

In March of 1997, the Bureau of Justice Assistance (BJA) of the U.S. Department of Justice, released a national report entitled *A Policymaker’s Guide to Hate Crimes*. The report was in response to a request from Attorney General Janet Reno to conduct an assessment of laws and strategies designed to fight, gauge, and prevent bias-motivated offenses. Several important initiatives addressing hate and bias crimes are addressed in the report. The monograph examines the significant strides made by the federal government in creating a baseline of raw data on hate crimes and the problems that impede the reporting of hate crime incidents. In addition, the report summarizes current state laws and U.S. Supreme Court decisions regarding hate crimes. Initiatives that have been undertaken in the private sector, such as by civil rights groups, are also highlighted. Finally, the report discusses preventive measures and strategies for dealing with hate crime offenders that have been undertaken in some communities across the nation.

The major legislative and public policy initiatives on the federal, state, and local levels between 1992-1997 are summarized below (BJA 1997):

- As of 1995, thirty-nine states had enacted laws that address hate/bias-motivated violence and intimidation, many of them based on a model law developed by the Anti-Defamation League.
- Also by 1995, nineteen states had statutes mandating the collection of hate/bias crime data.
- In addition, dozens of law enforcement agencies across the nation promulgated new policies and procedures addressing hate/bias crimes. Many of these were based on model policies developed by the International Association of Chiefs of Police and the National Organization of Black Law Enforcement Executives.

The report also summarized important initiatives that have been undertaken on the federal level. Congress and the U.S. Department of Justice have taken the following major steps towards combating hate crimes:

- The 1992 reauthorization of the Juvenile and Delinquency Prevention Act, as amended, required that each state's juvenile delinquency prevention plan include a component designed to combat hate/bias crimes.
- The Act also required the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) to conduct a national assessment of youth that commit hate/bias crimes. As a result, OJJDP funded a national study in 1993 entitled the *Juvenile Hate Crime Study*. The study found that at that time, only six states and seven major cities within those states collected offense data that specified the age of hate/bias crime offenders. However, from the data collected, BJS estimated that 17 to 26 percent of all hate/bias crime incidents recorded by law enforcement could be attributed to juveniles.
- OJJDP also supported the development of a school-based curriculum to address prevention and treatment of hate/bias crimes by juveniles. The report entitled *Healing the Hate: A National Crime Prevention Curriculum for Middle Schools* was developed by the Educational Development Center Inc. (EDC) and released in January of 1997.
- The Violence Against Women Act (VAWA), Title IV of the Violent Crime Control and Law Enforcement Assistance Act of 1994, allows victims of gender-based crimes to sue the perpetrator in either federal or state court for money damages and/or for injunctive relief. The constitutionality of this provision is being challenged through the courts (1999).
- In addition, the Hate Crime Sentencing Act (HCSA) (another provision of the 1994 Crime Bill) requires the U.S. Sentencing Commission to increase penalties for perpetrators of hate crimes.
- According to the report, under a proposed research project, the FBI and Northeastern University in Massachusetts will collaborate to develop strategies to increase the collection of hate/bias crime statistical data by state and local law enforcement agencies.

The U.S. Department of Education has also supported key initiatives in response to hate/bias crimes. For example, in 1996, under the Department of Education's Safe and Drug-Free Schools and Communities Federal Activities Grants Program, \$2 million was made available to public agencies and private nonprofit organizations for developing and implementing innovative strategies designed to prevent and reduce the incidence of hate crimes in communities.

In 1996, the Office for Victims of Crime (OVC) and the Bureau of Justice Assistance (BJA), within the U.S. Department of Justice, supported the development of a national training and technical project that produced *A Training Curriculum to Improve the Treatment of Victims of Bias Crimes* by the Educational Development Center in Boston, Massachusetts. The project offers training for law enforcement and victim assistance professionals. Project materials emphasize that while hate/bias crimes are similar to other crimes, they present unique challenges to victim-serving professionals because of the often-devastating psychological impact on the victim and the victim's community. The training curriculum is available through OVC's Resource Center.

HATE/BIAS CRIME OFFENDERS

In their report to the National Commission on the Causes and Prevention of Violence (NCCPV) entitled *Violence in America: Historical and Comparative Perspectives*, Hugh Davis and Ted Gurr (1969) proposed an interesting, albeit dated, claim that violence in the United States is rooted in six historical events that are deeply imbedded in our national character:

1. Revolutionary doctrine in the Declaration of Independence.
2. A prolonged frontier experience that tended to legitimize violence and vigilante justice.
3. A competitive hierarchy of immigrants conducive to violence.
4. Pervasive fear of government power and regulations.
5. Industrial Revolution that produced massive migration to big cities thereby causing widespread dislocation.
6. Unmatched prosperity combined with unequal distribution of opportunity, rising class revolution, frustration, and violence.

The current spate of hate/bias-related violence on school campuses in America and the atrocities heaped on innocent victims on other continents have prompted researchers to revisit these events and the societal changes they launched to better understand the rationales behind the individual and group violence that is wreaking havoc on the lives of targeted peoples and communities. What kinds of people commit hate/bias crimes, what are their motivations, and what are the proactive measures that can be taken to prevent this violence that pervades our society?

Although hate/bias offenders do not necessarily fit neatly into definitional categories, Levin and McDermitt of Northeastern University (1993) have identified three general types of hate/bias offenders: thrill-seeking offenders, reactive offenders, and mission offenders.

- *Thrill-seeking offenders* are groups of teenagers who go outside their “turf” and spontaneously vandalize property or attack members of groups they consider to be inferior to them (as well as vulnerable). These offenders are not typically associated with a hate group and their manifested hatred of the victim is superficial. Such offenders may often be deterred from repeating the crimes if the community responds with a strong condemnation of their actions.
- *Reactive offenders* have a sense of entitlement with regards to their rights and privileges that does not extend to their victims. They victimize individuals or groups of individuals on their own “turf” whom they consider to be a threat to their way of life, community, place of work, or privilege and then apply the rationale that their aggression is a justifiable defensive action. Rarely are they affiliated with an organized hate group although they may approach such a group for assistance in mitigating the perceived threat. If the perceived threat subsides, the criminal behavior generally subsides.

- *Mission offenders* are often psychotic and suffer from mental illnesses that cause them to hallucinate and that impair their ability to reason. They typically perceive their victim groups as evil or sub-human, believe that they have been empowered by a higher force to rid the world of evil, and feel intense paranoia and a sense of urgency that they carry out their mission. Generally operating alone, their crimes are violent in nature and may be carried out indiscriminately against any member of the target group in the community.

ORGANIZED HATE/BIAS GROUPS

Hate/bias groups typically develop during a period of intense immigration, such as the 1920s; periods when disenfranchised groups try to increase their political and economic power, such as the Civil Rights Movement; and periods of economic instability during which people seek scapegoats to blame for high unemployment, such as the recession of the late 1980s. Although hate/bias groups have, at times, been powerful forces in American political life—generally through violence and intimidation—they have a tendency to fragment because of internal dissension. Explicitly racist, traditional white supremacist groups consider all people of color to be subhuman (although homophobia has been added to their agenda). They blame the federal government, communism, and international conspiracies for the nation's problems.

While hate/bias crimes have predominately been directed at African Americans, hate/bias crimes committed by African Americans have been “escalating at an alarming rate,” according to Klanwatch, a Project of the Southern Poverty Law Center. From 1991 to the end of 1993, 46 percent of all racially motivated homicides tracked by Klanwatch were committed by African Americans on white, Asian, or Hispanic victims (Kapler 1993, 3). Statistics that would demonstrate that African American hate/bias crime offenders operate in organized groups like their Caucasian counterparts are not available; however, it is clear that in the incident-provoked Los Angeles riots of 1992 and the attacks on Hasidic Jews in Crown Heights, Brooklyn, racially-motivated groups were responsible for the violent attacks on Caucasians and other minorities.

In 1995, it was estimated that there were no fewer than 20,000 and possibly no more than 50,000 members of white supremacist groups in the United States who fell into the over-lapping categories of Ku Klux Klan groups, neo-Nazi groups, Christian identity groups, and skinheads. Among the white teenagers and young adults called “skinheads,” Wooden found that they could be divided into two groups: racist skinheads, who were considered bullies in grammar school, abused as children, and favored violence in the lyrics of their music, and teenage Satanists, who were products of strict religious upbringing. Only 15 percent of bias crimes are committed by organized hate groups, but most of this can be attributed to skinheads who used self-identity tactics such as their fists, boots, bats, and knives. While their attacks appear to be spontaneous, law enforcement agencies have recently implicated skinheads in organized violence involving firearms and bombs against selected targets.

Members of white supremacist groups tend to employ melodramatic iconography to identify their activities. Ritual items, such as white hoods, burning crosses, pendragons, gothic symbols, and burnings/hangings in effigy, represent the work of organized hate/bias groups

and are often found at the site of a ceremony or an act of violence. Furthermore, youths tend to be obvious when they are cruising for victims. For example, a large roving group of teenagers with shaved heads carrying baseball bats wandering aimlessly in the aftermath of a major racial incident or court trial may indicate a hate/bias crime in the offing.

The overlaps between hate crimes and racially-motivated gang attacks and increased acts of domestic terrorism have led some researchers and political leaders to call for a new definition of hate/bias crimes, one that might include crimes motivated by a hatred of people, not because of their race, national origin, sex, sexual preference, and religion but because of their affiliations or occupation. A 1997 BJA monograph on hate/bias crimes reports on a planning meeting at the National Academy of Sciences in Washington, DC, where researchers, academicians, and federal experts in the fields of hate crimes and terrorism “struggled to identify the connections between hate crimes and terrorism and to develop a definition of bias-motivated activity that might embrace the concepts of both.” They concluded, however that even though hate crimes and terrorism share “overlapping pathology and actors,” it was more important to concentrate their efforts on the identification of the differences between a hate group follower and someone who commits bias-motivated violence, and what actions might be taken to prompt them to reject racist, anti-Semitic, or antigovernment ideologies. “We must try to understand what leads people in, what they do when they’re in, and what leads people out,” said Jerrold Post of George Washington University (BJA 1997).

(Portions of the preceding section are excerpted from *National Bias Crime Training: For Law Enforcement and Victim Assistance Professionals*, Office for Victims of Crime, 1995.)

THE IMPACT OF HATE/BIAS CRIME ON VICTIMS AND THE COMMUNITY

The results of hate/bias crimes can be devastating to cultures for generations to come. Hitler’s attempt to exterminate the Jews is firmly linked to the psyche of all Jews conscious of their heritage and history. The courage of the Jewish people to survive has inspired other groups to unite in a harmonious movement toward peace. The memory of the Holocaust will never subside; the pain, indelibly stamped on the wrists of many of the survivors, is a reminder of their victimization and clear cry of “Never again.”

The results of slavery—man’s inhumanity to man at its worst—resound throughout America, Africa, and Spain. The antebellum plantations belonging to the great-grandparents of today’s baby boomers remain wonderful places to visit replete with rich cultural histories that nevertheless omit most references to the lash, the rapes, and the hangings. As Malcolm X and Dr. Martin Luther King so aptly explained, “The chains of slavery have been removed from our wrists and ankles 300 years ago, but the chains of slavery are still on our minds.” Much is said about the progress of African-American people in America, yet for many of them this so-called progress is considered a lie. Obviously, much work remains to be done.

The treachery of racial bias continues in some urban police forces today. In 1999, for example, four elite New York City police officers shot and killed Amadu Diallo, an unarmed African street vendor (who was not a suspect) at the door of his apartment building. The

officers fired forty-one bullets at Mr. Diallo, hitting him nineteen times. While the police have stated that their actions were the result of a mistaken identity and a belief that he was armed, many have argued that Mr. Diallo's tragic death was a result of racial prejudice.

At the same time, law enforcement has made great strides forward in the creation of infrastructures for interagency collaboration that can quickly diagnose hate/bias crime, and effectively investigate and bring alleged offenders to trial. In October 1993, through an anonymous telephone call, a member of the Aryan Liberation Front claimed responsibility for setting fire to the offices of the Japanese-American Citizens League, the home of an Asian-American city councilman, and the State Office of Fair Employment and Housing in Sacramento, CA. He had also attempted to commit arson at a Jewish temple and to burn the offices of the local NAACP. With the help of informants, a tape recording of his telephone call, and a computerized database of white supremacists in the area, a task force from the Sacramento Police Department identified and arrested an eighteen-year-old white male within a month. He was later convicted of all counts of hate-motivated arson.

To expedite the solving of this white supremacist crime, both the Federal Bureau of Investigation and Bureau of Alcohol, Tobacco and Firearms made significant contributions to the investigation. The FBI canvassed the crime scene for witnesses, conducted in-state and out-of-state interviews on white supremacists, and provided technical assistance in tracing telephone calls and analyzing physical evidence at the FBI Laboratory. The BATF contributed expert arson investigators to the task force who examined the arson scenes, collected evidence, and conducted "state-of-the-art" laboratory analysis. As an example of the effectiveness of a multi-agency collaboration to bring hate/bias activity under control and arrest the offender, Sacramento's hate/bias task force serves as a model for other communities (BJA Clearinghouse 1997).

UNIQUE FEATURES OF HATE/BIAS CRIME AND ITS IMPACT ON THE VICTIM

Not only are bias crimes more likely than any other kind of personal attack to be seriously injurious or lethal, these crimes have many psychological and social repercussions that are extremely destructive to the victim, the victim's family, and the victim's community.

First, from the victim's point of view, the purpose of hate/bias crimes adds the extra dimensions of fear and devaluation to the victimization. Someone has been targeted due to a core characteristic of his or her identity that cannot be changed. If membership in a target group is readily visible, the victim may feel particularly vulnerable to a repeat attack that can result in a feeling of hopelessness. The fears are also exacerbated because society has been slower to respond to hate/bias crimes than to random "stranger" crimes. The victim may then become afraid to associate with other members of the group who have been targeted or may resist seeking needed services, believing that these actions will increase his or her vulnerability.

Second, from a cultural point of view, hate/bias crimes, also motivated in part by fear, escalate when members of the dominant culture think that they are under attack and they justify their violent acts as courageous efforts taken to protect their life style, their country, or their white

heritage. The group mentality, under the guise of “bravery,” supports increasingly vicious acts of violence, for which responsibility is inevitably diffused and further relieves any single individual of taking the blame for the group action (Young 1993).

Third, hate/bias crime offenders often target places of worship. These attacks on sacred spiritual symbols affect individual victims more profoundly than other acts of vandalism.

SECONDARY INJURY TO VICTIMS OF HATE/BIAS CRIME

(Portions of the following section are excerpted from *National Bias Crime Training: For Law Enforcement and Victim Assistance Professionals*, Office for Victims of Crime, 1995.)

Bias crime victims experience many of the same difficulties and traumas as victims of other crimes, but hate/bias crimes create a secondary long-term crisis that profoundly alters victims' relationships to their communities. Victims of hate/bias crime may experience physical injuries, financial losses, and psychological traumas in response to the initial crisis as well as long-term reactions to stress.

A secondary injury is the victim's perceived rejection by and lack of expected support from the community. Many victims experience secondary injury as they attempt to deal with the systems that provide physical or mental health care, process insurance claims to recover loss, or prosecute offenders. Often professionals who work within the system that serves the victim have the same prejudices and bias as the rest of society and may minimize the impact of the crime on the individual. Hate/bias crime victims feel betrayed and hopeless when they confront institutional prejudice.

Professionals must be particularly skillful at recognizing the needs of those who are on the periphery, yet traumatized. Services and resources should be established and in place so that the healing process can be a holistic one. The concept of support can happen more easily if the community joins in the process with the victim(s). The scope of hate/bias crime is such that many of these tragic occurrences can happen simultaneously. Under such circumstances, the trauma can escalate out of control, and victim service professionals may be challenged in their efforts to advocate and assist effectively. Therefore it is necessary to develop adequate and updated resources and services, with an emphasis on sensitive delivery of such services.

VICTIM ASSISTANCE PROFESSIONALS: COUNSELING AND ADVOCACY

To adequately meet the needs of victims of hate/bias crime, the victim assistance professional must understand the cultural factors that affect the behavior of victims within their communities. They must frankly come to terms with their personal obstacles or inherent biases (if any) towards the targeted group and acknowledge that uncertainty about cultural considerations is widespread among professionals and often compounded by the lack of agency support for working in the community.

In first dealing with victims of hate/bias crime, the victim advocate should—

- Let victims express their intense feelings aroused by the hate/bias crime.
- Address the crisis of victimization and confront the obvious hate and prejudice exhibited in the crime.
- Provide appropriate referral or assistance with protective orders or other immediate safety concerns experienced by the victims.
- Be as nonjudgmental as possible in dealing with victims of hate/bias crimes. Although this may appear to be a logical step for an advocate or even an obvious recommendation, it is in fact the most difficult to achieve. Due to the collective psyche of the American society, which is deeply rooted in racist beliefs and practices, people's "judgment" is continually affected by both their conscious and unconscious "baggage." It is of critical importance that victim service providers examine their personal thoughts, reactions, and feelings as they relate to both victims and survivors.
- Assist victims with completing and filing an application to the state's victim compensation program, if applicable.
- Provide or refer victims to cross-cultural counseling as needed.
- Inform and educate victims of hate/bias crimes about the possibility of civil remedies for the crime committed against them. Refer them to the local Bar Association for assistance or to any local or state nonprofit legal organization that represents hate crime victims.
- Carefully interview any hate crime/bias victim who is reluctant or refuses to cooperate to determine the reasons for reluctance or refusal. In many cases, this reluctance can be overcome by a prosecutor who expresses appropriate concern for the victim, provides reassurance that the criminal or juvenile justice system can serve the victim's interest, and arranges to protect the victim. Prosecutor programs can also turn to community groups as a resource to help support reluctant witnesses throughout the criminal or juvenile justice system process.

If the victim of hate/bias crime enters the criminal or juvenile justice system, the victim assistance professional's job is to intervene in the following ways on the victim's behalf with the various agencies:

- Provide information to victims concerning the investigation and prosecution of their case, both about their case in particular and the system in general.
- Provide the victim with information about victim impact statements stressing their importance and use in the justice process, provide the appropriate impact form, and offer whatever assistance they require in preparing the victim impact statement for court and/or parole release hearing authorities.
- If there is a conviction or finding in the case, provide a referral for the victim to the victim liaison in the state department of corrections, youth authority, or the probation/parole department for a continuation of victim notification and services concerning their case and the status of the convicted offender.

- If there is a conviction in the case, provide the victim with post-conviction appellate notification and services.

Working constructively with the targeted community and the law enforcement agencies after hate/bias crime incidents is essential to rebuilding trust, reducing fear, stemming possible retaliation, and preventing additional bias crimes. Victim assistance professionals should work to—

- Improve outreach into the cultural and so-called minority communities in the jurisdiction. By developing a level of trust with victims and urging them to come forward, well-trained and compassionate members of community-based advocacy groups can become helpful in the prosecution of hate/bias crime cases and with the provision of victim services.
- Set up a speaker's bureau that can provide presentations to schools, community centers, and places of worship.
- Develop solid links with law enforcement or community police.
- Create multilingual written materials for distribution in accordance with the language(s) spoken in the community.

(Portions of this section are excerpted from *National Bias Crime Training: For Law Enforcement and Victim Assistance Professionals*, Office for Victims of Crime, 1995.)

PROMISING PRACTICES

- The Anti-Defamation League (ADL) is a human relations organization with thirty-one regional offices across the country. ADL is dedicated to promoting intergroup cooperation and interfaith understanding. Over the past decade, ADL has become a leading resource in crafting responses to hate violence, including model hate crime legislation, a seventeen-minute hate crime training video, a handbook of existing hate crime policies and procedures at both large and small police departments, and a general human relations training program for law enforcement that is designed to examine the impact of discrimination, while promoting better cultural awareness and increased appreciation of diversity.
- Americans Citizens for Justice, Inc., based in Southfield, Michigan seeks to eradicate racism, harassment, and discrimination against Asian Pacific Americans and other minority and ethnic groups through legal consultation, monitoring anti-Asian violence, advocacy, and community education.
- The Washington, DC-based American-Arab Anti-discrimination Committee (ADC) is a nonsectarian, nonpartisan service organization committed to defending the rights and promoting the heritage of Arab-Americans. ADC offers advocacy in cases of defamation, legal action in cases of discrimination, and counseling in matters of immigration. In addition, the ADC has published a series of reports on anti-Arab hate crimes.
- The Center for Democratic Renewal (CDR) is a national clearinghouse of information about the white supremacist movement. CDR provides training to law enforcement agencies,

schools, churches, and community organizations. Over forty publications are available from CDR, including the resource manual “When Hate Groups Come to Town.”

- Klanwatch, a project of the Southern Poverty Law Center, monitors hate crimes and hate groups throughout the nation. Klanwatch publishes “The Intelligence Report,” a bimonthly review of hate crimes and activities of white supremacist groups for law enforcement officials, and provides training for law enforcement agencies and seminars for community organizations.
- The Los Angeles County Human Relations Commission, one of the oldest and largest Human Relations Commissions, addresses hate crimes by responding directly to them, disseminating information to law enforcement agencies, the media, community-based and governmental organizations, supporting efforts on hate crime reporting, and helping to produce a Hate Crime Victims’ Rights videotape. Hate crimes are surveyed in Los Angeles County schools, and hate crime statistics are gathered and combined into a yearly report to the Board of Supervisors.
- The National Gay and Lesbian Task Force (NGLTF) is a civil rights organization dedicated to building a movement to promote freedom and equality for all lesbians and gay men. Its Anti-violence Project was initiated to promote an appropriate response to anti-gay violence, improve the treatment of lesbians and gay men by the criminal justice system, and assist local communities in organizing against prejudice and violence. NGLTF reports annually on anti-gay/lesbian violence, victimization and defamation.
- The California Association of Official Human Relations Agencies, based in San Francisco, is in the process of developing regional hate violence response networks in 10 regions in California. The network is arranged like a wheel with many spokes. At the hub is a human rights commission or other appropriate public agency or nonprofit organization that acts as a fiscal agent and/or designates staff to coordinate the project. A series of committees constitute the “spokes” of the network structure, each representing and named after a different focus area, such as community activities, criminal justice, schools, the media, and youth. A community committee’s members might include religious institutions, conflict resolution providers, civil rights organizations, neighborhood associations, or private sector representatives. A criminal justice committee’s membership might include representatives of the police, district attorney, city attorney, attorney general, civil rights organizations, attorneys, and victims support groups (BJA 1997).
- Considered a model state for bias crime reporting and enforcement, New Jersey takes a two-pronged approach to identifying bias-motivated crimes and enforcing bias crime statutes. The New Jersey Uniform Crime Reporting Unit of the state police has, since 1988, collected county-by-county data on hate crime statistics from all police agencies in the State and published an annual bias incident report. Agency reporting is mandated by State law. The State’s Office of Bias Crime and Community Relations, part of the New Jersey Department of Law and Public Safety, Division of Criminal Justice, assists law enforcement agencies in the investigation and prosecution of bias-motivated incidents; facilitates educational and training programs that aid law enforcement agencies in the investigation and prevention of hate crimes; and facilitates community relations, conflict resolution, and cultural diversity.

- The Montgomery County Human Relations Commission (HRC) is a fifteen-member board charged with researching, assembling, analyzing, and disseminating pertinent data and educational materials that support activities and programs designed to help eliminate prejudice, intolerance, bigotry, and discrimination. HRC also institutes and conducts educational and other programs, meetings, and conferences to promote equal rights and initiates, receives, investigates, and seeks conciliation of discrimination complaints from residents. Among the programs operated by HRC are the Network of Neighbors and Network of Teens, which recruit and train citizens to provide peer support to victims of hate or violence in their communities and schools. Staff members provide support, refer victims to support and counseling services, provide translation services, and accompany victims to court. HRC also conducts a program to educate juveniles who have committed acts of hate or violence.
- The Horizons Anti-Violence Project has been serving Chicago's gay, lesbian, and bisexual community since 1988. The group runs a twenty-four-hour crisis line and refers victims to attorneys, counselors, and therapists. The project also provides court advocates for victims who press criminal charges. To prevent future crimes from occurring, the Horizons project sponsors community forums instructing residents how to protect themselves from violence and avoid conflicts. Horizons also provides training sessions through the police department on how to respond to hate crime incidents and works with the State's attorney's office to draft hate crime laws.
- The Massachusetts Student Civil Rights Project is a model program initiated by the Governor's Task Force on Hate Crimes in April 1998. The focus of the project is to research, develop and coordinate solutions to combat prejudice and hate motivated violence in Massachusetts schools. This program is a long-term solution that builds on community resources by strengthening communication and partnership between schools, law enforcement, and community based organizations. This past summer a diverse group of high school and college students from across Massachusetts came together to identify, explore, review and design curricula and resources that school communities can use to combat violence and hatred.

1. Discuss some of the unique needs that victims of hate/bias crime may have.
2. List two major governmental initiatives in combating hate/bias crime.
3. Name two “types” of hate/bias offenders and give examples of each.
4. What kind of impact can hate/bias crime have upon a community?
5. What are some of the effects that hate/bias crime can have upon a victim?

Stalking

SECTION 2, STALKING

STATISTICAL OVERVIEW

- Data from the National Violence Against Women Survey, a nationally representative telephone survey of 8,000 men and 8,000 women ages eighteen and older, indicate that 2.2% of males and 8.1% of females report being stalked during their lifetime. The survey defines stalking as a course of conduct directed at a specific person that involves repeated (two or more occasions) visual or physical proximity; nonconsensual communication; verbal, written, or implied threats; or a combination thereof, that would cause a reasonable person fear (BJS 1999).
- Four out of five stalking victims are women. By comparison, 94% of the stalkers identified by female victims and 60% of the stalkers identified by male victims were male (Violence Against Women Grants Office July 1998, 10).
- With respect to stranger and acquaintance stalking, 1.8% of all U.S. women, compared with 0.8% of all U.S. men, have been stalked by strangers; and 1.6% of all U.S. women, compared with 0.8% of all U.S. men have been stalked by acquaintances (Ibid., 12).
- Based on comparisons between estimated numbers of stalkers per total U.S. population, and numbers of cyberstalkers per online population, it is estimated that there are 63,000 Internet stalkers cruising the information superhighway, stalking an estimated 474,000 targets (Cyberangels 2000).
- The Los Angeles District Attorney's Office estimates that e-mail and other electronic communications were factors in approximately 20 percent of the roughly 600 cases handled by its Stalking Threat Assessment Unit (Reno 1999).

CYBERSTALKING

Stalking has now taken a turn into cyberspace on the information superhighway. Although there is no universally accepted definition of cyberstalking, the term is generally used to refer to the use of the Internet, e-mail, or other telecommunication technologies to harass or stalk another person. Essentially, cyberstalking is an extension of the physical form of stalking. Most state and federal stalking laws require that the stalker make a direct threat of violence against the victim, while some require only that the alleged stalker's course of conduct constitute an implied threat. Although some cyberstalking conduct involving annoying or menacing behavior might fall short of illegal stalking under current laws, such behavior may be a prelude to real-life stalking and violence and should be treated seriously. Cyberstalking has the potential to move from a URL address to an IRL (*in real life*) address—from virtual to actual (Gregorie 2000).

In *Cyberstalking: A New Challenge for Law Enforcement and Industry—A Report from the U.S. Attorney General to the Vice President* (1999), cyberstalking is identified as a growing problem. According to the report, there are currently more than 80 million adults and 10 million children with access to the Internet in the United States. Assuming the proportion of cyberstalking victims is even a fraction of the proportion of persons who have been the victims of offline stalking within the preceding twelve months, the report estimates there may be potentially tens or even hundreds of thousands of cyberstalking victims in the United States (Gregorie 2000).

TECHNIQUES

Cyberstalkers use a variety of techniques. They may initially use the Internet to identify and track their victims. They may then send unsolicited e-mail, including hate, obscene, or threatening mail. Live chat harassment abuses the victim directly or through electronic sabotage (for example, flooding the Internet chat channel to disrupt the victim's conversation). With newsgroups, the cyberstalker can create postings about the victim or start rumors which spread through the bulletin board system. Cyberstalkers may also set up a Web page(s) on the victim with personal or fictitious information or solicitations to readers. Another technique is to assume the victim's persona online, such as in chat rooms, for the purpose of sullyng the victim's reputation, posting details about the victim, or soliciting unwanted contacts from others. More complex forms of harassment include mailbombs (mass messages that virtually shutdown the victim's e-mail system by clogging it), sending the victim computer viruses, or sending electronic junk mail (spamming). There is a clear difference between the annoyance of unsolicited e-mail and online harassment. However, cyberstalking is a course of conduct that takes place over a period of time and involves repeated deliberate attempts to cause distress to the victim (Ibid.).

RECOMMENDED ACTIONS

In many cases, existing laws may cover the unlawful conduct at issue, but the use of the Internet is presenting numerous investigatory challenges with regard to jurisdiction, anonymity, and constitutionally-protected free speech that should be addressed. To address the investigation, prosecution and prevention of cyberstalking, Attorney General Janet Reno (1999) made the following recommendations to Vice President Gore on cyberstalking:

- States should review their laws to determine whether they address cyberstalking and if not, promptly expand laws to include same.
- Federal law should be amended to prohibit the transmission of any communication in interstate or foreign commerce with intent to threaten or harass another person where such communication places that person in reasonable fear of death or bodily injury.
- Law enforcement agencies need training on the extent of cyberstalking and appropriate investigative techniques.
- The Internet industry should create an industry-supported Web site containing information about cyberstalking and what to do if confronted with the problem.

SIGNIFICANT LEGISLATION

As of April 1, 2000, twenty-three states had included electronic forms of communication within their harassment or stalking laws.

For example, Section 646.9 of the California Penal Code, Paragraph (g) determines the circumstances under which a person is liable for the tort of stalking: "Credible threat" is "a verbal or written threat including that performed by an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety, or the safety of his or her family." Paragraph (g) defines "electronic communication" devices as "including but not limited to telephones, cellular telephones, computers, video recorders, fax machines, or pagers." (CA Penal Code Sec. 646.9 (g) & (h), California Cyber Stalking Law of 1998).

In the first case tried under the California cyberstalking law, a security guard was found guilty and incarcerated for using Internet bulletin boards and chat rooms to solicit the rape of a woman who had rejected his romantic advances.

PROMISING PRACTICES

- *Dover, NH Police Anti-Stalking Unit.* The Dover Police Department, with assistance from a USDOJ Community Oriented Policing Services (COPS) grant, has created an Anti-Stalking Unit that is charged to investigate all harassing, threatening, and stalking behaviors. It is a crime in New Hampshire if someone repeatedly follows a person, appears at their home, or engages in threatening contact. The unit staff are on hand to assist all stalking victims in assessing risks and developing safety plans. Their ten-minute video called "Stalked? What to Do" provides basic information about how to deal with stalking and is available for free by telephone or e-mail (staff e-mail addresses appear on the Web site). Dover Police Department, Dover, NH (603-742-4646) < www.ci.dover.nh.us > (then select City Departments, Police Department, Anti-Stalking Unit).
- *San Diego County Stalking Strike Force.* The District Attorney's Office in San Diego County, CA developed a Stalking Strike Force to increase awareness of problems in defending victims from stalkers, to better assess risks to their safety, and to improve the tracking of stalkers and the collection of viable evidence to effectively prosecute them. The unit is comprised of two attorneys, a victim/witness professional, and an investigator. The unit comes in contact with victims of stalkers in two ways—through law enforcement referral or through the stalking victim hotline in its office. Employing a proactive approach from the first moment of contact, they assign an investigator to the case to determine risk to the victim's safety and the possible need for a restraining order. Victims meet with the victim/witness professional to learn preventive measures to widen their safety net and limit their contact with the stalker. The unit has developed response plans that include set-ups for taping stalker phone calls and voicemail to screen telephone calls.

- When victims have been physically threatened by their stalker, they are advised to relocate. An emergency fund is in place to assist victims in rapid relocations.
- The stalking unit helps victims obtain restraining orders when necessary.
- The stalking unit's investigator continues to monitor and collect evidence on the stalker once the victim has relocated.

Stalking Strike Force, Office of the District Attorney, 330 West Broadway, San Diego, CA 92101 (619-531-4040).

WEB SITES FOR VICTIMS OF CYBERSTALKING

- < <http://members.aol.com/aardvarc1/stalking/stalking.htm> > . The Stalking site at the "An Abuse, Rape & Domestic Violence Aid & Resource Collection" Web site at AOL.com is designed to: support stalking victims; explain the parameters of the crime; and address such issues as what constitutes stalking, who are the victims, what to do if one is stalked, and exercising one's legal rights. The site also provides links to the stalking laws in all fifty states.
- < <http://www.cyberangels.org> > . This Web site has been in existence since 1995 and is considered the largest Internet safety and education program for parents and children. Cyberangels has Net Patrol teams that regularly monitor the Internet for child crimes, cyberstalkers, and fraudulent scams, and report them to law enforcement authorities. The Web site provides support groups for victims of stalking and harassment over the Internet and gives tips on how to document and report cyberstalking. Cyberangels also provides additional site links and reviews and recommends blocking/filtering software.

SECTION 2, STALKING

ABSTRACT

Stalking behavior has existed since the beginning of human history. Until recently, however, this behavior had never been labeled as a distinct pattern of deviant social behavior—let alone a crime. In fact, it was not until the passage of the first anti-stalking statute in 1990 that such behavior became *illegal*. Since this event, legislators, criminal justice professionals, and victim service providers have started to examine the nature of and psychological motivations behind stalking behavior. Still, the study of stalking and the development of effective response strategies is a discipline that is very much in its infancy. New information, issues, and challenges related to stalking come to light on a daily basis. The rapid evolution of this issue places ever-increasing demands on the field to stay current about how best to assist victims and respond effectively to stalkers.

LEARNING OBJECTIVES

Upon completing this section, students will understand the following concepts:

- The definition of stalking.
- The characteristics of stalkers and their victims.
- The categories used to classify stalking cases.
- The methods and motives of stalkers.
- The impact of stalking on victims.
- Response strategies for victims being stalked.

INTRODUCTION

Though the term “stalking” is somewhat new to the modern lexicon, the behavior itself is not new to human experience. The conduct generally associated with stalking—following, spying, unwanted calling/writing, accosting, harassing, and threatening—is as old as the history of human relationships. Yet, it has only been within the last decade that we have recognized such behavior as socially deviant—even criminal. Criminal justice and victim service professionals have always had to face such behavior but they only began to think about and address it as a separate issue when the conduct was distinguished as a unique phenomenon, deserving its own name—stalking.

This process of distinguishing stalking from other deviant social or criminal behavior reached a defining moment in 1990 when the state of California passed the first statute that made stalking a crime. This was a watershed event that triggered similar statutes in other states and at the federal level. The enactment of the California statute resulted in a growing awareness of stalking among criminal justice officials, victim service professionals, and the general public—all of whom began to view the problem in a more serious light.

Following the enactment of the California law and other anti-stalking statutes, criminologists and forensic psychologists began to study the nature of stalking behavior and the motivation of stalkers. Law enforcement, previously lacking the power and authority to take any action in such cases, began to develop specialized response strategies for stalking cases. Some jurisdictions even created special units to take on a more pro-active role in stalking cases. Prosecutors embarked on an effort to educate themselves and one another about how stalkers could be charged under stalking statutes (as well as other criminal laws) and how to best prosecute such cases. Victim service providers began to reexamine the way in which they responded to stalking, expanding their services and enhancing case management strategies in an effort to better serve the needs of victims. Even victims of stalking have come to identify themselves as a distinct and unique constituency by forming support groups to help one another cope with the aftermath of the crimes committed against them.

The rapidly growing interest in stalking is spawning a new area of “specialization” among professionals whose roles regularly involve them in such cases. Yet, even the most experienced among such professionals would readily admit that they are just beginning to understand the complex problems that stalking poses for both victims and society-at-large. Most of these professionals agree that solutions to the problem of stalking are not likely to be found without a considerable amount of additional research.

DEFINITION OF STALKING

Traditionally, the general perceptions of stalking involve some dark and malicious character following and even spying on an unsuspecting person. However, this stereotypical view is far too narrow to encompass all the behaviors generally attributed to stalkers today. Stalkers may indeed follow their targets physically but they are just as likely to use a variety of other means to monitor the activities of their targets. Stalkers have been known to use binoculars, telescopes, cameras equipped with “long lenses,” video cameras, hidden microphones, the Internet, public records, and accomplices (both witting and unwitting) to keep track of the whereabouts and activities of those they target.

Stalking is less about surveillance of victims than it is about contact with them. If stalkers only wished to view the objects of their obsession from afar, they would not pose a serious safety risk. Stalkers, by their very nature, want more. They want contact. They want a relationship with their victims. They want to be part of their victims’ lives. And, if they cannot be a positive part of their victims’ lives, they will settle for a negative connection to their victims. It is this mind set that not only makes them “stalkers,” but also makes them dangerous. Thus,

virtually all stalking cases involve behavior that seeks to make either direct or indirect contact with the victim. A 1998 National Institute of Justice (NIJ) survey of stalking victims provided the first glimpse into the kinds of tactics stalkers most often employ in the commission of their crimes (Tjaden and Theonnes 1998). What follows is a breakdown by percentage of some of the tactics that victims report:

- Followed, spied on, stood outside home or place of work (82%).
- Made unwanted phone calls (61%).
- Sent unwanted letters or left unwanted items (30%).
- Vandalized property (30%).
- Killed or threatened to kill a pet (9%).

While most of these behaviors alone may not in and of themselves *explicitly* communicate a threat, the number, nature, and context in which they occur may well communicate an *implied* threat. It is this element of threat to the safety of another that makes the conduct a crime and most legal definitions of stalking specifically address the presence of an element of threat.

How prevalent is stalking? Until very recently, no empirical evidence was available to answer this question. The most commonly quoted estimate had been that approximately 200,000 individuals are stalked each year in the U.S. However, the 1998 NIJ study first attempted to quantify the number of stalking cases. Based on a survey of more than 16,000 adults, the study estimated that 1.4 million Americans (approximately 1,000,000 women and 400,000 men) are currently being stalked in the U.S.—a number seven times greater than the previous estimate of 200,000 (Tjaden and Theonnes 1998).

STALKING STATUTES

While stalking statutes in each state vary considerably, most include language which defines stalking as:

- *Any person who engages in a course of conduct directed at a specific person that places that person, or their family, in reasonable fear for their safety, is guilty of the crime of stalking (NIJ 1993).*

Most states classify first-time stalking offenses as misdemeanors. While penalties vary from state to state, stalking typically carries a penalty of up to one year in prison and/or up to a \$1,000 fine. Some states have penalties that are substantially stiffer for second offenses, stalking in violation of a protective order, and/or stalking a child.

Service providers need to keep in mind that stalking victims may have the option of turning to the federal system for prosecution if their case falls within jurisdictional guidelines (i.e., if the offense occurs on a military base, involves crossing a state line, etc.). In addition to the anti-

stalking provision of the Domestic Violence and Stalking Act (18 U.S.C. §§ 2261–2265) the statute also includes provisions related to the violation of protective orders. Crimes in violation of either provision may provide victims with the means to pursue prosecution in federal court—particularly when the stalker is a former spouse or domestic partner. The Federal Obscene or Harassing Telephone Calls statute (47 U.S.C. § 223) may also prove useful in stalking cases where the perpetrator uses the phone to stalk and harass his or her victim. Having the option of pursuing a case in federal court may prove critical to many victims. In cases where local authorities refuse to prosecute—or when the local authorities *are* the perpetrators—federal prosecution may be a victim’s only option.

CHARACTERISTICS OF STALKERS AND THEIR VICTIMS

DEMOGRAPHICS OF THE STALKER

The demographics related to stalkers are both broad and diverse. As empirical evidence now shows, virtually *anyone* can be a stalker. Stalkers come from all walks of life and socioeconomic backgrounds. Despite their demographic diversity, data shows that some characteristics are more common among stalkers than others.

- 87% are male.
- 80% are white.
- 50% are between the ages of 18–35.
- Most are of above average intelligence.
- Most earn above-average incomes (Tjaden and Theonnes 1998).

The one trait all stalkers share is that they suffer from a personality or mental disorder, if not both.

DEMOGRAPHICS OF STALKING VICTIMS

Just as anyone can be a stalker, virtually anyone can be a stalking victim. The characteristics of stalking victims typically cut across all demographic boundaries. But again, some characteristics are more common than others among stalking victims.

- 78% are women.
- 83% are white.
- 74% are between the ages of 18–39.
- 59% are married.
- 35% have high school diplomas.
- 46% graduated from college (Tjaden and Theonnes 1998).

RELATIONSHIP BETWEEN STALKERS AND THEIR VICTIMS

As mentioned above, stalking is most often about “relationships”—prior, desired, or imagined. Therefore, it is critical to know about any prior relationship between the victim and the offender. The NIJ study indicates that the clear majority of stalkers and their victims (60%) had a personal relationship before the stalking began. The majority of these cases (42%) involved spouses or partners and another 14% had a dating relationship. In more than 4% of these cases, the stalker and the victim were actually related to one another. Nearly 18% of stalkers were acquaintances or co-workers of the victim, while only 22% were complete strangers (Tjaden and Theonnes 1998).

Nevertheless, the relationships between victims and offenders often follow broad, distinct patterns, allowing forensic psychologists to use the relationship between stalkers and victims as a means of categorizing stalking behavior and stalking cases. Still, it is important to keep in mind that some cases do not follow any pattern and may shift between categories as they evolve. Thus, these categories are only useful as broad guidelines to aid in the discussion and analysis of stalking as an emerging category of crime.

CATEGORIES OF STALKING

As mentioned, forensic psychologists have begun to study stalking as a distinct pattern of criminal behavior by analyzing and categorizing identified patterns and common characteristics of stalking cases. Chief among these characteristics is the relationship between the stalker and the victim. Initially, this approach identified three categories of stalking cases – Simple Obsession, Love Obsession, and Erotomania. However, recent developments seem to indicate the need for a fourth category which could be termed “vengeance” or “terrorist” stalkers.

SIMPLE OBSESSION STALKING

This category represents 60% of all stalking cases, including all cases arising from previous personal relationships (i.e., those between husbands/wives, girlfriends/boyfriends, domestic partners, etc.) Many simple obsession cases are actually extensions of a previous pattern of domestic violence and psychological abuse. The only difference is that the abuse occurs in different surroundings and through slightly altered tactics of intimidation. Thus, the dynamics of power and control that underlie most domestic violence cases are often mirrored in simple obsession stalking cases.

Stalking behaviors observed in many domestic violence cases are motivated by the stalker’s lack of self-esteem and feelings of powerlessness. Indeed, abuser/stalkers attempt to raise their own self-esteem by demeaning and demoralizing those around them. In most cases, they target their former spouses. The exercise of power and control over their victims gives stalkers a sense of power and self-esteem that they otherwise lack. In this way, the victim not only becomes the stalker’s source of self-esteem but also becomes the sole source of the stalker’s identity. Thus, when victims attempt to remove themselves from such controlling situations, stalkers often feel that their power and self-worth have been taken from them. In

such cases, stalkers will often take drastic steps to restore personal self-esteem. It is when stalkers reach this desperate level that they may feel they have “nothing to lose” and become most volatile. This dynamic makes simple obsession stalkers dangerous, as individuals and as a group.

Simple obsession is the most likely category of stalking to result in murder. Thirty percent of all female homicides were committed by intimate partners. Domestic violence victims run a 75% higher risk of being murdered by their partners. “If I can’t have you, nobody will,” has become all too common a refrain in cases that escalate to violence. Many of these cases end with the murder of the victim followed by the suicide of the stalker.

LOVE OBSESSION STALKING

In this category, stalkers and victims are casual acquaintances (neighbors, co-workers) or even complete strangers (fan/celebrity). Primarily, stalkers in this category seek to establish a personal relationship with the object of their obsession—contrary to the wishes of their victims. Love obsession stalkers tend to have low self-esteem and often target victims who they perceive to have exceptional qualities and high social standing. These stalkers seek to raise their own self-esteem by associating with those whom they hold in high regard.

Love obsession stalkers become so focused on establishing a personal relationship with their victims that they often invent detailed fantasies of a nonexistent relationship. They literally script the relationship as if it were a stage play. However, when victims choose not to participate in the stalker’s imagined passion-play, the stalker may try to force victims into assigned roles. Often, love obsession stalkers are so desperate to establish a relationship—*any relationship*—that they “settle” for negative relationships, explaining why some stalkers are willing to engage in destructive or violent behavior in an irrational attempt to “win the love” (more likely the attention) of their victims. Such obsessive reasoning might explain why John Hinckley believed he would win the heart of Jodi Foster by shooting President Ronald Reagan. It might also explain why a man who proclaimed himself to be John Lennon’s “biggest fan” shot him dead on the sidewalk outside of his home.

While cases of “star stalking” often receive the most media attention, a greater number of love obsession stalkers develop fixations on “regular” people—noncelebrities. In one particularly tragic case, a young computer engineer developed a fixation on a new female co-worker, Laura Black. What began as seemingly friendly, even charming gestures on his part soon became excessive and threatening. Shortly after he had been fired for the relentless harassment of Ms. Black, he returned to the workplace and literally shot his way through the building. He killed several employees and wounded many more, including Ms. Black. A search of the stalker’s home uncovered a scrapbook full of doctored pictures of himself and his victim on a ski trip that never took place. This fantasy ski trip was part of a scripted relationship he wanted to make a reality.

EROTOMANIA STALKING

By definition, erotomaniacs are delusional and consequently, virtually all suffer from mental disorders—most often schizophrenia.

Unlike “simple” and “love” obsession stalkers who seek to establish or reestablish personal relationships with their victim, erotomaniacs delude themselves into believing that such a relationship *already exists* between themselves and the objects of their obsession.

Though relatively rare (comprising fewer than 10% of all cases), erotomania stalking cases often draw public attention because the target is usually a public figure or celebrity. Like love obsession stalkers, erotomaniacs attempt to garner self-esteem and status by associating themselves with well-known individuals who hold high social status. Erotomaniacs seek fame and self-worth by basking in the celebrity of others. While the behavior of many erotomaniacs never escalates to violence, or even to threats of violence, the irrationality that accompanies their mental illness presents particularly unpredictable threats to victims.

Perhaps the best-known case of erotomania stalking involved a series of incidents perpetrated against the popular late night talk show host, David Letterman. This woman, first found hiding in Mr. Letterman’s closet, believed she was his wife. On numerous other occasions she was caught trespassing on his property. With her young son in tow, she once scaled the six foot wall surrounding Letterman’s property. On another occasion, she was arrested while driving Letterman’s stolen car. When questioned by police, she confidently stated that her husband was out of town and that she was going grocery shopping so she would have dinner ready for him upon his return. Despite the treatment she received during her many involuntary stays at a mental institution, she eventually took her own life.

VENGEANCE/TERRORISM STALKING

The final stalking category is fundamentally different from the other three. Vengeance stalkers *do not* seek a personal relationship with their targets. Rather, vengeance/terrorist stalkers attempt to elicit a particular response or a change of behavior from their victims. When vengeance is their prime motive, stalkers seek only to punish their victims for some wrong they perceive the victim has visited upon them. In other words, they use stalking as a means to “get even” with their enemies.

The most common scenario in this category involves employees who stalk employers after being fired from their job. Invariably, the employee believes that their dismissal was unjustified and that their employer or supervisor was responsible for unjust treatment. One bizarre variation on this pattern is the case of a scout master who was dismissed for inappropriate conduct and subsequently decided to stalk his *entire* former scout troop – scouts and scout leaders alike.

A second type of vengeance or terrorist stalker, the political stalker, has motivations that parallel those of more traditional terrorists. That is, stalking is a weapon of terror used to accomplish a political agenda. Utilizing the threat of violence to force the stalking target to engage in or refrain from engaging in particular activity. For example, most prosecutions in

this stalking category have been against anti-abortionists who stalk doctors in an attempt to discourage the performance of abortions.

IMPACT OF STALKING ON VICTIMS

There is little doubt that stalking has a tremendous impact on the lives of those who are targeted. Indeed, many victim service professionals contend that the threat of violence inherent in stalking cases can take a higher toll on its victims than those who have been victims of completed acts of violence. The following are signs of stalking-related stress:

- Loss of sleep.
- Weight loss.
- Depression.
- Anxiety.
- Difficulty concentrating.

The 1998 NIJ study indicated that 30% of women and 20% of men in stalking cases sought psychological counseling as a result of the victimization (Tjaden and Theonnes 1998). Moreover, many victims experience a loss of personal support systems at the very moment they need them most. Stalking victims often turn to family, friends, and co-workers for help, guidance, and emotional support. However, given the intractability of many stalking cases, victims often find that their friends, co-workers, neighbors, and even their family members are unable to sustain levels of long-term support.

Additionally, the economic security of stalking victims may be shattered as a result of their victimization. The NIJ study provides an empirical perspective indicating that 25% of stalking victims lost time from work as a result of being targeted and another 7% said that they were unable to return to work altogether. In some more egregious cases, victims have been fired by unsympathetic employers unwilling to accommodate special needs of victim employees.

RESPONSE STRATEGIES FOR STALKING VICTIMS

Each stalker is different just as every stalking case is different, and it is virtually impossible to construct a single strategy that is an appropriate response in all stalking cases. Response strategies must be tailored to fit the unique circumstances surrounding each case.

Given the complexities involved, any victim is unlikely to have the experience and knowledge to craft an effective response strategy without assistance. Victims' strategic planning is better accomplished with the advice and active support of victim service professionals who have extensive experience in the management of stalking cases. For this reason, the best advice

anyone could offer a stalking victim is to seek the assistance of victim service professionals at the earliest point possible.

A qualified service professional will first consult with the victim on risk-assessment. Based on the assessment, victims and service professionals will next jointly develop a safety plan or overall response strategy which will best serve victims' interests. Often, victims are the best judges of the threat and the likely reaction that stalkers may have to any conceived strategy. No matter how carefully an initial plan is thought out, victims and advocates must be willing to alter the plan as circumstances warrant. The approach that may make the most sense upon first inspection may prove ineffective or even counterproductive when tested against real-life circumstances. Thus, both victims and their service providers—in conjunction with other allied professionals—must be willing to revisit and adjust their strategies and plans as events evolve. This dynamic partnership has proven to be most effective.

While each case is unique and must be addressed with a unique set of strategies, the vast array of options may appear daunting to the victim. Skilled service providers, however, can help victims find their way through the buffet of options so that victims can piece together response strategies.

What follows is a list of these strategies for stalking victims as developed by the National Center for Victims of Crime (NCVC 1999; LAPD 1993). Although this list is not intended to be comprehensive, the strategies are representative of alternatives that victims and service providers may want to consider when developing response plans.

VICTIMS IN IMMINENT DANGER

The primary goal of victims in imminent danger should be to locate a safe place for themselves. Safety for stalking victims can often be found in the following places:

- Police stations.
- Residence of family/friend (if location is unknown to perpetrator).
- Domestic violence shelters/churches.
- Public areas (stalkers may be less inclined toward violence or creating a disturbance in public places).

If departure from the current location is not possible and a telephone is accessible, a victim may contact local law enforcement via 911. Upon reaching safety, a victim may want to communicate with local law enforcement, victim services, mental health professionals, and/or social services in order to receive additional assistance and referrals.

VICTIMS IN CONTINUAL DANGER, BUT NO IMMEDIATE THREAT

Some victims may not be in immediate danger, but they may assess the probability of impending danger. If stalking victims determine that they are at risk of being in a potentially harmful or violent situation, they may consider the following:

Restraining/protective/stay-away orders.

- Generally, these orders require the offender to stay away from and not interfere with the complainant. If violated, stalkers may be punishable by incarceration, a fine, or both. Unfortunately, restraining orders are *not* foolproof. They are not always complied with by stalkers or enforced by law enforcement officials or others in the criminal justice system. Therefore, victims should be cautioned against developing a false sense of security based on the issuance of a protective order.
- Orders are *not* assured—they are at the discretion of the sitting judge.
- These orders are typically obtained through the district attorney's or prosecutor's office.

Anti-stalking laws.

- All states have enacted anti-stalking laws that make it a crime to willfully, maliciously, and repeatedly harass, follow, or cause credible threat to another individual in an attempt to frighten or harm.
- Victims may call or visit their local prosecutor's office to inquire about the state laws, municipal laws, and their applicability to specific cases.

Other illegal acts.

- Victims may determine that the perpetrator has broken a law other than the applicable state stalking law if the stalker has entered the victim's household without permission, stolen, and/or destroyed the victim's property, physically and/or sexually assaulted the victim, etc.

Notifying the police of any of the above illegal acts may be important for the following reasons:

- If convicted, the perpetrator may be incarcerated and/or, if probable cause is shown at a hearing prior to conviction, ordered to stay away from the victim. The latter may be ordered by a judge if:
 - Charges may intimidate the offender, sending the message that his or her actions are illegal and will not be tolerated.
 - Notification to the police produces documentation that may be useful in a future complaint for evidentiary or credibility purposes.

Documentation/evidence collection.

- Documentation of stalking should be saved and given to law enforcement.
- Documentation of the perpetrators' actions may be useful in future complaints or proceedings for evidentiary or credibility purposes.

- Documentation may take the form of photos of destroyed property/vandalism or any injury inflicted on the victim by the perpetrator; answering machine messages saved on tape; letters or notes written by the perpetrator; affidavits from witnesses; and other materials.
- All documentation and evidence collected should be kept in a safe place to prevent theft by the perpetrator.

Local victim advocate/crisis counselor. Assistance may be obtained from the following sources:

- Domestic violence shelters/counselors.
- Rape crisis counselors.
- Victim advocates in district attorney's/prosecutor's offices.
- Local law enforcement.

Crisis counselors may either give a referral telephone number to a victim or offer to make an initial call and have a service professional from the referral organization contact the victim.

When no appropriate referral is available in the victim's vicinity, law enforcement agencies should be contacted.

Preventive measures.

- Install dead bolts. If a victim cannot account for all keys, change locks and secure spare keys.
- If possible, install adequate outside lighting.
- Maintain an unlisted telephone number. If harassing phone calls persist, notify law enforcement.
- Treat any threats as legitimate and inform law enforcement.
- Vary routes taken and limit time spent walking.
- Inform a trusted neighbor (and colleagues) regarding situation. Provide neighbors with a photo or description of the suspect and any possible vehicles he or she may drive. Allow them to serve as your "early warning" which will buy you time to escape should the stalker appear.
- If residing in an apartment with an on-site manager, provide the manager with a picture of the suspect.
- Have co-workers screen calls and visitors.
- When out stay in public areas and try not to travel alone.

Contingency plans. When victims are not in imminent danger, they still could be at risk at any time. For this reason, a contingency plan may be appropriate. Victims should consider—

- Having quick access to critical telephone numbers and locations of:
 - Law enforcement agencies.
 - Safe places (friends, domestic violence shelters, etc.).
 - Individuals to be contacted after safety is secured (family, neighbors, friends, employers, attorneys, prosecutors, pet care, etc.).
- Keeping a reserve of necessities that is easily accessible:
 - A packed suitcase in the car, or at another ready location for quick departure. Include a toy, book, and any special belongings for children.
 - Money.
 - Other necessary items such as bank and credit card information, creditors' numbers, medical insurance, and birth certificates, as well as personal welfare items including medications.
 - A ready means of transportation (keep gas in the car, have money for a taxi, etc.) and back-up keys for neighbors.
- Alerting the following critical people of the situation and potential crisis:
 - Law enforcement.
 - Employers.
 - Family/friends/neighbors.
 - Security personnel.

Stalking is one of the most difficult issues facing criminal justice officials and victim service professionals. Studies now show that stalking is far more common than previously estimated and its consequences to victims more profound than imagined. The demographics of stalkers and their victims are as diverse as the entire population. The complexity of stalking behavior and the motivations behind such crimes make it a problem as difficult to comprehend as it is to solve. Professionals in the fields of criminology, psychology, and victimology are just beginning to develop response strategies based on their initial study of experience with stalkers and stalking behavior. Only a comprehensive and coordinated response of committed individuals and institutions—both inside and outside the criminal justice system—will likely succeed in stemming the fear, violence, and death that stalking inflicts on millions of victims each year.

Victims of Gang Violence

SECTION 3, VICTIMS OF GANG VIOLENCE**STATISTICAL OVERVIEW**

- An estimated 780,000 gang members were actively involved in gangs in 1998, down from 816,000 members in 1997. Of this number, 92% of gang members were estimated to be male and 8% were estimated to be female. The distribution of gang members by racial/ethnicity is Hispanic/Latino 46%, African-American 34%, Caucasian 12%, Asian 6%, and other races 2%. Thirty-three percent of the gangs were made up of a significant mix or two/or more racial/ethnic groups (OJJDP December 1999a).
- There were 3,340 gang member-based homicides in 1997 representing 18% of the homicides reported nationwide (OJJDP December 1999b).
- In an investigation into roles in the gang hierarchy played by its members, researchers discovered that members who were active for the entire four-year period of the study had roughly a 25% chance of dying. Furthermore, gang members experienced an average of more than two nonfatal injuries (mostly from gunshots) and nearly six arrests in that four-year period (Venkatesh November 1999).

SIGNIFICANT RESEARCH

A National Institute of Justice (NIJ) investigation into the prosecution of violent crimes committed by gang members found that prosecutors take many different and sometimes unusual approaches in dealing with witnesses in gang cases, in which witness protection is crucial. Witness protection goes hand in hand with witness cooperation. An NIJ survey of prosecutors showed a consensus among prosecutors that the reluctance of victims and witnesses to cooperate was seen to be based upon justifiable fears of retaliation, victim/witness intimidation, residence in a neighborhood culture that discouraged "snitching," and crossover involvement of victims and witnesses in gang activity (Johnson, Webster, and Connors February 1995).

Victim/witness intimidation both weakens the ability of the prosecution to investigate and present the case and damages the community's confidence in law enforcement's ability to maintain public safety and bring offenders to justice. To ensure the safety of victims and witnesses and to successfully prosecute gang crime, prosecutors are taking many of the following measures:

- Provide victim/witness protection inside and outside the courtroom.
- Provide emergency and short-term relocation for victims and witnesses.

- Videotape pretrial testimony.
- Aggressively prosecute all instances of victim/witness intimidation.
- Request high bail for victim/witness intimidation.
- Remove gang members from the court.
- Assign victim advocates to prepare victims and witnesses for trial and keep them personally apprised of case status through every stage of the process (Gramckow and Tompkins December 1999).

PROMISING PRACTICES

- *Victims/Witness Unit, Shelby County, TN.* Victim/witness intimidation in neighborhoods with a high density of illegal immigrants creates additional concerns for victims and witnesses of gang crime. For example, the District Attorney's Office in Shelby County, TN found that local gangs directed a growing amount of violence towards immigrants known to have entered the county illegally. The gangs preyed upon neighborhoods with large populations of immigrants recognizing that for fear of deportation, the victims were less likely to report crimes and the witnesses were less likely to come forward to offer evidence.

In an effort to reassure illegal immigrant victims of gang violence that their victimization would be fully addressed by law enforcement and the criminal justice system, regardless of their citizenship status, and to encourage key witnesses to testify, the Victims/Witness Unit in Shelby County, TN received permission from the U.S. Immigration and Naturalization Service (INS) to develop and distribute through law enforcement, a photo ID card that identifies them as participants in an ongoing case in the county criminal justice system and prevents their deportation by the INS. As a result, victim advocates are building a greater foundation of trust when they interact with the immigrant community, and more gang violence is successfully prosecuted. Victim Witness Unit, District Attorney's Office, Criminal Justice Center, 201 Poplar, Suite 301, Memphis TN 38103-1947 (901-545-5900) (Blackburn 17 October 1999).

- *Mothers Against Violence in America (MAVIA)* is a grassroots community mobilization organization, founded in 1993 in Seattle, WA in response to a dramatic increase of violence by and against children. MAVIA supports prevention and early intervention for youth-at-risk for gang-related activities and focuses on prevention that is developmentally based, beginning at an early age and continuing onto adulthood. MAVIA promotes education that provides tools for children to deal with conflict—teaching them about their choices and taking responsibility for those choices. MAVIA promotes community education opportunities for parents and children on violence prevention and victim awareness education. Intervention with crime victims of gang-related violence (offering respect and providing information and education) is a tool for preventing future crime among victimized youth and those growing up in a violent environment. Mothers Against Violence in America, 105 14th Avenue, Suite 2-A, Seattle WA 98122 (800-897-7697).

- *Gang Prevention Through Targeted Outreach* is a comprehensive program that directs at-risk young people to positive alternatives offered by Boys & Girls Clubs. Through both direct outreach efforts and referrals by courts, police, juvenile justice agencies, schools, social service agencies, and community organizations, young people identified as at-risk are recruited and mainstreamed into club program activities as a diversion from gang activity. Gang Prevention Through Targeted Outreach, Boys and Girls Clubs of America, 1230 Peachtree St. NW, Atlanta, GA 30309-3494 (404-815-5763).

SECTION 3, VICTIMS OF GANG VIOLENCE**ABSTRACT**

This section will provide students with a basic understanding of gang-related violence and victim assistance. Students are presented with a psychological and sociological model of a typical gang member and gang as well as law enforcement intervention/suppression programs and prevention efforts. Victims' rights and needs, which have unique aspects when perpetrators are gang members, are also examined along with components of a model victim advocacy approach.

LEARNING OBJECTIVES

Upon completing this section, students will understand the following concepts:

- Definitions of gangs.
- Sociological characteristics commonly found in gang members.
- Law enforcement and social service strategies to prevent and respond to gang activity.
- Characteristics that are unique to victims and witnesses of gang violence.
- How to best meet the needs of victims of gang violence.
- Recommendations to improve rights, services, and support for victims and witnesses of gang violence.
- Promising practices in assisting victims of gang violence.

STATISTICAL OVERVIEW

- The conservative estimate of nationwide gang-crime activity, based on law enforcement reports, is 8,625 gangs, 378,807 gang members, and 437,066 gang-related crimes for 1993. A more reasonable estimate is 16,643 gangs, 555,181 gang members, and 580,331 gang-related crimes for 1993 (Curry, Ball, and Decker 1996).
- The number of *gangs* estimated for 1993 represents a 76.7 percent (or 241 percent) increase over 1991 figures, depending on the approach used (Ibid.).
- The number of *gang members* estimated for 1993 represents a 51.9 percent (or 122.7 percent) increase over 1991 figures, depending on the approach used (Ibid).

- The number of *gang-crime incidents* estimated for 1993 represents an 843 percent (or 1,152 percent) increase over 1991 figures, depending on the approach used (Ibid.).
- The 1996 National Youth Gang Survey found that 53% of survey respondents (law enforcement agencies) reported that gangs were active in their jurisdiction in 1996. Respondents in large cities reported the highest level of gang activity (74%), followed by suburban counties (57%), small cities (34%), and rural counties (25%) (Moore and Terrett 1998).
- From these data, up to 4,824 U.S. cities are estimated to be experiencing youth gang problems and that nationwide there may be as many as 31,000 street gangs, with a total membership of 846,000 (Ibid.).
- The race and ethnicity of youth gang members appear to be changing compared with earlier national surveys and research involving smaller samples. Respondents in the 1996 survey reported the following percentages nationally for gang members: Hispanic/Latino, 44%; African-American/Black, 35%; Caucasian/White, 14%; Asian, 5%; other, 2% (Ibid.).
- Among state prison inmates who were gang members, 81% reported past drug use, and 69% said they manufactured, imported, or sold drugs as a group (BJS 1994).

INTRODUCTION

The problem of gangs is reaching a critical point in many communities today. Communities are affected as they struggle to pay for the costs of law enforcement strategies to combat the operation and spread of gang violence. No one can place a dollar amount on the loss of life and the physical and emotional suffering experienced by victims and neighborhoods under gang siege. Thousands of our youth are irreparably harmed by the violent and criminal activity that is condoned and encouraged by gang membership. Most disturbing is the increasing trend for gangs to recruit children as young as seven or eight years of age.

The cost to individual victims resulting from drive-by shootings, assault, property damage, drug-related violence, and robberies is felt in all urban communities, as well as in many suburban and rural communities. Victims of gang violence have many special needs that are highlighted throughout this section.

DEFINING GANGS

Gangs are defined differently by researchers and criminal justice professionals. A statutory definition of “gang” is:

An on-going, organized association of three or more persons, whether formal or informal, who have a common name or common signs, colors or symbols, and members or associates who individually or collectively engage in or have engaged in criminal activity (Conly 1993).

In other words, according to law enforcement, a gang is any group gathered together on a continuing basis to commit anti-social behavior.

In *Deadly Consequences*, noted academician and youth violence expert Dr. Deborah Prothrow-Stith cites three types of gangs as identified by Dr. Carl S. Taylor, a Detroit sociologist:

1. *Scavenger gangs* are the least organized and the least “successful” gangs. Leadership of these groups can change daily or weekly. Scavengers do not have any pre-planned goals. Their crimes are spontaneous, as is their method of banding together. Taylor says that the members of this kind of gang are likely to be low-achievers and drop-outs who are prone to erratic behavior. Scavenger gangs are looked down upon by other more organized gangs. After an initial period of disorganization, some scavenger gangs . . . retool themselves into territorial gangs.
2. *Territorial gangs* are the turf-loyal organizations we all tend to think of when we think of gangs in Los Angeles . . . highly organized and highly elaborated with formal initiation rites for entering members and many other ceremonies, traditions, and practices that separate members from non-members . . . The members of territorial gangs are young people who have usually done very poorly in school. Often they have troubled family lives. Many speak little English. The gangs provide them with the sense of being someone, and they are proud to be identified as members.

A major activity of territorial gangs is fighting. The whole point of marking off your own territory is to keep somebody else out . . . the turf boundaries that territorial gangs protect from incursion may be merged with the boundaries of a gang’s drug-selling territory, but this is not always the case. Territorial gangs sometimes sell drugs and sometimes do not. The primary purpose of these gangs, however, is social, not economic. Drug selling is a vehicle for survival, not the reason these gangs exist.

3. . . . Though made up of teens sometimes as young as fourteen, *corporate gangs* are really highly structured criminal conspiracies organized to sell drugs . . . Members of corporate gangs are gangsters in the traditional sense of the word. Discipline, secrecy, and strict codes of behavior are required of every member. Punishments can be severe . . . Members of corporate gangs, though not necessarily schooled, are often highly intelligent. Leaders must be capable of sophisticated strategic planning, personnel management, and money management (Prothrow-Stith 1993).

THE SOCIOLOGY OF GANGS

Street gangs begin for many social and economic reasons. Following are the two of the most common reasons youth join gangs:

- The breakdown of the family as a cohesive unit.
- Desperate poverty.

In recent years, street gangs have been observed in middle-class areas, but close scrutiny of these gangs reveals that, in general, the nucleus for gang formation is still found in the families’ instability. In many cases, the families have moved from gang-infested neighborhoods, due to an improved socioeconomic condition, and simply transferred a hardened street gang member to virgin turf.

The Pinellas County (Florida) Sheriff’s Department identifies seven key reasons that a young person becomes involved in a youth or street gang (1992):

1. *A sense of recognition and power (ego trip)*. Gang involvement provides a sense of power, excitement, recognition, and a chance to develop leadership qualities. Gang participation also allows a member to achieve a level of status s/he feels is impossible to attain outside the gang subculture due to unemployment or lack of success in school, sports, or other activities.
2. *Peer pressure, acceptance (intimidation)*. Many adolescents feel that “going along with a crowd” is an important factor in joining a gang. Some young people seek out gangs due to a strong need to belong to something. Others assimilate into youth gangs as a result of intimidation or even violent peer pressure from other gang members. Many youths have boy/girl friends who are gang members and therefore join to be with their friends.
3. *Lack of opportunity*. Some youths simply join a gang because they feel there are no other opportunities to look forward to in the future (nothing else to live for).
4. *Protection and/or fear*. Some youths are fearful of the continued threats or perceived threats they receive from other members. Some youths join gangs in order to protect themselves from assaults from rival gangs.
5. *Obtain a sense of “family” and an identity*. Adolescents desire to belong to a “family” or a structured group which can also provide a strong sense of identity. The gang can act as a substitute for family cohesiveness that is often lacking in a member’s home environment. Youths will join a gang to receive the love, attention, and positive strokes they feel they have not been receiving at home from their parents.
6. *A source of income*. A false sense of economic security is promoted due to the money and drugs that lure young people into gangs. Gang members feel they can make more money within a gang than they can on the outside.
7. *Older siblings and/or relatives were gang members*. Some members of street gangs have had other members of their family involved in gang activity. They look up to and/or respect these persons and desire to be like them.

GANG CHARACTERISTICS

In 1996, OVC sponsored a series of focus groups made up of victims of gang violence and victim advocates. Participants—many of whom provide assistance and support “on the front line” of gang territories—provided a summary of their knowledge of gang characteristics:

- Gangs provide security and support to their members. There is a lack of alternatives in communities that can provide security and support, especially to youth.
- As a society, the United States is very “unforgiving” of former gang members’ pasts.
- Youthful gang members have “no fear of death” and often *how they die* is what is important in gang dynamics. This factor contributes to retaliatory gang violence and criminal acts that are increasingly violent in nature.

- Gangs have highly complex, multi-tier structures. They are “smart and organized,” making prevention/intervention efforts more challenging.
- Efforts to seek “peace treaties” among gangs and thereby reduce violence and victimization can be destroyed by one person within one gang.
- Children in communities where gangs are present often have a “strong frame of reference for violence.” For many parents, maintaining control over their children is an “everyday battle.” Parents have no support to help them prevent their children from entering into gang lifestyles.
- Hate gangs (such as skinheads) have unique cross-jurisdictional issues because the gang members “roam” from one community to the next.
- Asian-American gangs tend to “stay within their culture,” are “more capitalistic,” economically prosperous, and reinvest in their own operations. With Asian-American gang-related crimes, there is no trust in the criminal justice system, and law enforcement is “not esteemed.” Coalitions to provide victim assistance and services are difficult to build (Seymour and Ray 1996).

“JUMPING IN”

The transformation of a youth into a gang member does not take place overnight but involves a slow assimilation. Older members informally observe the development of the “recruit” and gradually allow him or her to associate with the gang. Once the “recruit” reaches an age where he or she can prove himself or herself to peer leaders within the gang structure, some rite of passage or ceremony must be gone through to earn full membership. This process is called “jumping in.” In many instances, jumping in rites of passage are extremely violent and may involve the beating of the prospective gang member and having that recruit perform some violent crime against another person. Alternately, some members may be “courted in”—simply accepted into the gang without having to prove themselves in any particular way.

GANG ACTIVITY

There are various indicators of gang activity on school campuses. Acts of vandalism, arson, and graffiti painting, although secretive in nature, are often considered gang involved. Stabbings and shootings between rival gangs take a toll on innocent students and teachers. Student extortion and teacher intimidation also exist.

When viewed from a law enforcement perspective, gang activity is a study in violent crime. A perpetual cycle of violence has been established within the street gang milieu. Gang rivalries may date back many years. As new generations of members enter the gang, they are taught to hate their rivals as vehemently as their predecessors did. Investigators have found that many times gang members do not know the reasons they originally became rivals of a particular gang. They know of only the more recent incidents. One gang member stated, “I don’t know why we fight them. We’ve fought ‘em since my father’s time.”

With this mentality affecting the socialization and personality growth of a child, applying conventional law enforcement techniques to street gangs is difficult. Many street gang members see their violent behavior toward rivals as a legitimate endeavor.

GANG VIOLENCE

In a recent survey of high school students in Seattle, Washington, gang members reported that they were nearly three times as likely as non-gang members to obtain a gun easily. In response to the survey, more than half of the gang members reported owning a gun, while just four percent of non-gang members gave the same response.

Conly (1993) recently reported the account of a former gang member who testified before a public hearing on gang violence in Dallas, Texas:

It's real easy (for teenagers to get guns). You just have to have the money, and know somebody who can get one. Most gang members have . . . it's probably related to a drug dealer. They contact the drug dealer and tell him, "I pay so much for a gun." . . . A .12 gauge sawed-off would run, like, about 50 to 90 bucks. Nobody really ever buys a gun over 50 unless it's fully automatic.

In recent years, gangs have been able to acquire automatic and semi-automatic guns. These have been used in drive-by shootings which have become a trademark of gang violence. With the introduction of such powerful and destructive weapons, the nature of the violence between gangs has changed since the 1970s. Spergel and others point to the increase in weaponry and mobility as major reasons for the increase in violence, especially homicide. The ability to "hit and run" has made attacks easier to accomplish and more deadly.

COMMUNITY AND LAW ENFORCEMENT

STRATEGIES TO TARGET GANGS

Numerous law enforcement organizations across the country have developed specialized gang units to combat the problem of gang crime and violence. The traditional law enforcement approach has been as follows:

- Incapacitation of hard-core gang members.
- Increasing punishment.
- Deterring involvement in gangs.
- Rehabilitation of gang members.

Experience shows that incapacitation of individual gang members is not sufficient to control gang crime because removing individuals does not diminish the influence of the gang on the street. In addition, gangs have learned the procedural differences between juvenile and adult court and have used these to their advantage. Since gangs consist of both juvenile and adult members, many gangs have come to use juveniles extensively in the commission of crimes. This ensures lenient penalties for adjudicated juvenile offenders.

Some police departments, such as Oxnard, California, have developed special gang units that target gang members and attempt to reduce over labeling. They have defined gang membership more narrowly and are targeting hard-core gang members with serious violent criminal histories. The program aims at stiffer penalties if a convicted gang member on probation associates with known gang members. A key feature of the approach is the sharing of information with all officers that is likely to lead to an arrest and conviction of the most serious members.

Community-oriented policing has also been used in communities with known gang problems. For example, in Reno, Nevada, the department's primary emphasis has been on peripheral gang members, or "wannabes," and their parents. Officers work with parents to inform them that the child or youth is associating with gang members and assist the parents in obtaining social services as needed. Through these methods officers have gained the confidence of parents and have been successful in working cooperatively with them to prevent gang involvement.

Some consistent themes, as listed below, emerge when discussing effective responses to gangs and gang violence.

- Coordination and information sharing among federal, state, and local agencies.
- Increased use of community-based policing.
- The development of integrated, automated tracking systems for information on gang members as they move in and out of the criminal justice system.
- Gang Resistance Education and Training (GREAT).
- Continued use of Drug Abuse Resistance Education (DARE) programs.

WITNESS INTIMIDATION

Concern has been widely expressed regarding victim and witness services in cases involving gang violence. Intimidation of witnesses is reported to be a serious problem in most metropolitan areas, and the use of escort services as a method of witness protection has been suggested.

The *Preventing Gang- and Drug-Related Witness Intimidation* report published in 1996 by the National Institute of Justice focused on efforts to prevent victim and witness intimidation in gang- and drug-related cases. With regard to the nature and extent of this problem, this report delineates two forms of witness intimidation that are hampering the investigation and prosecution of crime:

- *overt intimidation*, when someone does something explicitly to intimidate a witness; and
- *implicit intimidation*, when there is a real but unexpressed threat of harm, as when rampant gang violence creates a community-wide atmosphere of fear.

The NIJ report found that traditional prosecutorial approaches to victim/witness intimidation, such as prosecuting intimidators vigorously, requesting high bail to keep intimidators locked up, and enhancing basic victim/witness program services simply are not enough to prevent intimidation. Innovative security programs, however, which have expanded upon or taken a different approach with respect to the above traditional practices, are proving successful. Elements of such programs include:

- Relocation of genuinely endangered witnesses, including emergency, short term, and permanent relocation.
- Removal or segregation of gang members in the courtroom, or the complete closing of the courtroom to spectators.
- The reduction of community-wide intimidation through the use of community policing, vertical prosecution, and other strategies (Finn and Healey 1996).

COMMUNITY RESPONSE

In 1997, the Bureau of Justice Assistance published a monograph entitled *Addressing Community Gang Problems: A Model for Problem Solving*. A number of response options for communities that seek to address the problems of gang-related activities were presented in the context of the “SARA” model (scanning, analysis, response, and assessment). The response stage has three objectives: developing options based on information gathered during the analysis, selecting a response, and implementing the response.

Developing response options. After a problem has been identified and analyzed, possible responses need to be developed and listed. These response options should be wide ranging, and no option should be ruled out at this point in the process. The range of possible responses includes the following strategies (Goldstein 1990):

- ***Focus in.*** Concentrate attention on the relatively small number of individuals who usually account for a disproportionate share of any problem—those who cause it (offenders), facilitate it (controllers, managers, and guardians); or suffer from it (victims).
- ***Connect with other governmental and private services.*** Thoroughly analyzing a problem often leads to recognizing the need for (1) more effective referrals of victims and/or offenders to existing governmental and private services; (2) improved coordination among agencies that exert control over the problems or individuals involved in the incidents; and (3) correction of inadequacies in municipal services and development of new services.
- ***Use mediation and negotiation skills.*** Using mediation and negotiation teams can often be an effective response to conflicts.
- ***Convey information.*** Relaying sound and accurate information is one of the least used but potentially most effective responses to a wide range of problems. Information can (1) reduce anxiety and fear, (2) enable citizens to solve their own problems, (3) help people conform to laws and regulations that are not known or understood, (4) warn potential victims about their vulnerability and advise them of ways to protect themselves,

- (5) demonstrate to people how they unwittingly contribute to problems, (6) develop support for addressing a problem, and (7) acquaint the community with the limitations of government agencies and define what can be realistically expected of those agencies.
- *Mobilize the community.* Mobilizing a specific segment of the community can help implement a specific response for as long as it takes to reduce or eliminate problems.
 - *Use existing forms of social control.* Use the social control inherent in existing relationships, such as the influence of a parent, teacher, employer, or church.
 - *Alter the physical environment.* Adapting the principles of crime prevention through environmental design can reduce opportunities for problems to recur.
 - *Regulate, through statutes or ordinances, conditions that contribute to problems.* Analysis of the factors contributing to problems may identify those that can be controlled by regulation through statutes or ordinances.
 - *Develop new forms of limited authority to intervene and detain.* Expanding problem solvers' authority to intervene with or detain persons involved in an incident may prevent escalation into criminal behavior.
 - *Use the criminal justice system only when appropriate.* Use only the appropriate elements of the system, including (1) straightforward investigation, arrest, and prosecution; (2) selective enforcement with clear guidelines; (3) enforcement of criminal laws that, by tradition, are enforced by another agency; (4) greater clarity in defining behavior subject to criminal justice prosecution or control through local ordinances; (5) intervention without arrest; (6) arrest without the intention to prosecute, and (7) attachment of new conditions to probation or parole.
 - *Use civil law.* Public nuisances, offensive behavior, and conditions contributing to crime can be controlled through civil law. Because most police activity involves arrest and prosecution, it is easy to forget that police and local government can initiate other legal proceedings, including those related to licensing, zoning, property confiscation, nuisance abatement, and the use of injunctions.

Responses should focus on offenders, victims, third parties, places, and/or tools. After all possible responses are listed, information about their legality, cost, effectiveness, and value to the community should be collected (Goldstein 1990).

Selecting a response. The information collected during the analysis stage of the SARA problem-solving model facilitates the selection of the most appropriate responses from the alternatives listed. The most effective responses take into account community values and often contain input from individuals directly affected by the problem. In addition, it is common to use several of the alternatives to respond to one problem. Some of these responses may be more important than others; some may need to be implemented before others. In deciding which response, or group of responses, to implement, consider the following factors (Goldstein 1990):

- The likelihood that the response will reduce or otherwise affect the problem positively.
- The effect on the problem's most serious features or most important social concerns.
- The preventive character of the response (its ability to reduce repetition of the problem or the problem's serious outcomes).
- The extent to which the response invades the lives of people and relies on legal authority and the possible use of force.
- The viewpoints of the various people and organizations (stakeholders) likely to be affected by the response.
- The cost of the response (budget detail).
- The availability of legal authority and resources.
- The lawfulness and civility of the response and how it will influence relationships.
- The ease of implementing the response.

Implementing a response. The following activities take place during implementation of the response:

- Listing the tasks required to carry out the response.
- Selecting a manager or coordinator for the response.
- Setting timelines for accomplishing tasks.
- Designing an assessment of the response.
- Coordinating tasks carried out by separate groups.
- Developing a written action plan.

Even in the most collaborative efforts, programs need clear and consistent leadership. Someone needs to assume responsibility for overseeing the response and ensuring that goals and objectives are met. A program coordinator can manage the program on a daily basis to make sure there is timely implementation, problem solving, and staff direction. Several factors support effective implementation of a response (BJA 1997):

- **Leadership.** Response managers are responsible for communicating information, coordinating tasks and creating a spirit of trust among those carrying out the response. Managers should articulate the goals and objectives of the response effort.
- **Teamwork.** The role of each person or group involved in the response effort should be clearly defined. Efforts should be made to facilitate the exchange of information among those involved.
- **Communication.** Response managers need to stay in touch with others involved in the response effort so that they are aware of implementation problems and accomplishments and can obtain problem-solving information.

- *Administration.* An effective, easy-to-use recordkeeping system and a method for obtaining information about the response activities should be developed so that the effort can be monitored continuously.

PREVENTION

The goal of prevention programs is to reduce the appeal of gangs as a vehicle for enhancing self-esteem, receiving recognition, achieving financial independence, and receiving protection. Programs sponsored in the community generally attempt to prevent gang involvement and the associated behavior by providing opportunities for youth to develop skills to resist gang involvement. In addition, a positive support system and alternative activities that provide a sense of acceptance and affiliation are key elements of prevention programs. More specifically, the goal is to address characteristics of youth who are prone to join gangs:

- Lack of education.
- Lack of job skills and job opportunities.
- Lack of family support.
- Low self-esteem.
- Drug and alcohol abuse.
- Lack of opportunity for positive, social interaction (recreation or sports).

Boys and Girls Clubs of America (BGCA) have played a significant role in the development of community-based programs to serve high-risk youth in urban areas. In addition, BGCA's *Cities In Schools* attempts to improve the array of social services available through schools at the elementary, junior, and high school levels. These programs focus on drop-out prevention and academic achievement through the provision of social, medical, and counseling services in the school.

VICTIMS AND WITNESSES OF GANG VIOLENCE AND CRIME

Victim assistance professionals face special challenges in supporting and serving victims and witnesses of gang-related crime. Geographical, cultural, and racial considerations can create significant barriers to a victim's ability to access services. Systems-based victim/witness programs are woefully unequipped to meet the myriad needs of gang-related crime victims and witnesses. Few community-based organizations have the experience or expertise to offer comprehensive assistance to this underserved victim population.

In order to assess the current scope of services for victims and witnesses of gang-related crime and to determine victims' most salient needs, in 1996, the Office for Victims of Crime convened a series of focus groups composed of gang violence victims, survivors, victim assistance professionals, justice officials, and a researcher on witness protection. Their

insights concerning the special needs of victims and witnesses in gang-related crime were very helpful and are reflected in the following section.

CHARACTERISTICS UNIQUE TO VICTIMS AND WITNESSES OF GANG VIOLENCE

QVC focus group participants were asked to identify specific aspects of victimization that are *unique* to gang-related crime—different from what victims and witnesses of other types of crime experience. Their responses included the following:

- Victims and witnesses must face the *entire community* of the gang, as opposed to a *sole* perpetrator, which can mean greater or more far-reaching intimidation and retaliation.
- There tends to be a lack of sympathy for victims of gang violence, often because of false assumptions made regarding their “contribution” toward the crime.
- If a victim has gang affiliations, there is also a lack of sympathy and services from the criminal justice system, their families, and other victims. Because of restrictions on individuals who, in some way, “contribute” to their crimes, victims’ rights, services, and compensation are non-existent or very limited.
- Victims and witnesses are often intimidated by gang members into not cooperating with the justice system at all; those who resist such tactics are very often subject to gang intimidation during court proceedings.
- In many court settings, victims and witnesses are in the same hallways as gang members.
- When gang-related convictions result in prison and/or jail sentences, adult and juvenile correctional agencies often lack clear policies and procedures to ensure inmate security and to prevent possible further victimization, intimidation, or gang retaliation.
- Attitudes toward and services available for victims of gang violence can be affected by a community’s attitudes toward gangs, which varies from “despise” to “respect.”
- There is a lack of personal support for victims of gang violence.
- The popular media portray victims of and witnesses to gang violence in a negative and sensational manner. Gangs are often “glamorized,” and the media fail to adequately show the *consequences* of gang violence on victims and witnesses.
- In some cases, both victims and perpetrators of gang violence cross generations.
- Victims of gang violence may be affected by cultural norms and mores that include a “general distrust of government;” as such, they may be hesitant to access services that are in any way related to government, or be willing to be witnesses within the justice system.
- Victims Of Crime Act (VOCA) victim assistance dollars cannot be used to assist witnesses who are intimidated or to provide protection to victims and witnesses of gang violence.
- Most communities do not provide any funding, such as relocation assistance, to help ensure the safety of gang violence victims and do not have effective victim assistance programs for them.

- Geographical location and poverty of some victims of gang violence combine and equate to a lack of support and services.
- Children who are victimized by gang violence or who lose a loved one to gang violence have unique grief and recovery issues.

ISSUES RELEVANT TO HATRED, RACE, AND CULTURE

“Gangs emerge from specific, diverse cultures.” This statement from one of the OVC focus groups initiated an in-depth discussion about cultural and racial considerations/issues that are crucial to understand when dealing with victims of gang violence. The following statements represent comments from the OVC focus group discussion and *Special Report on Victims of Gang Violence* (OVC 1996) and further illuminate the often-prevailing attitude that victims of gang violence contribute to their own victimization.

- Victims are often *judged* by their race and culture. The question may be asked: “Are they really *deserving* of victim services and rights?”
- Children from non-white races and cultures are viewed only as perpetrators.
- Contributory issues are significant with victims of color.
- *Victim blaming* is considerable, including questions like “Why didn’t you just move (away from a gang-infested neighborhood)?” or “Why was your child out, and why don’t you control that child?”
- Victims who are frustrated with and/or angry at the criminal justice system response (or lack thereof) in their cases are less likely to want or to have access to services.
- Victims who are recent immigrants are often “afraid of the criminal justice system.” They need specialized services, recognizing not only differences in language but also dialect. For victims and witnesses who are threatened, blackmail (to turn them into the INS, etc.) is often a component of intimidation.

ISSUES RELEVANT TO GANG-RELATED VICTIMIZATION IN INDIAN COUNTRY

Incidence of gang-related victimization in Indian Country is small but growing. It is difficult to stop due to isolation, drug influence, and lack of alternative activities. In addition, when juveniles go to adult prison or youth detention facilities, they may learn gang activity there and bring it back to tribal land.

There are jurisdictional issues of concern. Federal dollars emanating from the Bureau of Indian Affairs to tribes are prioritized into “wish lists” by tribes. Assisting victims of gang-related crimes can be “very low” for tribal priority allocation.

Victims in Indian Country have “limited rights.” Often, crimes cross jurisdictions (county/municipal/state/federal) and require interagency cooperation. In addition, the penalties can differ for offenses against Native Americans versus non-Native Americans because of the

involvement of Tribal Courts. For a detailed discussion of jurisdictional issues, please refer to the “Tribal Justice” section of this text.

MEETING THE NEEDS OF VICTIMS OF GANG VIOLENCE

The special needs of victims of gang violence are seldom met with specialized services. Access to services and support is very limited, often due to geographical and cultural barriers and fear of seeking assistance for a gang-related criminal victimization.

The OVC focus groups on victims of gang violence identified key components of an ideal comprehensive, vertical gang victim assistance unit that is “user friendly,” with easily accessible services.

Vertical gang victim assistance unit. Each unit should be staffed by a coordinator who has experience in and knowledge about providing sensitive, ongoing assistance to victims and witnesses of gang violence, as well as general expertise in the criminal justice system, gang prosecutions, and how corrections systems deal with gangs. Professional and volunteer support should be sought from gang prevention and intervention programs, system- and community-based victim assistance organizations, community policing efforts, and victims/survivors of gang violence. Program staff and volunteers must have the ability to provide services and support that are multilingual and dialect-specific.

Programs should include the following components:

- ***Training on how to provide case information to victims without jeopardizing any current or future criminal case.*** Victims of gang violence must be told the truth about the facts of their cases from the initial crime throughout the entire justice system process.
- ***Protocol on addressing the needs of family members whose loved ones are critically injured or deceased.*** Efforts should be coordinated with emergency rooms, hospitals, medical examiners, and funeral homes. In gang-related deaths, it is important for family members to be able to see their loved one while they are still alive, and/or have private time with the deceased victim prior to making funeral arrangements.
- ***Crisis lines for victims and witnesses available twenty-four hours a day, seven days a week.*** Program staff and volunteers should provide multi-lingual information, crisis counseling, and referrals for ongoing assistance to victims and witnesses of gang violence. All services should be confidential and should be coordinated, as needed, with criminal justice and law enforcement officials for calls related to witness intimidation, harassment, or harm.
- ***Death notifications and crisis intervention provided by staff and volunteers twenty-four hours a day, seven days a week.*** Through close coordination and communications with law enforcement, staff and volunteers who are trained in culturally-specific death notification and crisis intervention will be on-call at all times.
- ***Comprehensive intervention services, closely coordinated with law enforcement officials, available to victims and witnesses as soon as a gang-related crime is reported.*** Immediate intervention services are often lacking because referrals for victims and witnesses are not

made at the crisis stage of crimes. Improved coordination among law enforcement, prosecutors, and victim service providers is needed, as well as interagency agreements regarding referrals and responsibilities for victim assistance.

- *An ongoing volunteer recruitment and training program to increase human resources needed to provide victim and witness assistance around-the-clock in jurisdictions where gang violence is pervasive.* There is a lack of volunteers who are willing to assist victims of gang violence. Efforts to recruit and train volunteers and interns from allied professions such as gang prevention and intervention programs, community policing efforts, colleges and university internship programs, grassroots community development groups, neighborhood churches, and victims and survivors of gang violence who want to assist other victims, should be institutionalized within the gang victim assistance program.
- *Ongoing community outreach about available services for victims and witnesses to increase usage of the program.* In many cases, there are no arrests, and thus no victim assistance available from court-based programs. Regardless of case status, victims and witnesses of gang violence should receive information, assistance, and referrals for ongoing help. By coordinating outreach efforts with the news media, justice officials, and other victim assistance programs, more victims of gang-related violence should be aware of services available to assist them.
- *Victim information, assistance, and referral resources, including detailed information about specific victims' rights and services, available on-site at all locations at which victims and witnesses of gang violence might be present.* The gang victim assistance unit should provide multi-lingual information resources to emergency rooms, hospitals, funeral homes, and medical examiners' offices. Training about available resources should also be provided to personnel at these locations to assist victims and witnesses who are illiterate.
- *Assistance in completing victim compensation applications provided on a timely basis.* The victim compensation application process can be bureaucratic and burdened by "red tape" for victims of gang violence. The gang victim assistance unit should guide victims through the process and conduct thorough examinations of cases where victims have been deemed as "contributory" in the crimes (and therefore ineligible for compensation). Copy and fax machines should be available to help expedite the claims process. Multilingual services should overcome language barriers for non-English speaking victims. Follow-on to compensation applications should be provided, as needed.
- *Witness protection services coordinated with appropriate justice officials.* Victims and witnesses may be afraid to take advantage of witness protection assistance; often they are threatened (including death threats) or intimidated into not getting involved in investigations and prosecutions.
- *Information and support services for extended family members of victims and witnesses of gang violence.* Currently, there are few services available for extended family members of victims and witnesses. Outreach programs to this underserved victim population, along with support groups and information dissemination, should be established.

FEDERAL INITIATIVES

The Violent Crime Control and Law Enforcement Act of 1994 created new statutory provisions under federal law for addressing street gang crime. Generally the Act provides new and stiffer penalties for violent and drug trafficking crimes by gang members.

The statute increased the maximum prison sentence by up to ten years, under certain circumstances, for participating in gang-related federal drug offenses or for offenses committed by members of criminal street gangs. Criminal street gangs are defined as an “ongoing” group or association of five or more persons that has one of the following as one of its primary purposes:

- The commission of a federal drug offense punishable by at least five years in jail.
- The commission of a federal violent offense.

The statute also requires that gang members must have engaged in a “continuing series” of such offenses within the past five years. In addition, the gang’s activities must affect interstate and foreign commerce.

RECOMMENDATIONS FOR THE U.S. DEPARTMENT OF JUSTICE AND ALLIED FEDERAL AGENCIES

In the *Special Report on Victims of Gang Violence: A New Frontier in Victim Services* (OVC 1996), the following ten recommendations to improve rights, services, and support for victims and witnesses of gang violence were offered:

1. A national network of professionals and volunteers concerned with victims and witnesses of gang violence should be established to provide vision, support, and direction to federal, state, and local initiatives.
2. Comprehensive vertical assistance units for victims of gang violence should be established in all jurisdictions where gang activity is prevalent. These units could offer the types of multi-lingual services provided by the Gang Victim Services Program in Orange County, California, which include emergency crisis response services, accompaniment throughout the criminal and juvenile justice systems, and training for victim service providers.
3. Hospital-based counseling and prevention programs should be established in medical facilities that often provide services to gang violence victims. . . . A protocol that includes appropriate security and safety procedures to protect victims from retaliation in the hospital should be developed to assist hospital personnel in responding to incidents of gang violence.
4. School-based counseling and prevention programs addressing gang violence should be established where gangs are prevalent. These programs could be modeled after the integrated mediation and violence prevention programs of Victim Services, Inc. (VSI) in

New York City. VSI programs include an anti-violence curriculum, support groups, and conflict resolution/peer mediation modules that are used in cases involving gang violence. Gang-impacted school districts should consider providing crisis counseling services for youth witnesses to violent crime.

5. Host sites should be established with support from OVC to provide interested parties from other communities with training regarding promising practices, such as comprehensive victim assistance programs based in prosecutors' offices, hospitals, and schools.
6. Training curricula that include cross-disciplinary information should be developed and offered to professionals who deal with victims and witnesses of gang violence. Training should be provided for first responders on how to deal with survivors at the crime scene; funeral directors on how to deal with gangs before, during, and after funeral services; and all criminal and juvenile justice personnel, mental health professionals, compensation providers, and teachers.
7. A protocol should be developed and implemented for debriefing all crisis responders to victims of gang violence, including emergency medical technicians and law enforcement personnel, who face serious threats to their physical and emotional well-being when not provided with ongoing opportunities for debriefing following critical incidents.
8. Policies, protocols, and programs should be established to promote safety for victims and witnesses of gang violence and those who assist them at the federal, state, tribal, and local levels. These could include both emergency and short-term relocation programs, security measures in court houses and at correctional facilities, and secure transportation. Prosecutors should be encouraged to use every legal measure possible to ensure the safety of such witnesses before, during, and after case disposition.
9. The U.S. Department of Justice should review its existing resources relevant to victims of gang violence and provide more discretionary funding to encourage the proliferation of "promising practices" that reduce gang violence and assist victims. All federally funded gang intervention/suppression programs and advisory groups should include needed services for victims of gang violence.
10. OVC should support a working group on victims and witnesses of gang violence to provide assistance in the development of training curricula, selection of host sites, and implementation of recommendations contained in this Report.

PROMISING PRACTICES

(The following promising practices were identified in OVC's Special Report published in 1996 entitled *Victims of Gang Violence: A New Frontier in Victim Services*.)

- *Teens on Target* is a hospital-based gang violence reduction program in Los Angeles and Oakland, California. It provides immediate and long-term assistance to teenage victims, intervention with gang members who accompany victims to emergency rooms, and gang prevention strategies for schools. The program uses trained peer counselors, many of

whom are in wheelchairs because they, too, were victims of gang violence. These counselors give bedside support to injured teens and act as positive role models, providing alternatives to violence.

During each hospital visit, the peer counselor provides a one-on-one review of the violent crime that led to the hospitalization and explores alternative strategies for dealing with violent incidents; shares coping skills and support systems; helps to develop a plan for staying safe; and sets up ongoing peer support to help the victim not rejoin the gang culture. If gang members accompany a victim to the emergency room, peer counselors encourage them not to pursue violent responses. This program received the 1996 Crime Victim Service Award, the highest federal honor for victim advocacy.

- *Victims Services, Inc.*, offers school-based programs in New York City to educate students, faculty, and family members how to cope with and avoid crime, including gang violence, that pervades their daily lives. These programs operate in coordinated fashion within a number of schools, with the particular needs of each community in mind. They include the following elements:
 - A 20-lesson anti-violence curriculum offered in ten schools. The curriculum addresses gang violence, bias-related incidents, domestic violence, and child abuse.
 - Safe Harbors, a safe room in the school where students, faculty, and families can find counseling and support groups, including ones addressing gang violence.
 - Project SMART, a peer mediation/conflict resolution program that teaches students, faculty, and parents alternatives to violence. It has been effectively used in resolving disputes between rival gangs.
 - Training in crisis intervention and victim assistance for parents, including how to support kids who witness or experience violence.
- *Save Our Sons and Daughters (SOSAD)* is a nonprofit grassroots organization founded in 1987 by Clementine Barfield, whose 16-year-old son, Derrick, was killed in the summer of 1986. She joined other parents of slain children to channel their grief and anger into activism, working together to create positive alternatives to violence throughout the community. SOSAD provides counseling and training in violence prevention, crisis intervention, multi-cultural conflict resolution, gang redirection, and peer and bereavement support.
- Another group led by mothers who have lost children to gang violence is *Mothers of All Children*, located in Brooklyn, New York, which was founded by Frances Davis who during the past eight years, lost each of her three sons to gunfire. Ms. Davis turned her pain into service and in 1993, created her own nonprofit, all-volunteer organization, Mothers of All Children. Ms. Davis recruits, trains, and inspires her volunteers, who then provide other survivors of homicide victims with bereavement counseling or help organize community violence prevention activities for youth, such as the basketball tournament, "Shoot Hoops, Not Guns." Frances Davis deals with her grief and her loss by continuing to participate in victim impact panels before young people at high schools and detention centers throughout the northeast.

- *The Tariq Khamisa Foundation*, located in San Diego, California, was founded by investment banker Azim Khamisa after the murder of his 20-year-old son, Tariq. Tariq was delivering pizzas when four teenaged gang members surrounded him and demanded the pizza. When he refused, an 18-year-old gang leader ordered a 14-year-old to kill Tariq with a handgun. Tariq's father joined with the grandfather of the 14-year-old killer to form the Foundation, which is dedicated to preventing similar crimes through educational programs in schools. The Foundation is producing a documentary to assist kids in learning about gang violence and its impact. The documentary will feature an interview with Tariq's killer, who was sentenced to thirty years in custody and who encourages students to seek alternatives to gangs.
- *The Wichita/Sedgewick County Neighborhood Initiative* in Kansas is a public-private effort to reduce gang violence by coordinating the efforts of grassroots community organizations; public agencies, including law enforcement, city government, and the schools; and interested for-profit and nonprofit private sector businesses, labor groups, and civic organizations. The Initiative's primary function is to obtain needed resources to deal with gang violence by bringing *all* parties to the table regularly, including community police administrators, city and county management representatives, the mayor, legislators, grassroots anti-gang groups, and gang members themselves. When a two-year-old child was murdered in a drive-by shooting, the Initiative responded to community requests for assistance by trying to arrange a truce among the rival gangs. The Initiative's project director is on loan to the group from the Boeing Company for three years, and several private-sector organizations provide storefront space and volunteers.
- Many victim/witness programs provide areas where victims may wait apart from the defendant before testifying, and most also provide advocates to escort frightened witnesses to and from court. Prosecutors in the Clark County (Las Vegas) Attorney's Office regularly call the county's victim/witness assistance program if they know that a witness feels intimidated to request that the program advocate stationed in the court sit with the witness during the hearing or trial (Finn and Healey 1996).
- Some programs take further measures that help to alleviate victims' fears as well as help prevent intimidation. Polk County victim service program staff will call the public defender's office to request that the defendant "ease up." The St. Louis Victim Service Council arranges for police to conduct security surveys of homes. The Hennepin County, MN Attorney's Office has arranged to have security systems installed in the homes of key witnesses who refused to relocate even temporarily because of job requirements or family ties (Ibid.).

1. Give a statutory definition of “gang.”
2. Describe three of the eleven recommended options for communities to respond to gang activity.
3. List three characteristics that are unique to victims of gang-related crime.
4. List five components of a comprehensive vertical gang victim assistance program.
5. What are some of the barriers to effective victim assistance for victims of gang violence?

Campus Crime and Victimization

SECTION 4, CAMPUS CRIME AND VICTIMIZATION**ABSTRACT**

Crime on college and university campuses first captured media attention in the mid-1980s and brought the issue into public view. Civil suits filed by victims and surviving family members of homicide victims against universities and administrators served as the prelude to successful advocacy for federal legislation that requires colleges to compile and publish annual campus security reports. Such federal laws, and the programs, policies, and procedures that have since developed, have served to enhance safety, security, and crime victim assistance on many campuses.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- Federal laws that address the problem of campus crime.
- How crime victims use civil remedies to combat crime on college campuses.
- Barriers to increased reporting of campus crimes, along with recommended solutions to increase reporting.
- The critical elements in developing a comprehensive victim services program for campuses.

STATISTICAL OVERVIEW

- For each of the years 1992-94, violent crimes were reported by about 25% of postsecondary institutions with reporting requirements pursuant to the Campus Security Act. For 1994:
 - Less than 0.5% reported a murder on campus.
 - 9% reported incidents of forcible sex offenses.
 - 12% reported robbery.
 - 18% reported aggravated assault (Lewis and Greene 1997).
- On-campus arrests for liquor law violations, drug abuse violations, and weapons possession were reported by about 10% of the institutions in each of the three years. Public 4-year institutions, those with campus housing, and larger institutions were more likely to report arrests for all three crimes than were other types of institutions, those without campus housing, and smaller institutions (Ibid.).

- Regarding services or programs that foster campus safety:
 - Two-thirds of all institutions limit access to academic buildings during nights and weekends, give safety presentations to campus groups, and publish and post safety reminders on campus;
 - One-third have victims' assistance programs, and 12% have night-time shuttle or van services;
 - 90% of institutions with campus housing indicated that they limited access to residence halls (Ibid.).

INTRODUCTION

Few issues affecting colleges and universities captured media attention more dramatically in the last decade than violent crime. Awareness of the incidence of violent crime on college campuses burst into the public's consciousness with the reporting of several tragic cases in the 1980s. Headlines of major newspaper across the country have described violent incidents on campuses in California, Pennsylvania, Texas, Minnesota, Virginia, and Florida, to name a just few. These reports—

. . . put to rest the long-cherished notion that colleges and universities are somehow cloistered enclaves—sanctuaries far removed from the threat of crime that haunts the rest of us (Carrington 1991).

In a focus group on serving victims of campus crime sponsored by the National Criminal Justice Association in October 1998, Office for Victims of Crime Acting Director Kathryn M. Turman observed the following:

Campuses are not free from crime. Victims need to understand their rights, and need information about both the criminal justice system and student judicial system. We must mitigate the fact that students who are victims can be "re-victimized" by systems that often do not accommodate their needs (Seymour and Cropper 1999).

FEDERAL LAWS

In the 1990s, three pieces of federal legislation were introduced and passed in a climate of new concern about the safety of students on college campuses: the Higher Education Amendments of 1998, the Campus Sexual Assault Victims Bill of Rights of 1991, and the Campus Security Act of 1990.

HIGHER EDUCATION AMENDMENTS OF 1998

In October 1998, H.R. 6—*Higher Education Amendments of 1998*—was signed into law by President Clinton. The new *Public Law 105-244* includes the following provisions, as summarized by Security on Campus, Inc. (Seymour and Cropper 1999):

Campus crime statistics.

- Manslaughter and arson are added to the categories schools are required to disclose.
- Campus disciplinary referrals for alcohol, drug, and weapons violations must be disclosed.
- The reporting of “hate crimes” is expanded. Crimes are to be reported by “category of prejudice.”
- The Department of Education is required to gather all school disclosures made for an annual compilation that will be made available to the public.
- The definition of “campus” will be expanded to require the disclosure of crime statistics for campus food courts operated by contractors, streets and sidewalks running through and near the campus, and certain off-campus facilities.
- Statistics will be disclosed in four categories:
 - On campus.
 - Noncampus (i.e., fraternity and sorority houses, remote facilities).
 - Public property.
 - Residential facilities for students (i.e., residence halls, apartments, etc.).

Open campus police log.

- Schools will be required to maintain a public police log of all reported crimes.
- There will be certain exceptions to protect ongoing investigations and victims of sensitive crimes, such as sexual assault.

General provisions.

- No “duty of care” (i.e., civil liability) is established by the campus security requirements of the Higher Education Act.
- The campus security provisions of the Higher Education Act are formally named in memory of Jeanne Clery.
- Universities are potentially subject to a \$25,000 civil penalty for violations of the reporting requirements.

Student disciplinary records.

- The FERPA (FERPA) exception which allows victims of crimes of violence to be informed of the outcome of student disciplinary hearings is expanded to include survivors of nonforcible sex offenses.
- FERPA no longer prohibits the disclosure of the “final results” of disciplinary proceedings involving crimes of violence or nonforcible sex offenses. The only name that can be disclosed without written consent is that of the accused student, and there is no affirmative obligation that this information be released.

- Schools will be able to release information about alcohol- or drug-related disciplinary violations to parents of students who are under the age of twenty-one.

Drug convictions.

- Students convicted of various drug offenses will lose their financial aid eligibility for specified periods of time, depending upon whether the conviction was for use or sale, and how many times they have been convicted.

Violence against women.

- \$10,000,000 in grant funding to be administered by the U.S. Department of Justice is authorized for campuses in fiscal year 1999. Unspecified amounts are authorized for the following four fiscal years.
- \$1,000,000 is authorized to conduct a study on how colleges respond to complaints of sexual assault. It will be conducted by the Departments of Justice and Education. A report is required by September 1, 2000.

Binge drinking.

- Colleges are called upon to take steps to reduce binge drinking.
- Grants are authorized in the sum of \$5,000,000 for fiscal year 1999 and for an unspecified amount for the following four fiscal years.
- National Recognition grants for fiscal year 1999 are authorized up to \$750,000 for schools with successful programs to combat binge drinking.

THE CAMPUS SEXUAL ASSAULT VICTIMS BILL OF RIGHTS

Amid continued media attention to several cases of alleged sexual assault on college campuses and the reported response of university officials and campus judicial bodies, the Campus Sexual Assault Victims Bill of Rights was passed in 1991. This law requires institutions of higher education to develop and publish policies regarding the prevention and awareness of sex offenses and procedures for responding after a sex offense occurs as part of their campus security report. A key point in the new statute is the responsibility of university officials to inform students of their rights and provide them with clear information about how to report sex offenses and about the assistance (medical, legal, and psychological) available for victims. These provisions became effective in 1993.

The Department of Education is responsible for the enforcement of the Campus Security Act and the Campus Sexual Assault Victims Bill of Rights and failure to comply could mean the loss of federal funds, including student loan monies. In addition, the reporting requirements of the Campus Security Act have been amended twice and the rule-making process has been slow. The most recent amendment, the Hate Crime Statistics Act (28 USC 534) requires universities to report whether certain crimes (murder, forcible rape, and aggravated assault) manifest

evidence of prejudice based on race, religion, sexual orientation, or ethnicity. The final regulations governing compliance with both campus crime laws were issued on April 29, 1994.

THE STUDENT RIGHT TO KNOW AND CAMPUS SECURITY ACT OF 1990

The Campus Security Act was the first federal legislation to address the issue of crime on college campuses and reflects a national commitment to increase campus safety. In brief, the Act requires that institutions publish and distribute an annual report which describes security and law enforcement policies, crime prevention activities, procedures for reporting crimes on campus, and certain campus crime statistics. The first reports covered the 1991 academic year.

FEDERAL CAMPUS CRIME REPORTING REQUIREMENTS

Pursuant to the final regulations, the Campus Security Act and the Campus Sexual Assault Victims Bill of Rights now require that colleges and universities include the following policy information and statistics in their annual security reports:

- Information about the number of occurrences of the following crimes: murder, forcible and nonforcible sex offenses including rape, robbery, aggravated assault, burglary, motor vehicle theft, and arrests for violations of liquor, drug and weapons law violations.
- Current campus policies regarding procedures and facilities for students and others to report criminal actions and other emergencies occurring on campus, policies concerning the institution's response to the reports, and a list of the titles of each person or organization to whom students and employees should report the criminal offenses.
- Current policies concerning security of and access to campus facilities, including residences and security considerations related to maintenance programs.
- Current policies concerning the campus law enforcement's authority of police/institutional security personnel, their relationship with state and local police agencies, authority of campus police/security personnel, i.e., arrest powers, and policies that encourage prompt reporting of all campus crime to the campus police and local police.
- A description of the type and frequency of programs designed to (1) inform students and employees about campus security procedures, (2) inform students and employees about the prevention of crimes, and (3) encourage students and employees to be responsible for their own security and the security of others. The description of the program should include reference to the manner in which the campus will provide a "timely warning notice" of violent crimes reported to campus or local police that are considered to be a threat to students and employees. Institutions are encouraged to specify that such action will depend on the particular circumstances of the crime.
- Policy concerning the monitoring and recording by local police agencies of students' criminal activity at student organizations' off-campus locations, including off-campus housing facilities.

- Policy regarding the possession, use, or sale of alcoholic beverages and illegal drugs; as well as any drug or alcohol abuse education programs required by the Drug-Free and Communities Amendments of 1989 (Public Law 101-226).

With regard to certain sex offenses, the institution's statement of policy must include the following information:

- Education programs designed to promote awareness of rape, acquaintance rape, and other forcible or nonforcible sex offenses.
- Procedures students should follow if a sex offense occurs, including who should be contacted, to whom the alleged offense should be reported, and the importance of preserving evidence as it may be necessary for the proof of a criminal sexual offense.
- The student's option to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying these authorities if the student chooses to do so.
- Existing on- and off-campus counseling, mental health, or other student services for victims of sexual offenses.
- Notification to students that the institution will change a victim's academic and living situations after an alleged sex offense, if requested by the victim and if the changes are reasonably available.
- Procedures for on-campus disciplinary actions in cases of alleged sexual offense that shall include a clear statement including the following:
 - The accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding.
 - Both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceedings brought alleging a sex offense.
- Sanctions the institution may impose for rape, acquaintance rape, or other sex offenses (forcible or nonforcible) following an on-campus disciplinary procedure.

VICTIM ADVOCACY THROUGH CAMPUS VIOLENCE CIVIL LITIGATION

Campus crime civil litigation emerged in the mid-1980s as a relatively new and formidable legal strategy to address the problem of campus crime. It caught school administrators by surprise and threatened the financial resources of colleges and universities, many of which have suffered in recent years from declining enrollment and escalating costs.

Civil cases have been filed, primarily by students or their surviving family members, against universities, their administrators and trustees. In such cases, plaintiffs seek compensatory damages for financial losses and pain and suffering as well as punitive damages that are awarded to punish perpetrators and deter others from engaging in similar behavior. Cases have alleged negligence and gross negligence, and in recent years, civil lawsuits have resulted

in large judgments or out-of-court settlements. Generally, lawsuits have alleged unsafe campus conditions. Awards ranging from \$50,000 to \$2 million for plaintiffs who were victims of assault and rape have shaken several universities, attracted Congressional and media attention, and led to an examination of security on campuses and institutions' response after a crime occurs.

One of the more tragic cases involves the torture, rape, and murder of nineteen-year-old Jeanne Ann Clery in her dormitory room at Lehigh University on April 5, 1986. Following the conviction and sentencing of Jeanne Clery's murderer, who was also a university student, Howard and Connie Clery filed suit against the university for its negligence in failing to take reasonable action to protect their daughter from foreseeable harm. The amount of the settlement was not made public, but pursuant to its terms, the university agreed to improve security throughout the campus, particularly in dormitories.

Howard and Connie Clery went on to form Security on Campus, Inc., an organization dedicated to bringing the problem of violent crime on college campuses to the attention of those who most need to know: applicants, students, faculty, and staff. Their crusade has had widespread results. Since their initial success in securing passage of campus crime legislation in Pennsylvania in 1988, similar legislation has been passed in many states. The Clerys are also recognized as the driving force behind the first federal campus crime law.

BARRIERS TO REPORTING CAMPUS CRIME

DEFINING CAMPUS CRIME

At the 1998 focus group on serving victims of campus crime sponsored by the National Criminal Justice Association, focus group participants identified two key factors relevant to preventing and responding to campus crime and victimization.

- A lack of clarity on *definitions*, which affect how campuses collect and report statistics. There appears to be considerable disparity in how "crimes," "crime victims," and even "campuses" are defined for purposes of reporting and statistical analysis. More consistency in definitions would undoubtedly result in more accurate reporting and statistics.

Focus group participants offered the following parameters for such definitions:

- "Campus" should include (for legal purposes) the campus proper but should also embody the community in which the campus is located.
 - "Crime" is any activity that is defined by federal, state, and local law or ordinance as "illegal" and can include violation of campus policies.
 - "Victims" can include students, faculty, staff, outside contractors, and visitors.
- Jurisdictional issues related to response and assistance and victim outreach can pose a barrier. There is often a lack of clarity in the roles and responsibilities among professionals who provide victim assistance *on campus*, *in the community*, or *both*. Few respondents to NCJA's national "call-to-the field" or focus group participants identified the consistent use

of policies and/or interagency agreements that clarified individuals' and agencies' roles and responsibilities (Seymour and Cropper 1999).

REPORTING CAMPUS CRIME

For many institutions, gathering and publishing statistics on campus crime were not new concepts. Approximately 325 universities reported crime statistics to the FBI for inclusion in the annual publication of *Uniform Crime Reports* prior to the Campus Security Act. The University of Washington Police Department has combined a community policing approach to law enforcement with an annual report to the university community for more than a decade.

Other institutions have been reluctant to release information about violent crimes and have been accused of attempting to "cover-up" incidents or to minimize their significance to the point of discouraging students from reporting or cooperating with local police departments. Such tactics have become an issue in several civil suits and were the impetus for enactment of the campus crime amendments to the Higher Education Act.

The recently legislated annual reports of campus crime statistics have been available for most schools since 1993. However, the changes in some reporting categories and differences in school reporting practices in the absence of final regulations have made interpretation of the data difficult. In addition, the increased attention to the issue of crime on campus may well influence the rate at which crimes are reported to campus law enforcement officials.

While the crime reports provide previously unavailable information, it is agreed that the published numbers provide an incomplete picture of the relative safety of any particular campus. The policies and practices regarding the handling of individual criminal incidents and the various campus safety programs must also be considered.

In *Serving Victims of Campus Crime*, the National Criminal Justice Association (NCJA) identified campus culture, lack of understanding about how to report crimes, fear of retaliation, and students' fears about telling their parents about being victimized as significant barriers to increased reporting:

One of the most predominate influences in student reports of crime is the *campus culture* itself. Student mores can have a negative influence on students' willingness to report; the "independence" that higher education students value can contribute to a feeling of "I can handle this myself," regardless of the severity of the offense. In addition, students may tell their peers about being victimized, and follow their advice as to what actions (if any) to take.

Institutions of higher education must promote environments where reporting is *encouraged* and *easily facilitated*. Herein, a significant dichotomy exists: Any increases in reports of crime can be viewed by campus officials as detrimental to a campus's reputation for safety, which is "bad for business." Greater efforts should be made to emphasize the relationship between *crime reporting* and *crime prevention* to college and university administrators, i.e., when victims report crimes and participate in justice processes, there is a greater likelihood that crimes will decrease when perpetrators are removed from the campus environment.

A lack of understanding about how to report a crime poses a significant barrier. The need for broad education in campus communities about agencies and individuals available to assist victims is clear.

Information should include options for initial reporting (i.e., a trusted faculty member, resident advisor, or trained peer counselor), assistance in filing official reports with campus or community police, and a directory of available supportive services. “Making reporting cool”—through public education and outreach efforts presented in measures commensurate with students’ age, cognitive and social development, and culture—would address the negative influences of both campus culture and lack of knowledge about how to report crimes. Concerns about the efficacy of authorities involved in crime control and response must also be addressed. Regardless of the type of crime, victim and/or alleged perpetrator(s), people in campus communities must be assured that their cases will be handled with dignity and respect.

Similar to many crimes, the fear of retaliation poses a barrier to reporting. When persons victimized on or near a campus have *perceived* or *real* fears about intimidation, harassment, or harm from the alleged perpetrator and/or his/her peers, the likelihood of reporting decreases.

A barrier to reporting that is somewhat unique to campuses is students’ fears of telling their parents about being victimized. When parents are unaware of their children’s victimization, there may be limited support for reporting crimes and seeking supportive services.

A campus- and community-wide emphasis on the importance of reporting crime and victimization should be an institutional priority for higher education. This crucial message should be reinforced at *all* levels of the institution and community—before, during and after the academic school year. NCJA focus group participants indicated two promising practices in this area:

- The implementation of *peer mentoring programs*, with volunteers trained to provide information and support to victimized students about how to report offenses, advocacy throughout any justice procedures, support, and referrals to victim assistance programs.
- More widespread use of *curriculum infusion* throughout all higher education courses that relates the topic (such as social work, business, physical education, etc.) to crime and victimization, and provides consistent messages about crime prevention and victim assistance (Seymour and Cropper 1999).

IMPROVED TREATMENT OF CRIME VICTIMS: CRITICAL ELEMENTS

Through the National Criminal Justice Association’s project entitled “Serving Victims of Campus Crime,” critical elements were identified in seven key areas that comprise a comprehensive victim services program for college and university campuses:

EMERGENCY SERVICES

Coordinated crisis response services should be available through both campus- and community-based resources, including law enforcement, physical and mental health professionals, victim and social services, and student affairs/services, and should include the following:

- Centralized telephone hotline available twenty-four hours a day, seven days a week that is staffed by qualified and trained personnel.
- Access to emergency medical services (both on- and off-campus).
- Campus security programs that include information about both emergency and longer-term support and services to address victims’ safety and security needs.
- Access to emergency and long-term mental health support and services.

- Establishment of a campus ombudsperson to serve as students' liaison to faculty, resident advisors, and others who might be affected by a student's victimization.
- Information and referral system for faculty and staff to readily access experts who can help victims.
- "Mutual aid agreements" among campuses, local law enforcement, and the community that clarify roles and responsibilities related to emergency responses and services.
- Follow-up contacts to every emergency call related to crime and victimization.

ADVOCACY AND SUPPORT

Victim advocacy and support services should be available to address victims' emergency, short- and long-term needs, and should include the following:

- Peer counseling programs with strong and articulated administrative support and student outreach (through orientation training, resources provided verbally and in writing, audio/visual public awareness campaigns on and around campus, and presentations to student, faculty and staff organizations, and groups).
- Publication and distribution of a victim assistance and campus safety brochure that includes information about rights and services (including contact information for assistance) both on-campus and in the community.
- Development of student "buddy" systems that incorporate provision of basic information about crime prevention, crime reporting, and victim assistance.
- Specific outreach to students who live off-campus through entities and sites they frequent such as businesses, churches and temples, community organizations, etc.
- Provision of education and opportunities for students to mobilize and create peer-initiated and supported initiatives.
- Curriculum infusion of information related to violence and victimization that is supported by faculty/student partnerships and populates literally any curriculum.
- Probation and aftercare specific to students in higher education that emphasize offender accountability, victim security and services, and community protection.
- Coordination among campus and community public safety officials/agencies to promote and enforce protective orders for victims (for example, Purdue University in Indiana enforces mandatory holds for cases of partner abuse).
- Timely adjudication processes.

COUNSELING AND LONG-TERM SUPPORT

Victims' rights on campus should mirror victims' rights as defined in federal, state, and local statutes within campus administrative policies that support the enforcement of victims' rights, and provision of quality victim services. They should include the following:

- Consistent enforcement of victims' rights to information, notification of offender and case status, participation in administrative or criminal/juvenile justice proceedings, restitution, and protection.
- Consistent "zero-tolerance" policies that clearly state acts of violence will result in expulsion.
- Elimination of special treatment and/or exemptions for athletes who are convicted of crimes.
- Use of victim assistance counselors and victim advocates with expertise, experience, and training in working with crime victims.
- Education of professional and peer counselors about the criminal and civil justice processes and available victim services, and collaboration with such services.
- Provision of information about risk reduction and re-victimization (i.e., including potential pre-victimization factors, among them being victimized once).
- Conducting security surveys in theft cases to identify and publicize high-risk factors.
- Offense-specific counseling for perpetrators such as alcohol and other substance abuse treatment, batterers' treatment, anger management, and/or combinations of counseling services with counseling mandated as a condition of re-admission.
- Notification to parents of offenders who use/abuse alcohol and/or other drugs.

COORDINATING CASE MANAGEMENT

The establishment of ongoing communication links among public safety and victim assistance agencies both on- and off-campus (including local, state, and federal authorities, as applicable) is essential to coordinated management of victim cases, and should include the following:

- Written compact, memorandum of understanding (MOU), or inter-agency agreements among community and campus public safety and victim assistance agencies that clarify roles and responsibilities for responding to crimes.
- Regularly-scheduled (monthly) meetings of community and campus public safety and victim assistance entities to promote continuity in response and services and to identify and address trends in crime and victimization.
- Provision of continuing education opportunities about victims' rights, needs, and services to specific criminal justice professionals such as law enforcement, prosecutors, judiciary and court personnel, and community corrections.
- Sponsorship of student education opportunities that focus on campus and community crime response and prevention.
- Campus-specific promotion of victim-related commemorative observances such as National Crime Victims' Rights Week, Domestic Violence Awareness Month, Sexual Assault Awareness Month, National Drunk and Drugged Driving Awareness Week, etc., utilizing

public information and community outreach resources sponsored by the Office for Victims of Crime and national victim assistance coalitions and organizations.

SERVICES TO RURAL-REMOTE CAMPUSES

Access to supportive services may be more limited to victims of crimes committed on campuses in remote-rural jurisdictions. They should include the following:

- Needs assessments conducted to identify specific gaps in programs and services for victims since institutions in remote-rural jurisdictions have unique needs relevant to crime and victimization.
- Sponsorship of a centralized hotline and/or supportive service center for victims to assist with emergency and ongoing needs related to transportation, physical and mental health, and justice system advocacy.
- Greater reliance upon and training of volunteers and professionals within the geographic campus community to provide on-site emergency and ongoing supportive services.
- Safety education and advocacy for victims of interpersonal violence.
- Provision of emergency supportive services when local law enforcement are not readily available for victim response and assistance.

SERVICES TO TRADITIONALLY UNDERSERVED VICTIMS

Campuses and campus communities should identify specific populations that comprise “underserved victims” and focus resources on needs assessment, improving outreach, and eliminating barriers to accessing services. Services should include the following:

- Campuses and communities need to identify “underserved victims,” their needs, and possible responses that may include:
 - *Male victims* (outreach efforts to encourage reporting, provision of comfortable environments in which to seek services, and professionals and volunteers trained to take them seriously, and trained in victimization characteristics unique to men).
 - *Property crime victims* (consistent validation that what is often perceived as a “minor” crime can be traumatic and hurtful, law enforcement response is sensitively and consistently given, and referrals to victim assistance are made, as needed).
 - *Victims with disabilities* (supportive services that are physically accessible and peer support to access services and rights).
 - *Commuter students* (orientation and continuing education about reporting crimes, prevention, and available victim services, regardless if the crime happens on campus or on the way to, from, or near campus).
 - *Victims of hate/bias crimes* (staff and student education on diversity and tolerance, supportive and peer services that are sensitive to victims’ needs and confidentiality concerns, and coordination of case processing that involves proper authorities in justice- and victim-related responses on the local, state, tribal, and/or federal level).

- *International and culturally diverse students* (education and outreach in students' native languages that are sensitive to different cultural mores, liaison activities among campus and culturally diverse student and community entities, and assistance and advocacy in reporting crimes, and campus disciplinary or justice processes).
- When “underserved victim” populations and their needs are identified, campuses and communities should develop sensitivity training for campus, justice system, and supportive service professionals and volunteers about such victims' special needs and how they can best be met.

GENERAL PROGRAM CHARACTERISTICS

The location of victim assistance programs in higher education varies depending upon the campus. However, consensus among NCJA focus group participants is that such programs need to be housed in a place that is at “the center of all resources, within a web of accessible health services, victim assistance, and entities that can assist with victim safety concerns.” In some institutions, the Student Affairs Office might be a likely site for victim assistance programs.

The following are three key factors in determining a program's location:

- What type of person(s) do campuses have to do the job (of victim assistance)?
- Which agency has access or linkages to different types of services such as mental and physical health, public safety, student affairs, community organizations, etc.?
- What type and level of commitment of resources does a campus have or is it willing to commit to victim assistance and student safety?

Similarly, a convenient location for easy access (physically, by telephone, and by e-mail, twenty-four hours a day, seven days a week) is a key characteristic. It was suggested that making the office/site available for other services, such as community policing or community service organizations, would decrease possible stigma of people seeking victim assistance services.

A common theme identified by NCJA focused on the importance and “clout” that institutions of higher education place on victim assistance and student safety. Such services need to be publicized and marketed as consequential to the very functioning of institutions. There should also be sufficient financial and human resources to adequately provide services (Seymour and Cropper 1999).

CRIME PREVENTION

Information is a powerful tool in crime prevention and law enforcement. If students, faculty, and other employees are made aware of the extent of crime in their midst, they can take precautions that will improve the likelihood of their safety. If applicants and their families have information about crime rates, they can make informed choices about schools and housing options.

Although the Department of Education has performed minimal monitoring of university compliance, many schools have utilized the annual reporting process to clarify policies that are of critical importance to crime victims. Information about crime prevention and how to report a crime, and/or how and where to seek services, are key to crime prevention.

Policies and practices regarding crime prevention and security are also important components of safety. Lighting, emergency phone systems, shuttle services to transport students, escort services for evening hours, locked dormitory doors, controlled access to buildings, crime watch programs, and twenty-four-hour security are all responsible steps that schools can take to reduce the risk of victimization of students and faculty.

CAMPUS CRIME AND THE CRIME VICTIMS' RIGHTS DISCIPLINE

Civil liability for injuries sustained by students who are victims of crime on campus is a significant recent outgrowth of the crime victims' rights discipline. The enactment of the three federal laws related to campus security and victim assistance cited above is evidence of the impact of violent crime, and the strength of the victims' rights discipline, in the world of higher education.

The threat of civil suits provides additional impetus for many institutions to evaluate crime prevention and security efforts. Whatever the reasons that motivate institutions to improve their crime prevention, security, and victim assistance programs, the beneficiaries will be the students, faculty, staff, and the communities who will be spared the trauma of becoming the victim of a violent crime, and ultimately, the university itself.

Perhaps most significant, the multiple needs of campus crime victims have resulted in unique partnerships for victim assistance and crime prevention at the local, state, and national levels. In communities large and small, urban and rural, victim assistance practitioners are joining together with law enforcement, criminal justice, and higher education professionals to develop appropriate policies and protocols for responding to campus crime and assisting victims. Nationally, the research and practitioner communities are working together to utilize empirical data for practical applications that promote safer environments on campuses of higher education. Such partnerships are critical to ensuring the safety of people who attend, work and visit college and university campuses in America.

PROMISING PRACTICES

The following promising practices were identified by the National Criminal Justice Association in "Summaries of Services for Victims of Campus Crime" (NCJA 1998):

- Florida International University sponsors Victim Advocacy Centers, located on both of its campuses, that are devoted solely to providing victim services. A wide range of supportive services includes on-scene crisis intervention, written information for victims, assistance

with dealing with student judicial hearings and/or the criminal justice system, an interpreter for non-English speaking victims, and outreach, counseling and referrals for primary and secondary victims.

- At George Mason University in northern Virginia, Sexual Assault Services provides advocacy and support to victims twenty-four hours a day, seven days a week. Confidential services are supervised by a sexual assault services coordinator with a cadre of students who have been trained as peer companions to provide both support and information to survivors. Information about sexual assault prevention, sexual assault, and resources to assist victims is available. GMU's sexual assault policy, which applies to students, faculty, administrators, contract employees, and visitors of the university community "strongly condemns sexual offenses and will not tolerate sexual offenders." In addition, a thirteen-page description of university legal procedures for rape and sexual assault cases is available both in paper and electronic formats.
- Indiana University has devoted significant resources to promote a campus that is free from discrimination or harassment based upon an individual's race, nationality, religion, or sexual orientation. The Gay, Lesbian, and Bisexual Anti-harassment Team, along with the Racial Incidents Team, are comprised of staff and faculty who have expertise in diversity issues and conflict resolution. The teams have two purposes: (1) To assist and support students who report an incident of discrimination based on race, nationality, religion, or sexual orientation in finding a resolution; and (2) To document information about these incidents in order to combat discrimination more effectively. To date, the Racial Incidents Team has worked with approximately sixty to eighty incidents a year, ranging from defaced posters to acts of physical violence. The Gay, Lesbian, and Bisexual Anti-harassment Team has worked with approximately forty to sixty cases each year, with most offenses committed against gay men and involving defacing of property, written threats, and both verbal and physical harassment.
- At Penn State University in Pennsylvania, providing a support person to accompany victims during medical examinations following a sexual assault is an important service among multiple supportive activities available to victims at Center Community Hospital.
- Columbia University and Barnard College in New York City utilizes its Web site to provide information and referrals for crime victims. Under the heading of "Student Wellness," the university homepage enumerates potential actions for victims to take, including "what to do if you are sexually assaulted."
- The College of Charleston in South Carolina offers mediation between the victim and the accused, upon request and with voluntary compliance of both parties. Similarly, Columbia/Barnard College offers victims the option of contacting the University ombuds officer as a resource for mediating complaints and seeking guidance in pursuing disciplinary action.
- Numerous institutions of higher education provide intervention with professors to crime victims and relocation to a new residence hall upon request.

Workplace Violence

SECTION 5, WORKPLACE VIOLENCE

STATISTICAL OVERVIEW

- Homicide is the second leading cause of fatal occupational injury in the United States. Nearly 1,000 workers are murdered and 1.5 million are assaulted in the workplace each year. According to the Bureau of Labor Statistics (BLS) *National Census of Fatal Occupational Injuries* (CFOI), there were 709 workplace homicides in 1998, accounting for 12% of the total 6,026 fatal work injuries in the United States (BLS 1999).
- Of the 709 workplace homicide victims in 1998, 569 (80%) were shot and 61 (9%) were stabbed (Ibid).
- According to the National Crime Victimization Survey (NCVS), assaults and threats of violence against Americans at work number almost 2 million a year. The most common type of workplace violent crime was simple assault with an average of 1.5 million a year. There were 396,000 aggravated assaults, 51,000 rapes and sexual assaults, 84,000 robberies, and 1,000 homicides (BLS 1998).
- According to the NCVS, retail sales workers were the most numerous victims, with 330,000 being attacked each year. They were followed by police, with 234,200 officers victimized (Ibid.).
- Robbery continued to be the primary motive of job-related homicide, accounting for 85% of the deaths. Disputes among co-workers and with customers and clients accounted for about one-tenth of the total (Ibid.).
- In 1997, there were 856 homicides in the workplace, down from 927 in 1996. Of this number, 630 victims (74%) were wage and salary workers and 226 (26%) were self-employed (BJS, *Sourcebook*, 1999, 298, Table 3.145).
- Fifty percent of all victims killed in the workplace were between twenty-five and forty-four years of age; 20% were forty-five to fifty-four years of age; 14% were fifty-five to sixty-four years of age; 10% were sixteen to twenty-four years of age; and 6% were sixty-five and older (Ibid.).
- In 1997, 85% of the victims died during robberies of their workplace; 10% were killed by work associates (7% by current and former co-workers and 3% by clients); and the remaining 5% were killed by personal acquaintances (2% by husbands or ex-husbands, 1% by boyfriends or ex-boyfriends, and 2% by other family members) (Ibid.).
- In 1997, 83% of workplace violence victims were male, and 17% were female. Sixty-eight percent of the victims were white; 18% were black; 12% were Hispanic; and the remaining 4% were of other or unspecified races (Ibid.).

- Of selected occupations examined from 1992 to 1996, law enforcement officers were the most vulnerable to be victims of workplace violence. Other occupations with high rates of victimization included private security guards, taxi drivers, prison and jail guards, and bartenders (BJS July 1999).
- In a study conducted on behalf of Liz Claiborne Inc., 57% of participating senior corporate executives agreed that domestic violence is a major problem in society. One-third of them thought that this problem has had a negative impact on their bottom lines, and 40% said that they were personally aware of employees and other individuals affected by domestic violence. Sixty-six percent believed that their company's financial performance would benefit from addressing the issue of domestic violence among their employees (FVVPF 13 August 1999).

SIGNIFICANT RESEARCH

One of the most significant outcomes of research into unions and the prevention of workplace violence was the discovery of the relative absence of violence prevention provisions in union contracts. An article in *Compensation and Working Conditions*, Fall 1999, discussed research that indicates that unions could make important contributions to prevent workplace violence. In most labor agreements, unions and management are already committed to a safe work environment. While research shows that unions and management generally negotiate clauses on subjects affecting the health and safety of the employees, there is little known cooperation on the subject of workplace violence (Gray, Myers, and Myers Fall 1999, 5-12).

Researchers collected data in their examination of workplace violence provisions in private sector collective bargaining agreements from 1,168 contracts covering 5.2 million employees filed with the Bureau of Labor Statistics. Only 14 of the 1,168 contracts reviewed by the researchers had provisions on workplace violence, covering only 1.5 percent of the workforce (Ibid).

Furthermore, the industry data showed that while a high percentage of workplace homicides occur in the retail trades, only one out of 110 retail contracts had a single provision on workplace violence. In the healthcare industry, where 44 percent of all nonfatal assaults occur, only five out of thirty-five contracts had at least one clause that dealt with workplace violence. Of the fourteen contracts that dealt with workplace violence, fewer than five aspects of the problem were covered and only one contract had a violence response provision (Ibid).

Researchers surmised that workplace violence prevention strategies are possibly dealt with in the context of management rules of conduct, and considered a management right, but the lack of coverage in the contract language clearly reflected a limited use of collective bargaining in preventing and controlling workplace violence. Union negotiators should make workplace violence a top priority, as has been done by corporate security directors and human resource professionals who represent the companies with whom they negotiate (Ibid).

PROMISING PRACTICES

- A Minnesota organization offers theater-based training to organizations that are designed to get to the heart of problems like sexual harassment and violence in the workplace by making it safe for employees to talk about them. The organization consists of two principals and a core group of ten actors and two facilitators who come from a variety of professions, including law and organization development. Using actors to depict familiar workplace situations, theater-based trainings bring issues into the training room and demonstrate solutions to difficult problems. It provides a safe environment for employees to discuss conflict and a forum for employers to communicate important policy dos and don'ts to their employees.
- *The Minnesota Center Against Violence and Abuse at the University of Minnesota* (MINCAVA) serves as a clearinghouse to provide online resources on violence and abuse, and in particular, violence in the workplace. MINCAVA highlights higher education curricula used in violence education programs; lists relevant homepages in the fields of education, law, health services, and human services; and maintains abstracts of articles and papers that address concerns about workplace violence. MINCAVA, School of Social Work, University of Minnesota, 195 Peters Hall, 1404 Gortner Avenue, St. Paul, MN 55108 (800-646-2282) <<http://www.mincava.umn.edu>> .

SECTION 5, WORKPLACE VIOLENCE**ABSTRACT**

Violence has become a reality for virtually *any* type of workplace and *any* type of employee—creating an increasingly pervasive sense of vulnerability among the American workforce. Workplace violence can have devastating effects on the productivity of organizations and on the quality of life of employees. The reality and risks of this growing category of violence must be examined with serious consideration given to what can be done by employers, supervisors, employees, and community resources to provide effective assistance and support to victims of workplace violence.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The scope and nature of workplace violence occurring in the United States today.
- The impact and emotional consequences of workplace violence on direct and indirect victims, including co-workers, supervisors, employers, and the community as a whole.
- Employers' responsibilities in addressing workplace violence and implementing preventive measures.
- Workplace violence and bank robbery.
- Domestic violence as a workplace issue.
- Workplace violence in correctional settings.
- Effective strategies and interventions that can make the workplace safer and more responsive to employee-victims.

INTRODUCTION

Violence in America has now invaded the workplace, putting at risk the safety, productivity, and health of American workers. Research clearly shows a significant increase in the amount of workplace violence and conflict in recent years. Unfortunately, workplace violence can happen anywhere, anytime. Whenever such a violent incident occurs, great potential exists for physical, emotional, and financial impact on both direct and indirect victims, as well as the whole community. In order to deal effectively with the victimization and its consequences, the

employee-victims need specialized assistance, information, and referrals. The reaction, support, and assistance offered by management and crisis responders are very important to survivors of workplace violence. Information exchange, identification of effective responses, and training must take place in order to improve the capacity and preparedness of American workplaces and victim services to respond collaboratively and effectively to victims of workplace violence.

STATISTICAL OVERVIEW

- Each year, between 1992 and 1996, U.S. residents experienced more than 2 million victimizations while they were working or on duty (BJS 1998).
- More than 1,000 workplace homicides occurred annually between 1992 and 1996 (Ibid.).
- Guns were the primary weapon in 82% of workplace homicides that took place in 1996, followed by knives and physical force (Ibid.).
- Currently, one out of every six violent crimes experienced by U.S. residents age twelve or older occurs in the workplace, including 20.5% of all reported assaults, 10.8% of all reported rapes, and 6.5% of all reported robberies (Ibid.).
- Law enforcement is the most common occupation for nonfatal workplace violence with an average of 234,200 victimizations a year (Ibid.).
- Findings from a recent survey on domestic violence victims in the workplace reported that 24% of women surveyed said domestic abuse caused them to arrive late for work, 15% of women had a difficult time keeping a job, and 20% of women said that it affected their ability to advance their career (Body Shop 1998).
- Boyfriends and husbands, both current and former, commit more than 13,000 acts of violence against women in the workplace every year (Anfuso 1994).
- The National Institute for Occupational Safety and Health reports that murder is the leading cause of death for women at work and the third leading cause of death for men (OVC 1998).
- Businesses ranked workplace violence as their top concern for the third straight year in the 1996 Pinkerton Security Issues Survey Report (Montoya 1997, 18).
- Only 44.2% of violent victimizations sustained at work are reported to the police (BJS 1998).

TYPES OF WORKPLACE VIOLENCE

Workplace violence encompasses such crimes as property crimes, harassment, threats and intimidation, physical assaults, sexual assaults, stalking, and homicide. Four general types of offenders commit violence in the workplace:

- *Type I.* This offender has no legitimate relationship to the workplace or the victim and usually enters the workplace to commit a criminal action such as a robbery or theft. Common victims of Type I offenders are small late-night retail establishments including convenience stores, restaurants, and taxi drivers. This type of workplace violence also includes terrorist and hate crimes such as the World Trade Center and the Alfred P. Murrah Federal Building bombings as well as abortion clinic attacks.
- *Type II.* This offender is the recipient of some service provided by the victim or workplace and may be either a current or former client, patient, or customer.
- *Type III.* This offender has an employment-related involvement with the workplace. The act of violence is usually committed by a current or former employee, supervisor, or manager who has a dispute with another employee of the workplace. This type of workplace violence is usually referred to as the “disgruntled employee.”
- *Type IV.* This offender has an indirect involvement with the workplace because of a relationship with an employee and may be a current or former spouse or partner, someone who was in a dating relationship with the employee, or a relative or friend. This type of violence follows the employee into the workplace from the outside.

This basic typology was first identified by the California Department of Industrial Relations, Division of Occupational Safety and Health in *Guidelines for Workplace Security* (1995). Cal/OSHA generally identified Types I, II, and III. In the above typology, Type III has been separated into two distinct types of employment-related involvement with the workplace: *direct* involvement, where the perpetrator is a current or former employee; and *indirect* involvement, where the perpetrator has (or had) a relationship with a current employee, but has never been employed at the workplace.

Types I and II are the most prevalent incidents of workplace violence in the United States. In reality, there are far more violent acts directed at workers than caused by workers. However, Type III and IV incidents are most often the focus of media attention involving workplace violence.

OCCUPATIONAL RISKS FOR WORKPLACE VIOLENCE

Data from the National Crime Victimization Surveys for 1992 to 1996 (BJS 1998) indicate that the following occupations have the highest rates of workplace violence per 1,000 workers:

- | | |
|---------------------------|-------|
| • Police officers | 306.0 |
| • Corrections officers | 217.9 |
| • Taxi drivers | 183.8 |
| • Private security guards | 117.3 |
| • Bartenders | 91.3 |

• Mental health professionals	79.5
• Gas station attendants	79.1
• Convenience and liquor store clerks	68.4
• Mental health custodial workers	63.3
• Junior high/middle school teachers	57.4
• Bus drivers	45.0
• Special education teachers	40.7
• High school teachers	28.9
• Nurses	24.8

In 1996, the National Institute for Occupational Safety and Health identified ten factors that may increase a worker's risk for workplace assault:

- Contact with the public.
- Exchange of money.
- Delivery of passengers, goods, or services.
- Having a mobile workplace such as a taxicab or police cruiser.
- Working with unstable or volatile persons in health care, social services, or criminal justice settings.
- Working alone or in small numbers.
- Working late at night or during early morning hours.
- Working in high-crime areas.
- Guarding valuable property or possessions.
- Working in community-based settings.

Workers who have been interviewed following their workplace victimizations have strongly advised that all workers, supervisors, and managers need to acknowledge the problem of workplace violence, advocate for safe work environments, and train workers in precautionary measures and in what to expect if they do become victims (Atkinson 1991).

VICTIM IMPACT AND EMOTIONAL CONSEQUENCES

Whenever a violent incident occurs in the workplace, great potential for physical, psychological, and financial damage exists. In the aftermath of the violence, the survivors, including those who were injured, those who were targeted but missed, witnesses, co-workers,

family members, friends, and other people in the organization, can be emotionally devastated. A person's entire life, including relationships with family and the ability to work and carry out everyday activities, can be affected. For the survivors and their co-workers, the workplace is no longer a safe place—it has become a threatening environment. When workplace violence occurs, employees generally have a concern about the possibility of a reoccurrence. The more meaningless and arbitrary the incident, the more vulnerable and unsafe the survivors seem to feel.

Survivors experience three general types of posttraumatic consequences in the hours and days following work-related traumatic incidents (Bergmann 1997):

- *Re-experiencing consequences* include feeling as if the incident is happening again, constant and intrusive thoughts about the event, fear or anxiety and concern about another or similar incident happening, and nightmares.
- *Withdrawal consequences* include attempts not to think about or to feel emotions connected to the incident. These attempts can include overworking or not coming back to work, depression, avoidance of reminders of the incident, withdrawal from family and friends, and possibly, self-medicating with alcohol or drugs.
- *Other consequences* include such things as anger, irritability, sleep problems, difficulty concentrating, and an exaggerated startle response.

All of the posttrauma consequences experienced by any victim of violent crime are generally also experienced by a victim of workplace violence. Although the impact is much the same, the workplace violence victim is expected to return to “the scene of the crime” day after day and to continue to function efficiently. Long-term problems can develop if posttraumatic consequences are not managed. With immediate and effective responses to work-related trauma, most of these long-term problems can be prevented or managed, and the workers and the organization can resume regular activities.

The overall goals for victims of workplace violence in dealing with their emotional reactions to the traumatic event are the decrease of distressing symptoms, the enhancement of emotional expression, and the assimilation of the traumatic experience (Baron 1993). The process of resolution can be facilitated by family and friends who acknowledge the trauma, allow the individual to talk about it, and accept the uneven road to resolution.

Employees who receive information about posttrauma consequences, especially the normal psychological consequences of exposure to violent incidents, can better manage their feelings and reactions to workplace violence after it happens. Detailed discussion of the incident with others is often an element of posttraumatic resolution. If the violent incident affected a large portion of the workforce, the employer may consider bringing professional help to the workplace to assist employees in discussing and dealing with all that the violent incident has precipitated. Community services and resources are available for crime victims in many jurisdictions. Community victim advocacy services are especially vital to domestic violence

and stalking victims. Supervisors and human resource directors should check into the available community services and provide workers with the names of available referrals and resources.

An effective response to violent incidents that occur within a workplace should include the following strategies and interventions (Bergmann 1997):

- Plan procedures for the immediate support of all survivors of violence.
- Create policies for providing help in the form of humanitarian assistance.
- Locate and screen mental health professionals to provide posttrauma services.
- Agree on psychological services to be provided, including procedures for leave and return-to-work policies.
- Review workers' compensation rules concerning psychological injuries.
- Implement procedures for evaluating affected personnel at regular intervals.

The reaction, support, and assistance offered by management and those around them are very important to survivors of workplace violence. Secondary victimization occurs when employers, managers, employees, or those contracted by an organization respond in one of the following ways:

- *Disbelief and denial.* The incident's description or details provided by the victim(s) are not believed.
- *Discounting.* The magnitude of the incident and its results are poorly understood or minimized.
- *Blaming the victim.* Responsibility for the incident is attributed to the victim(s).
- *Stigmatization.* A judgment is made concerning the psychological consequences for a victim of a traumatic event, such as ridicule for experiencing symptoms or a belief that symptoms result from malingering or for attention or sympathy, etc.
- *Denial of assistance.* Necessary services are denied because they are perceived as unwarranted, undeserved, or unnecessary.

One study of the effectiveness of posttraumatic services concludes that those receiving immediate assistance have had fewer incidences of permanent disability, were less likely to seek legal action against the company, and saved companies an average of about \$37,000, as compared to companies in which employees did not receive timely help. There appear to be significant results in the nonfinancial area as well. Employees feel very positive about their employers and believe that the company is concerned about their well-being when efforts are made to respond to traumatic incidents in the workplace. This often translates into greater productivity and fewer absences (Bergmann 1997).

In 1993, the Northwestern National Life Insurance company conducted a survey on workplace violence. The survey was based upon telephone interviews with 600 full-time employees who

worked thirty-five hours or more per week. Workers with employers who reported effective human resource programs, such as grievance procedures, protection from and recourse for harassment, and security programs, had lower rates of workplace violence. For example, only 18 percent of those employees whose employers had a grievance, harassment, and security program reported being attacked, threatened, or harassed in the past twelve months versus 31 percent of the employees whose employers did not have such programs. Northwestern National concludes that improved interpersonal relations and effective prevention programs can significantly reduce the levels of violence in the workplace (Northwestern National Life 1993).

EMPLOYER RESPONSIBILITIES AND LEGAL DUTIES

Many organizations are now looking at what can be done about the issue of workplace violence. One of the most important starting points is to acknowledge that it can happen. The majority of workplaces feel that “it could never happen here.” This denial is one of the major barriers in addressing the issue of workplace violence. Conversely, many work organizations have taken a “zero tolerance” stand on any type of violence or harassment in the workplace. By taking this stance, employees are clearly made aware that violence, aggressive behavior, and harassment will not be tolerated. This not only provides a deterrent effect, but also gives employees a feeling that their safety is important to the organization.

The key to reduction of violence is to discuss the possibility before it happens and have a response plan in place. Policies and procedures are required to effectively handle the problem of workplace violence. Current statistics are that only 44.2 percent of the violent victimizations sustained at work are reported to the police (BJS 1998). When no system is in place, many employees will not bring concerns or fears to management. Employers must create an atmosphere where workers are encouraged to report threats if they occur. Too often in the past, employers have ignored threats, and violence has occurred, often with fatal results. Employers have a legal duty under the negligent retention doctrine to heed notice of threats and harassment that occur within the workplace and adequately respond to employees’ complaints and warnings about potentially dangerous employees (Kinney and Johnson 1993).

A vital part of any workplace violence prevention plan is the development of guidelines for workers to report either actual violent incidents or suspected trouble. The guidelines stipulate that supervisors should be employees’ first contact. If the incident requires further action or investigation, the chain of involvement is usually human resources, the legal department, and then security (Anfuso 1994). If neither management nor security respond to an employee’s report, the employee should then also report any incident or threat of violence to the local law enforcement authorities.

Because employers are required by law to provide adequate security, an employer can be held liable for violence that occurs in the workplace for failure to provide adequate security (Gagnon 1995). Employers and employees stand in a special relationship, and courts have held that employers have a duty to provide employees with a safe workplace. Employers may also be liable under the legal theory of *respondeat superior* and negligent hiring or employment

retention for assaults committed by co-workers. Many court actions have raised questions of negligent security practices as well as the removal of potential hazards (Baron 1993). Administrative controls such as conflict resolution training and requiring that employees not work alone are suggested. This is geared toward controlling violence from customers and clients but can also include disgruntled employees—especially when layoffs or termination occur.

In-service training regarding workplace safety is an integral part of creating a safe environment. Topics can include first aid and CPR training, safety awareness, personal safety training, and training to recognize potentially violent situations in the workplace. Enhancing employee security is one way of letting employees know that management is concerned for their welfare.

Trauma response plans should include training programs to increase information about trauma and its psychological impact and preparation of rapid response personnel to assist in crisis intervention and peer support. They should also include procedures for monitoring individuals during emotional turmoil and recovery phases following trauma so that effective mental health referrals can be made when necessary. Employees must also know what community services and resources are available for crime victims. Victim service professionals should be aware of and linked to community efforts to respond as necessary.

There should be a written plan for handling violence that includes details concerning what will happen before, during, and after any incidents. Having a trauma plan in place ahead of time will help a company make it through a violent crisis. Management needs to make some decisions about workplace violence on a case-by-case basis and, at the same time, have written protocol and procedures in place to address all potential situations before they erupt into violence.

A threat management policy should include the following elements:

- Identify ways to ensure employees feel they can report threats in a safe and secure way, such as establishing a hotline or written policy statements.
- Identify the department (i.e., security or human resources) to which threats should be reported within the business.
- Define the scope of duties for threat management teams.
- Identify individuals who will be a part of the threat management team.
- Set criteria for convening the threat management team and for referring incidents to law enforcement.
- Mandate primary and refresher training criteria for team members and for key supervisors and managers (Kinney and Johnson 1993).

The establishment of a nonharassment policy is essential. Most of those who have committed acts of violence in the workplace have been described by co-workers and supervisors as

intimidators (Northwestern National Life 1993). New and current employees should be required to read and sign an acknowledgment of this policy. This procedure puts all employees on notice and makes administrative actions against violators much less difficult for management to enforce.

RED FLAGS FOR EMPLOYEE BEHAVIOR

Management's most important line of defense in preventing workplace violence is to combine preventive human resource practices with close attention to the warning signs that may predict violent behavior. A plan should be in place with a management team trained on what to watch for and what procedures to follow. Red flags for stress in the workplace include layoffs, reductions in force, and labor disputes. Managers must be trained so that they can properly discuss these realities with employees.

According to John E. Douglas, former chief of the Federal Bureau of Investigation's Investigative Support Unit, National Center for the Analysis of Violent Crime, some of the potential employee behaviors (Burgess and Douglas 1994) that should place managers and co-workers on alert include the following:

- Having an obsession with weapons.
- Compulsive reading and collecting of gun magazines.
- Excessively discussing weapons.
- Making direct or veiled threats.
- Intimidating or instilling fear in others.
- Having an obsession with one's job.
- Showing little involvement with co-workers.
- Displaying unwanted romantic interest in a co-worker.
- Exhibiting paranoid behavior.
- Being unaccepting of criticism.
- Holding a grudge.
- Having recent family, financial, academic, social, legal, or other personal problems.
- Showing interest in recently publicized violent acts.
- Testing the limits of acceptable behavior.
- Making extreme changes in behavior or stated beliefs.

Caution: This list is merely to help develop awareness and recognition of potential risk behaviors. There is no definitive checklist of behavioral indicators for a potential perpetrator of workplace violence.

BANK ROBBERY

Victims of bank robbery can include bank customers, bank employees (tellers, managers, and security guards), law enforcement officers, and other members of the community. A common reaction by tellers, the largest group affected by bank robberies, is a tremendous amount of self-blame. Bank tellers, in the aftermath of a bank robbery, feel that they should have been able to do something to stop the crime. While bank robbery is generally not considered a personal crime but a crime against the bank, most tellers take it very personally. In some instances, tellers are injured, taken hostage, or even killed.

STATISTICAL OVERVIEW

- Acts of violence were committed during 348 of the 7,384 robberies, burglaries, and larcenies occurring during 1994.
- These acts included 149 instances involving the discharge of firearms, 6 instances involving explosives, 172 instances involving assaults, and 34 other instances of violence.
- In almost half of the number of bank robberies in 1994, the threat of a weapon was used by the bank robber against the bank employee.
- One or more acts of violence may occur during an incident. Acts of violence resulted in 167 injuries, 23 deaths and 61 persons being taken hostage.
- Loot was taken (cash, securities, other property) in 6,804 incidents totaling \$58,428,792.

The type of individuals injured, killed or taken hostage during violations of the *Federal Bank Robbery and Incidental Crime Statute*, 18 U.S.C. 2113 (1994) are as follows:

<i>Type of Victim</i>	<i>Injuries</i>	<i>Deaths</i>	<i>Hostages Taken</i>
Total	167	23	*61
Customer	23	0	45
Employee	88	2	84
Employee family	0	0	3
Perpetrator	25	16	n/a
Law officer	16	2	0
Guard	12	3	9
Other	3	0	11

*These hostages were taken in 36 separate incidents.

(The preceding statistics and chart are from the U.S. Department of Justice, Federal Bureau of Investigation, *Bank Crime Statistics, Federally Insured Financial Institutions, January 1, 1994-December 31, 1994*, Washington, DC: U.S. Department of Justice, 1995.)

COMMON REACTIONS OF BANK ROBBERY VICTIMS

Re-occurring reactions expressed by victims of bank robberies include:

- Continuing fear that the robber will return either for retribution or to rob them again. This reaction persists until they are informed that a suspect has been apprehended.
- Fear of any strangers who approach them in the bank. Some fears are so strong that tellers have refused to wait on customers, especially in instances where customers' clothing, glasses, bags, etc., are similar to that of the suspect.
- Guilt that they are responsible for the monetary loss.
- Difficulty handling daily tasks and decision making on the job or at home.
- Identification of the robber especially on a face-to-face basis.
- Feelings of intense vulnerability and feeling "trapped" in their positions.
- The prevalent feeling that they are "going crazy." This comes from victims not recognizing they are reacting normally to trauma.
- Anxiety about their part in the criminal justice process (particularly being a witness and facing the alleged robber in court).
- Reluctance to share their feelings and concerns with co-workers or supervisors for fear of being judged unstable and at risk of losing their job.
- Fear that they will be disciplined or even lose their jobs because they were robbed or allowed the robber to escape.
- Thoughts about resigning as a teller and, in many cases, acting on this impulse. It is interesting to note that most exit interview forms do not cover robbery as a reason for a bank employee resigning his or her position.
- Insecurity about being singled out by the robber provokes thoughts of being picked for other robberies.
- Frustration at not being told by police or prosecutors that the suspect was apprehended or prosecuted.
- Fear that requesting counseling paid under workers' compensation will label them as a troublesome or troubled employee or employer.
- Revictimization by insensitive employers.

Because bank robberies occur in all jurisdictions (large urban communities and small rural towns), victimized bank tellers are left with the fear that there is no "safe place" to move to reestablish their sense of security. Many leave their jobs, due in large part to this fear and the resulting stress.

In addition, law enforcement officials and the employer may look at the teller suspiciously, or even fire the employee, if he or she did not give the perpetrator bait money or the dye packs that some banks employ to intercept bank robbers. Law enforcement may not understand crisis reactions to trauma when the victim may not remember or follow bank procedures. Rather, the victim responded in what he or she felt safe in doing at the time of the robbery. Thus, the

teller may, in some cases, be viewed by law enforcement officials as a possible suspect “of an inside job.”

While many banks are supportive of their employees in the aftermath of a robbery, some banks cause a secondary victimization, isolating the employee from other workers while the investigation is being conducted.

IMPACT ON FINANCIAL INSTITUTIONS

When a financial institution is robbed, there is an obvious monetary loss to the institution; however, there are additional costs to financial institutions that go unnoticed. There is a direct link between trauma suffered by victims of bank robbery and the amount of indirect loss to financial institutions caused by the robbery itself (Powers 1989). Costs of bank robbery to the banking industry include the following:

- Dollars lost to robbery.
- Productivity affected.
- Service delivery influenced by fear.
- Increased sick leave.
- Attendance problems.
- Morale affected.
- Balancing problems.
- Workers' compensation claims.
- Increased insurance costs.
- Risk of stress claims.
- Management-employee relations.
- Turnover due to resignations.
- Loss of customer accounts (Gibson 1990).

VICTIM ADVOCATE'S ROLE

In addition to the more immediate crisis services that victims may require on-scene, victim advocates need to ensure that when a suspect has been apprehended and/or charged, the bank teller is notified, as well as other victims who were present during the robbery. They need to inform victims how the case will be processed throughout the system (whether federal or state), assist victims in filling out victim impact statements, and inform victims of their right to allocution during sentencing. Victims may also qualify for restitution payments for time lost from work and health- and mental health-related expenses that resulted from the bank robbery.

Victim advocates should also provide bank robbery victims with information about victim compensation, including the application process, and assist them as needed in completing necessary forms.

DOMESTIC VIOLENCE IN THE WORKPLACE

Until recently, domestic violence was not an issue that was high on the business community's agenda. Even though almost half of the American workforce is made up of women, only a handful of workplaces have taken leadership roles on this issue in the last decade. This is changing, as a growing number of employers recognize the serious impact of domestic violence on both their employees' lives and their bottom lines.

Women who have been abused take the violence with them to work, and it shows—in lost productivity, stress, increased health care costs, employee absenteeism, turnover, and sometimes, workplace violence. When an employee is the target of attack in the workplace by an intimate, other employees may also be placed at risk. Whether or not employers acknowledge it, domestic violence is a problem that does not disappear when women leave home and enter the workplace. In fact, a large percentage of abused women spend much of their time on the job. They work with long sleeves and high collars covering the bruises. They come to work in spite of headaches, physical injuries, depression, and chronic anxiety. Often they work because they have to in order to support their families.

While the following indicators could be explained by something other than domestic violence, they also could be possible signs that an employee is being battered:

- Bruises she may try to explain as being caused by an accident.
- Frequent or unexplained absences or lateness.
- Frequent personal phone calls that leave her upset.
- A decline in job performance—difficulty concentrating or working effectively.
- Withdrawal from co-workers.

THE ROLE OF EMPLOYERS

Employers can help create a workplace environment supported by comprehensive, legally sound policies that both assist women employees affected by violence and ensure that workplaces address the serious legal issues raised as a result of violence against women. Employers who take action will not only avoid liability costs but also make an important difference in the lives of women and improve productivity and safety in their workplaces. As stated in a U.S. Office of Personnel Management guidebook for managers:

If somebody is threatening, harassing, or injuring another person, it is a criminal act. Forget all the polite rules about ignoring lovers' quarrels, because this is another kind of situation altogether . . . Never

underestimate the possible dangerousness of someone who batters, stalks, or otherwise mistreats another person, whatever their relationship may be (Tyler 1996, 33).

There are many steps employers can take depending on a workplace's level of commitment, available resources, and size. Possible steps might include the following:

- *Training for managers and supervisors.* Because managers may be among the first to see the signs of abuse, training them to know what to look for and how to help victimized employees is a critical element of a workplace domestic violence strategy. Such training needs to include issues such as employee confidentiality, the dynamics and cycle of domestic violence, appropriate and inappropriate ways to approach a victim, and available in-house and community-based resources.
- *Implementation of domestic violence personnel policies.* Workplaces can develop personnel policies that accommodate the needs of battered women. Procedures that allow employees to disclose their abuse confidentially and guidelines that define managers' and employees' roles and responsibilities in working with abused workers further enhance the victim sensitivity of the workplace. Policies such as flexible working hours for medical and legal appointments and possible relocation to a new work site or change in work shift can provide an additional layer of safety without forcing women to leave their jobs.
- *Specialized employee assistance program (EAP) services.* When workplaces have such programs, they should make sure that services for victims of domestic violence are included. Local domestic violence specialists can be brought in to train EAP counselors or to conduct training for human resource personnel and supervisors and provide referrals to local battered women shelters and services.
- *Security.* Home phone numbers and addresses of employees should never be given out without specific authorization. Whenever possible, pictures of identified batterers should be kept at the front entrance to help prevent access. Security or other personnel can protect abused employees by escorting them to the parking lot, bus stop, or subway station. Some companies provide designated parking spaces close to the building for employees threatened by violence. Others offer silent alarms at desks or provide cellular telephones to women employees who are at risk. However, supervisors should always ask each victim what solutions best suit her particular circumstances.
- *Help employees develop a safety plan.* Trained employees, counselors, EAP staff, or community domestic violence advocates can assist women in developing a safety plan. Every victim's circumstances will be unique, but an objective, trained listener can help the victim develop an individualized safety plan to minimize the risk of continued violence or physical harm.
- *Document the abuse.* An employer can assist a victim of domestic violence by documenting her bruises or injuries and the fact that she reported a violent incident to someone at the work site. Local domestic violence advocates can help determine what documentation an employer should keep, what safeguards will help ensure that confidential information is not divulged, and help ensure that the victim's privacy is not compromised.

- *Know the law.* Workplaces should be familiar with the current domestic violence laws and ordinances of their city and state, as well as federal regulations and rulings. Local domestic violence programs or local law enforcement can provide the most current information. The legal requirements in many cities and states are evolving, and increasingly the law is imposing a duty on employers to provide a safe workplace, including taking reasonable steps to prevent and stop violence against women at work.
- *Consider workplace orders of protection.* In some states, including California and Massachusetts, employers can apply for orders of protection on behalf of the workplace to keep batterers away from the victim's work site. This can be an important strategy in cases where the batterer may be enraged by such legal action and escalate the violence if he knows the victim obtained the protection order. However, this action should never be taken without careful and deliberate consideration of what is best for that victim in her particular circumstances and never without her consent.
- *Provide general education and prevention programs.* Seminars describing the nature and prevalence of domestic violence and options for getting help can let employees know that they are not to blame, that there are alternatives to violence, and that there is assistance available. Sponsoring seminars on company time demonstrates concretely that the workplace is committed to helping and ensures a greater level of participation. Because some victims may feel more comfortable learning about their options outside of a group setting, education can also be conducted through brochures and other information posted in visible places throughout the workplace, including cafeterias, restrooms, and lounges.
- *Provide resources and referrals.* Workplaces should provide an up-to-date list of national and local resources such as emergency shelters, counseling services, hotlines, and support groups that provide assistance and information for victims of domestic violence.

The business community is beginning to accept the reality that employers have both a legal obligation and a social responsibility to prevent violence against their employees and to respond to such violence and its effects when it occurs. By addressing the effects of domestic violence in the workplace, companies will reap the double benefits of limiting legal liability and maximizing employees' productivity and contributions to the company.

RESPONDING TO WORKPLACE VIOLENCE IN CORRECTIONAL SETTINGS

(The following section is based on *Responding to Workplace Violence and Staff Victimization in Probation, Parole and Corrections*, 1998, written by Anne Seymour and sponsored by the National Center for Victims of Crime with support from U.S. Department of Justice, Office for Victims of Crime.)

Physical assaults. Sexual harassment. Hostage-taking incidents. Spitting and throwing feces and urine. Rape. And the ultimate violation: murder.

What to some people appears to simply be a litany of their worst violent crime fears is, for many correctional professionals, a daily threat in their workplace. While much attention has

been focused on increasing incidents of workplace violence in America, less attention has been paid to the violent acts committed against those who dedicate their lives to public safety and protection: corrections, probation and parole professionals. Since 1990, the Office for Victims of Crime has sought to address workplace violence in correctional settings through training and technical assistance initiatives sponsored by the National Center for Victims of Crime, with support from all major national correctional associations.

There is a flawed assumption that people who choose corrections as their profession must accept risks to their personal safety, and that being victimized is “just part of the job.” Certainly, corrections is a tough job that is made even more difficult by the threat and carrying out of violent acts. And such difficulties are enhanced when correctional agencies fail to adopt strong policies and procedures that promote worker safety and victim assistance when an employee is victimized on- or off-the-job.

The issues of violence and victimization in correctional settings—including institutions, jails, youth detention centers, probation and parole—can differ significantly from similar issues in the general population:

- Due solely to the nature of correctional populations, the risk of being victimized on-the-job is greater for correctional professionals than for most other jobs.
- Many agencies lack policies and procedures on how staff *can* and *should* report workplace violence, and how the agency will respond to them.
- The scope and breadth of community-based victim services provide a fairly good “safety net” for citizens who are victimized while, in corrections, the availability of agency-sponsored victim services are limited or, in some cases, nonexistent.
- The typical process for dealing with violent crimes in the community involves investigations, arrests and criminal prosecutions. In corrections, some matters that would otherwise be considered “criminal” are handled administratively, depending on agency policies and procedures.
- A basic element of crisis intervention for victims is assuring them that the crime “is not their fault.” In correctional settings, there are occasions when a staff member’s oversight, negligence, or failure to follow established procedures contribute in some way to his or her victimization.
- As a result, “victim blaming” for incidents of workplace violence in correctional settings becomes a barrier to crisis intervention and follow-on supportive services for the victimized staff. Victim assistance is often accompanied by disciplinary actions. In addition, other staff may harbor feelings of resentment toward a victimized colleague who failed to follow procedures, as their alleged negligent actions may have put others at risk.
- In the community, victims often exercise options to completely remove themselves from “the scene of the crime,” i.e., leaving their homes and communities, getting a new job, changing identities, etc. In corrections, victimized staff are, in many cases, expected to “return to the scene of the crime”—often very soon after the incident occurs. Rapid

reintegration into the workplace without extensive supportive services can be a “trigger” for severe psychological reactions.

- In some cases, the victimizer (inmate, probationer or parolee) continues to remain in the same institution, or report to the same field office, while the victim (the corrections professional) is transferred to another site “in his or her best interests.” Such actions can be considered punitive and erroneously support the concept that the victim was to blame.
- Inmates, probationers and parolees with histories of victimizing staff must continue to be supervised in the correctional setting. The responsibility of supervising or monitoring a known “correctional staff victimizer” can add tremendous stress to those who must assume this job.

These differences may affect the scope and sufficiency of the agency’s services for staff who fall prey to workplace violence. Recognizing and understanding these unique characteristics are two of the most important steps toward formulating an appropriate agency response that best meets the special needs of correctional employees.

TEN SUGGESTIONS FOR CORRECTIONAL AGENCIES AND ADMINISTRATORS

Every correctional agency has an important obligation to its employees to promote their safety and well-being. In order to shape the issues that must be addressed, California Youth Authority Assistant Director, Prevention and Victim Services Sharon English and public safety consultant Anne Seymour developed ten suggestions for agencies and administrators to respond to workplace violence:

1. All corrections, probation, and parole agencies should have clear policies and procedures for responding to workplace violence that encourage reporting of criminal incidents, and provide support for the victimized staff, witnesses, and entire unit or office in which the critical incident occurred.
2. All agencies should have emergency response teams available around the clock, with members trained in victimology theory, responses, and interventions.
3. Staff safety training programs should incorporate victim assistance as well as worker safety and critical incident prevention.
4. Management and administrative staff should be professionally trained in death notification procedures that include in-person sensitive notifications, crisis intervention, and on-site and continuing support for murdered employees’ family members.
5. Supervisors and managers must receive training on how victimization affects their employees’ career choices, how victimized employees might treat inmates, parolees, or probationers, and how victimized staff are viewed by their co-workers.
6. Procedures on staff reintegration must be established and practiced, focusing not only on the victimized staff member but also on his or her professional peers.

7. Corrections professionals should be involved in any disciplinary hearings or criminal proceedings resulting from their victimization, including notification of case status, the right to be present at key proceedings, submission of a victim impact statement, and protection from intimidation, harassment, or harm.
8. Corrections has an ongoing responsibility to the family of victimized staff members. Efforts should be made to provide them with information, input and support, not only at the crisis stage of the victimization but also in the months that follow.
9. Following a staff victimization or critical incident, agencies should establish policies and procedures for rumor control that include a brief statement of facts for agency employees and the news media.
10. Corrections, probation, and parole agencies should establish strong affiliations with local victim service organizations. Over 9,000 local agencies can provide crisis intervention, support groups for victimized staff and training on victim trauma and reactions following a crime.

PROMISING PRACTICES

- In October 1995, President Bill Clinton ordered federal agencies to create programs to promote employee awareness of domestic violence and provide resources to victims.
- Recently, the National Workplace Resource Center on Domestic Violence of the Family Violence Prevention Fund, with support from OVC, published a guide, *The Workplace Responds to Domestic Violence: A Resource Guide for Employers, Unions and Advocates* (Family Violence Prevention Fund 1998). This guide cites a 1995-96 working group of employer, labor, and government organizations which developed a consensus document called *Ten Principles for the Workplace*, which “describes the attributes of a comprehensive and compassionate workplace response to domestic violence.” These ten principles include a safe workplace environment; increased safety measures for victims of domestic violence; respect for the authority and autonomy of adult victims; equal rights, opportunities, and benefits for victims of domestic violence as for all other employees; nondiscrimination against victims of domestic violence in the workplace; appropriate treatment and discipline for employees who commit acts of domestic violence; education on domestic violence for employees; and support for community efforts to end domestic violence (Family Violence Prevention Fund 1998).
- The Victim-Witness Coordinator in the U.S. Attorney’s office for the Eastern District of Wisconsin has developed an innovative outreach program for victims of bank robberies, specifically addressing bank employees. The office, with input from bank tellers who have been victims of bank robberies, has developed a brochure entitled: *When Bank Employees Become Victims of a Robbery* (AFSCME 1998). In addition, OVC funded a model program at the U.S. Attorney’s Office, which created the video titled *After the Robbery: Crisis to Resolution*, available from the OVC Resource Center. It not only provides information about the specific trauma reactions of bank employees, but also offers advice about how to cope and where to go for assistance.

The program's response to bank employees is as follows:

- Immediately following the robbery, a trained crisis response professional goes to the scene of the robbery and provides follow-up visits to bank employees.
 - The crisis response professional and trained counselors also provide debriefing to customers, tellers, and staff as well as referrals to local assistance programs.
 - The staff provides a workshop for victim tellers every three months where employees are able to tell their stories in a supportive group atmosphere.
 - Law enforcement officers attend the workshops to provide case updates.
 - An Assistant U.S. Attorney attends the meetings to discuss the court system and to answer any questions about victims' rights.
- The Victim-Witness Coordinator for the Eastern District of Wisconsin created a Task Force in the early 1990s composed of bank security professionals, law enforcement personnel, and federal and local victim-witness providers, crisis response professionals, and victim bank tellers. The Task Force organizes the workshop, which is conducted four times a year. Any individual who attends can join a support group that is generally held for six weeks. Following the termination of the support group, employees who need additional counseling are referred to specially trained local mental health professionals.
 - Hardee's, Inc., has begun extensive training for its fast-food company managers on everything from store security systems to dealing with stalking situations of employees. The company communicates safety information constantly to its workforce through a monthly newsletter and other publications. All of Hardee's workers also receive personal safety training.
 - Kaiser Permanente's Southern California branch made a year-long commitment in 1997 to educate its corporate employee assistance program customers about the impact of violence on the workforce. The company held a series of conferences for EAP managers and professionals around the state.
 - In 1996, the Wisconsin State Employees' Union sponsored workshops that introduced members to workplace violence issues and how to resolve them. As a result of educating employees, an ad hoc joint labor/management committee on workplace violence was created. The committee developed a workplace violence policy that served as a first step in developing specific actions such as methods of supporting victims and witnesses of workplace violence, preventive measures, education and training, and data collection and analysis.
 - The American Federation of State, County, and Municipal Employees (AFSCME 1998) has produced a domestic violence guide for all members, stewards, and labor-management representatives and encourages protective measures and services for members who are victims of domestic violence.
 - The state of Florida recently convened an Interagency Workgroup on the Impact of Domestic Violence on the Workplace with the mission of promoting statewide guidelines for workplace domestic violence policies.

- In 1984, the Polaroid Corporation in Cambridge, Massachusetts, dealt with its first known case of domestic violence involving an employee. Since that time, a concerted effort has been made to develop a comprehensive program to respond to the issue, encompassing the company's employee assistance, human resources, legal, medical, security, and ombudsperson departments.
- Since 1995, Aetna, Inc., based in Hartford, Connecticut, has integrated domestic violence prevention education into its nationwide employee wellness program. The company observes the annual Work to End Domestic Violence Day, holds workplace seminars, and publishes awareness articles in employee publications.
- Oregon and Iowa have bills pending in the legislature that would allow victims of domestic violence to qualify for unemployment benefits, which are employer-financed, when threatened in the workplace and forced to quit for self-protection.
- A number of correctional agencies have implemented model workplace violence and staff victimization response programs including the Federal Bureau of Prisons, the California Department of Corrections, the Georgia Department of Corrections, the South Carolina Department of Corrections, and the Texas Department of Criminal Justice.

1. What are the four types of workplace violence offenders, and how do they differ?

2. What are some of the factors that may increase a worker's risk for workplace assault?

3. Describe two of the emotional consequences of workplace violence for victims.

4. Name and describe at least three strategies or interventions for effective response to a workplace violence incident.

5. Briefly describe some of the potential employee behaviors that should place managers and co-workers on alert.

6. What are three interventions employers can make on behalf of an employee involved in an abusive relationship?

Rural Victims

SECTION 6, RURAL VICTIMS

STATISTICAL OVERVIEW

- Approximately one-third of all Americans (31.2%) live in rural areas (U.S. Census Bureau 1997).
- In the fourteen years from 1983 to 1997, violent crime in rural counties increased 53% (FBI 1998a).
- During the first six months of 1998, preliminary statistics showed an 8% increase in murder offenses in towns with populations 10,000 to 24,999, and a 3% increase in rural counties (FBI 13 December 1998).
- In 1997, violent crimes dropped 6.2% in cities with populations of over one million, while rural counties experienced a 3.1% increase:
 - Robberies increased by 10.7% in rural counties.
 - Forcible rape increased by 9.7% in cities with populations under 10,000 and by 7.4% in rural counties.
 - Motor vehicle theft increased by 4.6% in rural counties (FBI 1998b).
- The rates of violent crime and personal theft per 1,000 persons age twelve and older in rural jurisdictions was 27.6 overall and 1.5 for rape/sexual assault, 2.6 for robbery, 4.9 for aggravated assault, 18.7 for simple assault, and 0.5 for personal theft (BJS 1999).
- The first wave of the 1997 National Longitudinal Survey of Youth interviewed a nationally representative sample of 9,000 youth who were between the ages of twelve and sixteen at year-end 1996. The survey asked youth to report whether they had ever engaged in a variety of deviant and delinquent behaviors. Youth in rural jurisdictions reported the following:
 - 45% had consumed alcohol.
 - 11% had carried a handgun.
 - 29% had purposely destroyed property.
 - 17% had committed assault.
 - 6% had been arrested (Snyder and Sickmund 1999).

FEDERAL GRANT PROGRAMS THAT ADDRESS RURAL VICTIMIZATION

Rural Domestic Violence and Child Victimization Enforcement Grants at the Office of Justice Programs improve and increase services available to rural women and children by encouraging

community involvement in developing coordinated responses to domestic violence and child abuse. Grant recipients include:

- The Maine Rural Health Family Violence Initiative coordinates services for battered women and abused children using health care providers as the first line of defense. The project fosters collaboration between service providers and law enforcement, provides on-site intervention, and is developing training programs that will be tested in four settings, including two Native American health clinics and the state's largest hospital.
- The Greater Rural Assistance and Intervention Network (GRAIN) comprehensively responds to domestic violence and child victimization in seven rural counties in northwest Iowa. The project provides direct services, training for agencies involved in providing services to victims, develops protocols for law enforcement and prosecutors to promote victim safety and offender accountability, and sponsors prevention education for young people.

The STOP (Services Training Officers Prosecutors) Violence Against Women Formula Grant Program awards funds to states and territories to restructure and strengthen the criminal justice system's response to violence against women. For example:

- The Farm Worker Women Leadership Project in California developed a model for identifying farm worker women in California communities to receive training in sexual assault and domestic violence awareness, prevention strategies, and available resources. In turn, these women train others in their communities about these issues.

Four percent of the amount budgeted each year for the STOP Violence Against Women Formula Grant Program is awarded to Indian tribal governments. Examples include:

- The Osage Nation in Oklahoma has developed written policies and procedures on domestic violence for law enforcement officers; the prosecutor and courts are establishing a more specific domestic violence code; the Osage Nation Counseling Center has hired a domestic violence/sexual assault counselor who is available during non-business hours; and the counseling center and the tribal court are collaborating to set up a treatment group for offenders.
- The Eastern Band of Cherokee Indians in North Carolina established a new shelter, hired a criminal investigator, and provides battered women with court advocacy to help them navigate the tribal justice system.
- The Rosebud Sioux Tribe in South Dakota launched a campaign to raise awareness about domestic violence. The tribe also made policy and legal changes to stiffen sanctions against offenders and improve services for battered women.

(The previous section has been excerpted from a report prepared by the Rural Task Force, Office of Justice Programs, U.S. Department of Justice, Washington DC, 1998.)

PROMISING PRACTICES

NATIONAL GRANGE OF THE ORDER OF PATRONS OF HUSBANDRY

The National Grange is the oldest nationwide agricultural and rural public interest organization in the United States, with over 300,000 Grange members affiliated with 3,600 local, county, and state Grange chapters. The National Grange sponsors numerous initiatives that promote victims' rights and public safety, including the following:

Policy position relevant to protection for victims and jurors.

1. We support increased protection for those who serve on juries. We oppose any publication or disclosure of jury deliberations, as they are confidential and should remain so.
2. The National Grange supports legislation to assure that victims and witnesses of violent crimes (including but not limited to murder, attempted murder, sexual assault, and assault) must be notified in writing at least 60 days before any and all hearings in which the person who has been convicted of that crime seeks release or a change in release status from either a prison or mental institution.
3. The National Grange encourages print and broadcast news media to be sensitive to the issues involving their coverage of crime and victimization, in order to better respect the privacy of crime victims.

Policy priority to enhance public safety in rural areas. Grange members, like all rural citizens, cherish being secure in their homes, free of crime and fear. However, crime is increasingly making its way into rural communities. Urban street gangs extend their influence into rural towns to recruit new members. Drug dealers use rural locations to manufacture toxic drugs to poison youth. *Rural communities are inadequately prepared to recognize, prevent and address occurrences of domestic violence. The basic rights of violent crime victims in rural areas go unprotected.* Rural law enforcement agencies, often under-funded and under-trained to deal with these threats and challenges, strain to provide basic public safety.

Member and community programs.

- For three years, the National Grange Junior Program has sponsored a series of workshops entitled "Stop the Violence" for Junior Grange members and a separate training workshop for adult group leaders. These workshops are conducted in conjunction with the National Grange Annual Convention every year. Resource materials are made available for local adult leaders to utilize in their programs. They are designed to help children recognize, address and control their impulses toward violence and to use peaceful means to resolve differences. They help make children aware of portrayals of violence in popular media and the difference between fantasy and reality. The workshops also address situations where children may have been a victim of violent behavior by another person (either peer or adult) and attempt to help children restore their confidence and self esteem.

- The National Grange operates one of the largest Community Service programs in the nation, designed to channel volunteer activities into worthwhile community projects in rural areas. In 1999, Grange members donated 1,434,719 hours of volunteer service to projects to improve their communities. An additional 125,863 hours were further donated by non-Grange members in support of the activities of local Granges.

Many award winning Grange Community Service programs address victims' issues and violence preventive measures in local rural communities. Local programs that received national recognition for their commitment to improving rural communities in 1999 include:

- Starting a teen suicide and violence prevention program in Watkins Glen, New York.
- Sponsoring a Community Visions program in Midland County, Michigan, that identified the formation of gang and violence outreach partnerships as one of the top three priorities for volunteer commitment to improve the community.
- Providing volunteer and financial support to establish a battered women's shelter in Michigan City, Indiana, including creating and donating more than 200 "necessity bags" filled with basic necessity articles for women and their families who are forced to quickly leave abusive situations.
- Organizing a community drive to make more than 100 stuffed toys for donation to local and state police, fire, and EMT to help calm children who were the victims of traumatic circumstances, including domestic violence, in Beach Community, Virginia.
- Organizing volunteer and financial support for the Rural Women's Crisis Center in Nampa Valley, Idaho.

For more information about the National Grange, its programs, policies, and membership services for rural Americans, please contact: The National Grange, 1616 H St., NW, Washington, DC 20006-4999 (888-4-GRANGE) (fax: 202-347-1091) <www.nationalgrange.org> lwatson@nationalgrange.org (e-mail).

ADDITIONAL PROMISING PRACTICES

- *Penn State Center for Research on Crime and Justice.* The intricate causes of crime and its impact on rural and suburban communities are examined and analyzed at the Penn State Center for Research on Crime and Justice. Communities and crime are being examined in the context, for example, of different crime rates by victims' age, gender, and race as well as by neighborhood, including related factors such as the amount of housing, how often residents move in and out of town, the structure of area families, and economic issues. A particular focus is on how decisions are made in the criminal justice system by victims, police, prosecutors, judges, juries, and other groups, and how the results may affect a community. Additional information about this project is available electronically from <<http://www.psu.edu/ur/NEWS/news/crimeresearchcenter.html>> .
- *Rural Crime Watch.* In California, the Rural Crime Watch program is a service of the California Farm Bureau Federation (CFBF) to assist law enforcement agencies in sharing information about rural crimes. Extensive information is available in both paper and electronic formats on equipment thefts, commodity thefts, Rural Crime Task Force meetings, information and tips about thefts and scams, and information about rural crime

prevention programs. The CFBF Web site <<http://www.cfbf.com>> also contains links that enhance intercounty information exchange as well as information about crime prevention and victim assistance.

- *Student interns cover bases in four-county rural Tennessee.* Through a collaboration with several colleges in the rural, four-county Tenth Judicial District of Tennessee, the Victim/Witness Assistance Program at the District Attorney General's office maintains four offices by relying on student interns to deliver services to victims and witnesses. The student intern program offers academic credit to criminal justice and social service majors, providing them with exposure to the system from the perspective of prosecutors, victims, and witnesses. Applicants to the Intern Program participate in a training program at the District Attorney General's office to learn about the role that victims and witnesses play in the criminal justice system, and they attend General Sessions Court to learn about court procedures. Interns are assigned to attend preliminary hearings to provide victims and witnesses with up-to-date information on the status of their cases, and to help them obtain answers from the prosecutors to any questions that they may have. Victim/Witness Administrator, Office of the District Attorney General, 10th Judicial District, 130 Washington Avenue NE, Suite 1, P.O. Box 647, Athens, TN 37371-0647 (423-744-2830).
- *Support from the clergy.* The Victim Witness Division of the Office of the Prosecuting Attorney, based in Maui, HI, provides more immediate response to victims on rural Maui and the lesser populated islands of Molokai and Lanai by involving clergy-based volunteers trained in victimization. The clergy has been a natural support group in the rural Hawaiian areas, and their participation has improved cooperation and communication between criminal justice professionals, victim services, and rural victims. Victim Witness Assistance, Department of the Prosecuting Attorney, 200 South High Street, Wailuku, HI 96793 (808-243-7695).
- *Multidisciplinary teams and full service response.* Malheur County, OR is a geographically large, culturally diverse, rural county with a small population (30,000) and a high rate of domestic violence—102 reported cases in the first six months of 1999. The Domestic Violence Unit was formed to develop immediate response capability, a consistent protocol for contacting victims and keeping them involved and informed while their cases are processed, and a collaborative relationship with community services that provides victims with ongoing support. Team members (a deputy district attorney, a crisis coordinator, and a police officer) are bi-lingual, trained domestic violence specialists.

The district attorney is on call to law enforcement 24 hours a day. When a domestic violence incident occurs, he or she stays in close contact with the police officer dispatched to the scene of the crime in order to assess the situation and insure that information on the case is taken correctly. Arrests are made under a mandatory arrest law. Following the incident, the Unit Crisis Coordinator meets with the victim to enhance the safety of the family, to interview potential witnesses, and to determine the necessity of a restraining or anti-stalking order. Office of the District Attorney, Courthouse #6, 251 B Street West, Vale, Oregon 97918 (541-473-5127).

SECTION 6, RURAL VICTIMS**ABSTRACT**

Eighty percent of the United States is geographically designated as rural-remote. This section will examine the unique challenges to providing basic victim services in rural-remote regions and promising practices that seek to improve victims' rights and services.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The problems and issues relevant to providing basic services to victims in rural-remote regions of the United States.
- Concerns of specific victim populations in rural-remote regions, including victims in Indian Country, victims of domestic violence, and campus crime victims, and potential solutions.
- Promising practices developed to meet the needs of victims in rural-remote regions.

INTRODUCTION

Although rural crime rates have traditionally been lower than urban crime rates, patterns of rural crime now indicate both the exporting of urban problems to rural areas and problems that are unique to rural areas (Edmunds and Wallace 1995). Victims of federal crime who reside in rural areas face serious problems. Many victims must travel long distances to a federal courthouse. Often, these victims face similar attitudinal problems that other victims face—lack of understanding of the impact of distance and lack of support services. In addition, rural federal crime victims often can be skeptical about seeking assistance from the U.S. Attorney, feeling the federal official is really not “one of the locals.”

Economic problems facing rural areas increasingly affect the nature and extent of crime. The impact on the resources available to communities to respond to crime and to assist victims is enormous. Often the only sentencing option for judges to select is incarceration because few community sentencing programs exist in rural areas.

In addition, aspects of the rural culture may affect crime victims' willingness to report violence and to participate in the criminal justice system. One study found that shoplifting and employee theft were rarely reported to the police. Rather, the cases were handled informally.

One criminal justice official said, “I simply can’t get people to tell me things. I hear about them two or three weeks later, and when I ask them why they didn’t come to see me about it, they say, ‘Oh, I took care of it myself.’ We simply can’t get people to take advantage of the services of this office.”

UNIQUE PROBLEMS FACED BY RURAL-REMOTE VICTIMS

In addition to the above mentioned problems facing rural-remote communities are unique issues faced by victims in remote tribal communities, victims of domestic violence living in rural areas, and victims on rural campuses.

TRIBAL CONCERNS

Violence on tribal lands is one of the most pressing issues in modern society. A BJS report on crime and victimization among American Indians has found that the rate of violent victimization estimated from responses by American Indians is well above that of other U.S. racial or ethnic subgroups and is more than twice as high as the national average (Greenfeld and Smith 1999).

Feelings of alienation are common among members of various Indian Nations. Problems faced by victims of family violence and gang violence on tribal lands are further complicated by the geographical and jurisdictional issues inherent in tribal justice processes (for more information, see the “Tribal Justice” section of this Text). Confusing and often counterproductive jurisdictional boundaries exist among state, federal, and tribal laws, and the result can be chaos for the victim needing services.

For many rural family violence victims, simply traveling to the local police station to make a report takes on special significance because of the distance, lack of transportation, and time involved in making such a trip. Transportation issues are especially critical for elderly victims and children going to therapy sessions. Travel to criminal justice agencies is exacerbated for tribal crime victims who participate in the federal justice system. Many tribal crime victims have to travel hundreds of miles to participate in the criminal justice process. One crime victim from the Wind River Reservation in Wyoming had to travel over 500 miles to present a victim impact statement at the federal courthouse—and was told of the sentencing hearing the day before.

VICTIMS OF DOMESTIC VIOLENCE

While far less research has been conducted about rural family violence than family violence in urban areas, in the publication *Rural Crime and Rural Policing* (Weisheit et al. 1994), the National Institute of Justice indicates the following characteristics and dimensions of rural versus urban family violence:

- Recent studies indicate that children in rural communities are as likely, and possibly more likely, to be abused or neglected than children in cities.
- Crimes such as homicide, rape, and assault are more likely to occur among acquaintances in rural areas than in urban areas.
- While limited surveys of the level of rural domestic violence have been conducted, an Ohio study found that the least populated jurisdictions had the highest rates for domestic violence disputes.
- Although rural families face the same drug, alcohol, poverty, and stress problems as do families who live in metropolitan areas, rural communities typically have fewer resources.

Many rural counties have very low populations. Currently, one out of three rural counties (850) has fewer than 10,000 residents. This presents a challenge to establishing even basic services for crime victims, such as counseling for child abuse victims and shelters for battered women. Many rural domestic violence victims face the additional problem of not only having to leave their home to find safety but their community as well. Often, the nearest shelter may be several communities and many miles away. Not only are these victims forced to leave whatever support network is available, but also their children must be taken out of school in order to reach safety.

The effects of geography also pose serious problems for rural family violence victims. Distance affects the response time and the speed with which law enforcement and emergency services respond to victims' calls for assistance. While urban areas judge emergency response time in minutes, access to medical treatment in rural areas generally takes longer. In addition, rural law enforcement waits longer for backup assistance, thus forcing difficult decisions by on-site personnel between responding to dangerous situations alone or delaying critical emergency responses.

Overall, the issues of rural family violence and rural justice have not received national attention in the development of policies and protocol for law enforcement or other areas of the criminal justice system. In light of the relative scarcity of resources in rural-remote areas, the need for collaboration within the criminal justice system and neighboring communities is critical. It is essential that victim assistance programs target the identification of other service organizations and criminal justice agencies that are available for and/or interested in coordinating and collaborative efforts. The unique needs of rural-remote victims must be viewed with an eye toward unique solutions that maximize current community and neighboring area resources.

ISSUES SPECIFIC TO RURAL-REMOTE INSTITUTIONS OF HIGHER EDUCATION

In 1998, the National Criminal Justice Association, with support from the Office for Victims of Crime, sponsored a project to examine rights and services for people victimized on or around institutions of higher education. A multidisciplinary focus group discussed relevant issues, including the challenges of providing victim assistance, supportive services, and

protective measures to victims on campuses in rural-remote regions of the United States, and recommended solutions:

The basic demographics of rural-remote campuses contribute to limited victim services, as well as less victim accessing of available services. Campuses tend to be smaller, and may not be as “connected to the community” as campuses in urban or suburban settings. Often, confidentiality concerns are escalated because “everyone knows everyone,” and “rumor mills are rampant.” Victims may be more likely to know their offenders, which can pose both confidentiality and protection concerns. Services for offenders (such as treatment, rehabilitation and supervision) are limited as well. In addition, the homogenous demographics of some rural-remote campuses can pose challenges to providing quality, supportive services to victims who do not match the general characteristics of the student population. Students of color may perceive greater jeopardy, both in their chances of being victimized, and in reporting crimes and receiving supportive services.

While 80 percent of the United States is rural-remote, there is less infrastructure available to support public safety and victim assistance initiatives in such jurisdictions. Traditionally, much funding for such services has been population-based (although this factor is changing).

In some rural jurisdictions, experimentation with alcohol and other drugs begins at earlier ages because “there is nothing to do.” Guns may be more prevalent. There may be a “false sense of security” among people on campus because crime rates in rural-remote areas have historically tended to be lower than in urban or suburban jurisdictions (although this, too, is changing with the arrival of traditionally urban gang- and drug-related activities in remote-rural communities).

Victim-related issues at religious institutions of higher education can be complex. There are concerns that victims may be partially or fully blamed for their victimization, and that victims who are unable or unwilling to “forgive” the perpetrator may be alienated or ex-communicated.

Law enforcement services are much more limited in remote-rural jurisdictions:

- There are fewer officers who are trained in investigations, laws and services relevant to crime victims. This may be a direct result of beliefs that “crime happens less often” in rural-remote regions, resulting in less focus on victim-sensitive training and victim assistance.
- There is a lack of vertical units that specialize in specific crimes and victimization, i.e. domestic violence and sexual assault.
- The availability of crime labs and forensic units is limited, resulting in more reliance on state agencies (which can cause significant delays in case processing).
- Some rural-remote jurisdictions do not even have “911” emergency telephone systems.

In smaller communities with campuses, some positive elements were identified by focus group participants:

- A victim may be more likely to know somebody in law enforcement, and can quickly call for assistance.
- There may be greater informal social controls that contribute to fewer crimes committed, as well as a tendency of community members “to look out for each other.”
- Citizen involvement and awareness can be high.

Potential solutions suggested by focus group participants included:

- Assessing the scope and level of victim services provided by the campus or the community; identifying gaps in services; and working collaboratively to fill such gaps.
- Developing collaborative public safety initiatives and plans for response to crime between campus and community law enforcement, and campus and community leaders.

- Establishing transportation services (utilizing trained volunteers, as necessary) to enhance victim access to supportive services, medical and mental health services, and participation in justice processes.
- Expanding outreach efforts to recruit human and financial resources for victim assistance from the community.
- Adoption of “honor codes” to guide students’ behavior and values that are directly linked to mores of the local communities.
- Sponsorship of activities that empower students to establish honor codes, contribute to crime prevention initiatives, and establish peer mentoring and supportive services for students who are victimized (Seymour 1998).

PROMISING PRACTICES

- *Family Resources Center, Wytheville, Virginia.* Family Resources Center, a private nonprofit agency, provides victim assistance services to victims of child physical and sexual abuse, sexual assault, stalking, and domestic violence in seven counties in rural southwest Virginia. The program is supported by both Victims of Crime Act, and more recently, Violence Against Women Act funding. In many areas of this part of the state, Family Resources provides the only services available for crime victims. For example, in Wythe County, where the Center is located, there are no victim-witness assistance services based in the criminal justice system.

Transportation is the number one barrier to victims accessing services in this part of Virginia. The Center provides transportation for victims to criminal justice related appointments and to medical, psychological, or other critically needed treatment providers. However, due to the mountainous terrain throughout the seven counties served by the Center, such services often pose risks to both advocates and victims, especially during winter months.

In addition to providing transportation to help reduce the barriers to assistance, the Family Resources Center operates a toll-free 800 number because over four-fifths of their service area is long distance.

The Center also operates a satellite office to provide victim services to victims living in isolated jurisdictions without transportation. Services are provided in outlying counties once a week. With VAWA funding, the Center plans to open a second office in another isolated location with coverage three to four days per week.

- *Alternatives Incorporated of Madison County, Anderson, Indiana.* Alternatives Incorporated of Madison County, Indiana, is a nonprofit organization that serves victims of adult and child sexual assault, domestic violence, elder abuse and neglect, and child abuse and neglect. While its primary service jurisdiction is Madison County, it also provides outreach and support to victims in three other counties—Hamilton, Hancock, and Henry counties. A total population of 130,000 is located in rural communities throughout the four-county area.

The program receives support from local, state, and federal grants, including Victims of Crime Act and Violence Against Women Act funding, and in-kind donations. The program employs four full-time staff and ten part-time volunteers.

Alternatives Incorporated has created a special domestic violence prevention program entitled HAVEN—Healthcare and Advocates Violence Elimination Network. The unique program is a collaboration between Alternatives Incorporated and rural hospitals. It is designed to identify domestic violence victims within communities and to produce an innovative response to domestic violence through the health care network.

- *The Chugachmiut CJA Program.* Disclosure of extensive child sexual abuse in reservation boarding schools and several multiple-victim child molestation cases on remote Indian reservations resulted in an amendment authorizing the Office for Victims of Crime to use Children’s Justice Act (CJA) funds in Indian Country to improve the handling of child sexual abuse cases. The Chugachmiut CJA program is located in the Chugach region of Alaska, a region comprising seven Native Alaskan villages along the southern coastal area between Icy Bay and Prince William Sound to the southwest tip of the Kenai Peninsula. This program received a grant to implement systems for recognizing child abuse, intervening in child abuse cases, and protecting children in the villages. Many villages are accessible *only by air or sea travel*, and this isolation causes gaps in service delivery. The CJA grant allowed project staff to assist each village in establishing Child Protection Teams, offer training to village residents, increase community awareness and education, create a directory of service referrals, and develop a data collection and tracking system for reporting, referring, and responding to child sexual abuse. Chugachmiut is focusing on establishing written protocols and procedures to formalize a Child Protection Team established in each community (OVC 1997).
- *Confederated Salish and Kootenai Tribes of the Flathead Reservations Court Appointed Special Advocates Program (Montana).* Through an interagency agreement with the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime has funded the Tribal Court Appointed Special Advocates (CASA) Program in Indian Country. The Confederated Salish and Kootenai Tribes of the Flathead Reservation CASA Program is a model program, and has established groundbreaking precedence in utilizing volunteers to assist child victims in remote areas of Indian Country. The Program made a determination that having a volunteer program would improve and enhance the quality of the representation and assure that the tribal court could make decisions in the best interests of the child. The Tribal CASA Program has been successfully recruiting, training, and supervising volunteers. The program has been providing community education concerning the program and exploring possible financial resources to assist the program (such as the use of tribal court filing fees and fines to pay for CASA volunteer expenses).

The program has also successfully worked with the Salish and Kootenai Community College to recruit and train students as CASA volunteers and to provide college credit for these students. The program has sought to promote cultural sensitivity by recruiting traditional cultural leaders as volunteers, utilizing these traditional leaders as trainers in the volunteer training. The program has also developed draft tribal code CASA provisions. The National CASA Association has unofficially designated the Confederated Salish and Kootenai Tribes

of the Flathead Reservation CASA Program as the Tribal Court CASA Mentor site (National CASA 1999).

- *Sheridan County, Wyoming Crime Victim Assistance Program.* The Sheridan County Prosecuting Attorney and the Women’s Center have combined resources to develop a comprehensive crime victim assistance program in Sheridan County, Wyoming. The town of Sheridan serves as the county center and has a population of 14,000. Including several other satellite towns, the total population of Sheridan County is almost 30,000—a geographic area that encompasses hundreds of miles, including mountain regions.

The Sheridan County Crime Victim Assistance Program has been in existence in this rural setting for just over two years. Prior to the establishment of the Crime Victim Assistance Program, no services were available for crime victims in Sheridan County, other than those offered by the Women’s Center for family violence, sexual assault, and child abuse victims. For the most part, these crisis services tapered off when the victim went to court. The Women’s Center and the County Attorney felt that victims would be more consistently and thoroughly served with the unique combination of services provided by the Center’s experienced staff, and the information and space made accessible by the County Attorney’s office.

The program has increased the range of victim services in the county. Advocacy services are now available to all victims of violent crime. Victims of domestic violence, sexual assault, or child sexual abuse have the added benefit of advocates trained to provide criminal justice system information, court escort, and other services. Victims of arson, burglary, homicide, or elder fraud have a place to turn to for further assistance and support. The program has also increased victim satisfaction with the prosecutor’s office and has assisted the prosecutor’s office in implementing programs to further protect victims’ rights. Recent collaborative efforts have resulted in the development of comprehensive protocol for the investigation and prosecution of domestic violence and sexual assault cases (Wallace and Edmunds 1998).

- *Carroll County Victims Assistance Program, Carrollton, Ohio.* The Victim Assistance Program in the Carroll County Prosecuting Attorney’s Office in Carrollton County, Ohio, serves victims of domestic violence, child abuse, sexual assault, felonious assaults, and other serious crimes. With over 50 percent of their caseload being domestic violence cases, the victim assistance program established special services for families experiencing domestic violence.

With support from a private foundation, the prosecuting attorney’s office started classes for children who live in domestic violence homes. The program is called KIDDS—Kids in Domestic Dispute Situations. The classes are held once a week for two age groups. They last one hour each and to date the program has served over thirty children. As the program director noted: “This may not seem like a lot, but we feel we have accomplished something with these kids who have lived in domestic situations.” In addition, as an alternative to jail, the prosecuting attorney’s office also started classes for men who abuse. They meet once a week in a group with a trained counselor.

International Issues in Victim Assistance

SECTION 7, INTERNATIONAL ISSUES IN VICTIM ASSISTANCE**ABSTRACT**

Victim issues transcend many borders, cultures, and legal systems. Not only is the United States visited by millions of foreign nationals each year, but citizens of the United States travel and live all over the world. Crime does not limit itself to the borders of a particular country. This chapter addresses a number of international crime victim issues that have become increasingly important as our societies have become more global and mobile. Issues such as tourist victimization, crime victim compensation, international terrorism, and commercial exploitation of women and children are just a few of the complex issues in international victim assistance. This chapter also discusses some of the efforts that are being undertaken by the United Nations and other organizations at the international level to address these issues.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The background and history of the victims' movement at the international level.
- The content and significance of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.
- The major international organizations working to address crime victims issues.
- Emerging issues in providing services to U.S. citizens victimized abroad.
- Types of international crime victims and victim advocacy response.
- New developments in meeting the needs of foreign citizens victimized in the United States.

STATISTICAL OVERVIEW

Crime afflicts urban populations in all parts of the world. The extent of that crime was recently examined through the *International Crime Victimization Survey*, which measured crime in more than fifty different countries. Bypassing differences in legal codes and definitions of crime that have made comparing crime data among countries difficult, the survey has produced the most comparable cross-national data on crime available to date. Conducted in 1989, 1991, and 1996, the survey found the following:

- More than a third of all urban dwellers in the world do not feel safe in their own neighborhoods at night.
- Crime rates are highest in major cities in Africa and Latin America.
- In every country surveyed, including the United States, no more than 10% of victims received assistance from a specialized victim assistance agency. (*International Crime Victimization Survey* 1997)

Because of differences in legal codes and definitions of crime among countries, reliable data that are comparable across nations has been difficult to obtain. The *International Crime Victimization Survey* is one positive step towards compiling comprehensive, multinational data on crime victimization. More research in this area is needed, however, particularly for crimes such as child abuse and domestic violence which are largely unreported to police in most countries.

INTRODUCTION

In recent years there has been increased attention in the United States on the unique needs of American citizens victimized abroad as well as those of foreign citizens victimized in the United States. There have also been considerable efforts to address victimization issues at an international level through standards-setting, training programs, conferences, and other initiatives. Rights and services for crime victims vary considerably from one country to another, and countries can learn a great deal from one another about ways to address crime victims' needs.

This chapter is largely based on a report, *New Directions from the Field: Victims' Rights and Services for the 21st Century*, and a background paper written for that report by Dr. Marlene Young, Executive Director of the National Organization for Victim Assistance (OVC 1998, Chap. 18). Some of the activities that have been undertaken at the national and international level to address the realm of international victim assistance are discussed in this chapter.

THE VICTIMS' MOVEMENT AT THE INTERNATIONAL LEVEL

While the victims' movement at the international level is still relatively new, the first work in the field of victimology was pioneered in the 1940s by an Israeli researcher, Benjamin Mendelsohn, and a German researcher, Hans von Hentig. Later, the work of English legal reformer Margery Fry resulted in the passage of victim compensation legislation in New Zealand in 1963, soon followed by Great Britain and several states in the United States. The rape crisis movement emerged in the United States and other countries in the early 1970s.

International recognition of victimology as a distinct branch of criminology came with the first International Symposium on Victimology, held in Jerusalem in 1973, where a series of papers on victim compensation, crisis intervention, and the concept of a victim ombudsman were

presented. By the end of the 1970s, those ideas were reflected in the establishment of victim service programs such as rape crisis centers, domestic violence shelters, and victim-witness units in a number of countries including the United States, United Kingdom, and Canada.

While the United States was just one of several nations interested in victims' issues at that time, it was clearly one of the leaders in the emerging international victims field. The publication of the 1982 *Final Report* of the President's Task Force on Victims of Crime was a landmark document not only in the U.S., but internationally as well. A number of other countries created their own task forces based on the American model, and discussions of victims' rights and services gained visibility in international forums such as the United Nations.

UNITED NATIONS INITIATIVES TO ADDRESS VICTIMIZATION

During the past two decades, the United Nations has undertaken a number of initiatives to address the needs of crime victims at the international level. One of the most significant is the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (Declaration), adopted by the United Nations General Assembly in 1985 (OVC 1998, Chap. 18). Considered a "Magna Carta" for crime victims around the world, the Declaration is based on the philosophy that victims should be treated with compassion and respect for their dignity, and that they are entitled to access the mechanisms of justice and to receive prompt redress for the harm they have suffered.

The Declaration purposefully speaks of basic principles of justice for crime victims, which include access to justice and fair treatment, restitution, compensation, and assistance. The last category includes material, medical, psychological, and social assistance through comprehensive use of governmental, voluntary, community-based, and indigenous groups. The Declaration also addresses various principles of justice for victims of abuse of power. A copy of the Declaration is included at the end of this chapter.

Governments and organizations around the world have responded to the challenge of implementing the Declaration in different ways. Victim justice became a much livelier public issue in Brazil, Germany, India, the Philippines, Poland, and Sweden, to cite six of many possible examples, following its adoption. Victim assistance programs and services have developed around the globe in such diverse nations as Japan, Mexico, the Netherlands, New Zealand, and Nigeria. Other countries, however, have only begun to establish mechanisms to respond to victims' concerns.

Since the adoption of the Declaration, the U.N. has taken a number of steps to foster its implementation worldwide. These efforts have largely been spearheaded by the U.N. Commission on Crime Prevention and Criminal Justice, which meets once a year in Vienna, Austria. For example, in 1996, the United Nations Commission on Crime Prevention and Criminal Justice adopted a resolution calling for the development of an international victim assistance training manual to help countries worldwide develop programs for victims of crime.

The U.S. government and the government of the Netherlands took leadership roles in working with scores of experts in victim issues from every region of the world to develop two documents: a *Handbook on Justice for Victims*, designed to assist practitioners in developing comprehensive victim services; and a *Guide for Policymakers*, designed to educate policymakers about the Declaration itself.

OTHER U.N. EFFORTS TO ADDRESS VICTIMS' ISSUES

- *Fourth United Nations Conference on Women.* In 1995, the Fourth United Nations Conference on Women in Beijing, China, was a significant step forward in the international arena for victims of domestic violence. The Conference's final document, the *Platform for Action*, is a powerful and progressive statement about the empowerment of women and the imperative to eliminate violence against women in all forms. First Lady Hillary Rodham Clinton's message was heard around the globe when she said, "It is a violation of human rights when individual women are raped in their communities and when thousands of women are subjected to rape as a tactic or prize of war. It is a violation of human rights when a leading cause of death worldwide among women ages fourteen to forty-four is the violence they are subjected to in their own homes. If there is one message that echoes forth from this conference, it is that human rights are women's rights . . . and women's rights are human rights."
- *Crime Prevention and Human Rights.* The work of the United Nations in preventing abuse of power and violations of human rights is long-standing, and among the results have been the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *Convention on the Prevention and Punishment of the Crime of Genocide*, the *Convention on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, the *Convention on the Rights of the Child*, and the *Convention on Elimination of All Forms of Discrimination Against Women*. The United Nations has also developed international guidelines to reduce abuses against the elderly, the handicapped and the mentally ill, and has drafted basic principles and guidelines on the reparation of victims of gross violations of human rights and humanitarian law.
- *Efforts to Establish an International Criminal Court.* In recent years the United Nations Security Council has worked to establish two ad hoc international criminal tribunals for the former Yugoslavia and Rwanda. The decades-long effort to establish a permanent International Criminal Court is close to becoming a reality through the action of the United Nations. The Preparatory Committee on the Establishment of an International Criminal Court has given positive consideration to provisions related to victims, in particular with regard to the proposed creation of a Victim and Witnesses Unit.

WORLD SOCIETY FOR VICTIMOLOGY

Another international organization that specifically addresses victims' issues is the World Society for Victimology, a nonprofit, nongovernmental organization (NGO) with members from around the world brought together by their mutual concern for victims. Members include

victim assistance practitioners, scientists, social workers, physicians, lawyers, university professors, and students. The purposes of the World Society for Victimology are to promote research on victims and victim assistance; to advocate their interests throughout the world; to encourage interdisciplinary and comparative research in victimology; and to advance the cooperation of international, regional, and local agencies, groups, and individuals concerned with the problems of victims.

The origins of the World Society for Victimology are rooted in the works of early victimologists and in the pioneering of the first International Symposium on Victimology organized in Israel in 1973. This symposium provided the first international forum for scholars, practitioners, and students to focus on victimology. The World Society for Victimology sponsors various activities, such as symposia, workshops, and study programs, and holds international symposia on victimology every three years. To date, symposia have taken place in Tokyo, Zagreb, Jerusalem, Rio de Janeiro, Adelaide, and Amsterdam. In the year 2000, the symposium is scheduled to take place in Montreal, Canada.

MEETING THE NEEDS OF INTERNATIONAL CRIME VICTIMS

A number of international issues have become increasingly apparent to the victim assistance field in recent years, including crimes against international tourists, victim compensation, international terrorism and crisis response, and crimes against children. The following are illustrative examples of such complexities:

- A Japanese student is murdered while on a U.S. college campus. The District Attorney, cognizant of the need for fair treatment and access to justice for the surviving family members, is faced with problems in providing information and notification, opportunities for participation, and effective support for grieving relatives an ocean away.
- A U.S. citizen is severely beaten and sexually assaulted while on vacation in Amsterdam. Her home state does not provide victim compensation to citizens who are outside state boundaries, and is not deemed to have a reciprocal compensation agreement with the Netherlands, which, like many nations, requires such an agreement to compensate a foreign national injured within its borders. She and her family now face serious financial hardship as a result.
- A young German is robbed and severely beaten while on a business trip to the United States. The accused is released and the case is eventually dismissed because the prosecutor cannot afford to transport the victim two or three times back to the United States.
- A U.S. citizen is killed in a terrorist attack in another country. There is no provision for death notification or support to the family members by trained, qualified service providers.
- An international couple with a two-year-old child separates. In violation of the custody order, the mother kidnaps the child and returns to her country of origin. The father, a U.S. citizen, expends hundreds of thousands of dollars on legal fees, telephone calls, and private investigators in his attempt to get the child back.

VICTIMIZATION OF TOURISTS

International tourist crime is a chronic and growing problem, increasingly causing economic decline, deterring investment, and threatening quality of life in countries all over the world. Tourists who become victims often face unique issues such as isolation and culture shock, lack of familiar social support, travel stress, and language barriers. In addition, most tourists are not familiar with the laws of the country they are visiting, nor the criminal justice, social services, health, and mental health systems with which they must interact after victimization.

Throughout the world, tourist-dependent economies have implemented a variety of promising, comprehensive programs to deal with the increasing number of tourists who become victims of crime. Many of these programs assist both domestic and international travelers. Programs to assist tourist victims have been implemented in the United States in New York City; Orlando, Florida; and throughout Hawaii. They are also available in Dublin, Ireland; Amsterdam, Netherlands; Buenos Aires, Argentina; San Jose, Costa Rica; and throughout New Zealand and Aruba. Specialized services provided by these programs generally include replacement of personal identification, assistance with transportation and lodging, emergency medical assistance, advocacy and support through embassies and consulates, bereavement services, and communication assistance.

More communities with large numbers of tourists should consider establishing special programs to assist international tourists who are victims of crime. OVC awarded the National Organization for Victim Assistance (NOVA) a two-year grant to develop a plan that would identify more effective services to foreign travelers victimized in the U.S. and U.S. travelers victimized abroad. The goals of this grant were to—

- Identify issues in tourist victimization.
- Identify promising practices in this area.
- Develop brochures for tourists leaving and coming to the U.S. summarizing general information on forms of victimization that may affect them and general resources available.
- Develop a companion handbook for use by victim assistance programs to assist them in working with tourist victims.

RESPONDING TO U.S. CITIZENS VICTIMIZED ABROAD

A coordinated, comprehensive plan of action is needed to respond to the needs of U.S. citizens who are victimized abroad. American citizens victimized abroad and their families often do not receive comprehensive victim assistance services in the country where the crime occurs or when they return home. This situation is complicated further when the crime involves terrorism or mass violence. International investigations become very complex, frequently involving multiple agencies. Often victims do not know where to turn for information or assistance. Victim advocates have suggested that the federal government consider establishing a victim ombudsman at the State or Justice Department to coordinate and streamline responses to Americans who are victimized abroad. Such an ombudsman would have responsibility for contacting victims and providing information and referrals to local services, updating victims

on the status of the investigations, and serving as a point of contact to guide victims through the federal system. In response to this suggestion, and in response to the multiple acts of terrorism involving U.S. citizens abroad, OVC has funded positions at the U.S. Department of State to assist the victims of the bombings of the U.S. embassies in Kenya and Tanzania in accessing services, obtaining compensation, and getting information on the criminal trials.

CRIME VICTIM COMPENSATION AROUND THE WORLD

In countries all over the world, victims of crime suffer physical injuries, emotional pain, and financial losses. While many nations provide victim compensation benefits, they often do not apply to foreign travelers. When they do, the small percentage of victim tourists who learn that compensation benefits are available are often discouraged by the legal intricacies of applying for compensation.

To inform travelers from all nations about benefits that exist in the country they are visiting and how to apply for those benefits, the Office for Victims of Crime, in partnership with the U.S. Department of State, developed an *International Crime Victim Compensation Program Resource Directory* in 1996. The State Department sent surveys to U.S. embassies in 174 nations, and questionnaires were then forwarded to the appropriate officials in each country. Of the ninety-one countries that responded, thirty countries in addition to the United States reported that they have established victim compensation programs. These programs are listed in the directory. This directory is updated annually and contains information from foreign countries and the U.S. on their programs, eligibility requirements, application procedures, and compensable costs.

International reciprocity in the provision of victim compensation, restitution, and other assistance in cases involving foreign nationals is very important. As more and more people travel around the world, crimes against foreign citizens, both in the United States and abroad, are likely to increase.

One recent development in crime victim compensation is the Antiterrorism and Effective Death Penalty Act, signed into law by President Clinton in 1996. This new legislation amends the Victims of Crime Act (VOCA) to provide for a new VOCA eligibility requirement that each state provide compensation for any resident who is injured or killed in a terrorist attack in a foreign country. States are not required to pay benefits when the crime is not a terrorist act. Therefore, it is imperative that advocates inform victims that some foreign countries have crime victim compensation programs, and that in some cases, victims may be eligible to receive benefits from the country where the crime occurred (OVC 1999b).

INTERNATIONAL CRIME VICTIMS AND RESPONSE ISSUES

INTERNATIONAL TERRORISM AND CRISIS RESPONSE

International crises such as terrorist attacks involve victims and survivors from many different countries, and local caregivers are sometimes unable to intervene usefully due to lack of education, resources, and language and cultural barriers. Moreover, because of complicated

international investigations which frequently involve multiple jurisdictions and agencies, the rights, needs, and services available to victims of terrorism may be overlooked.

Several organizations have provided assistance to victims of international terrorism and their families. For example,

- The National Organization for Victim Assistance (NOVA) worked in the 1980s with family members of U.S. hostages taken in Iran and Lebanon by convening support group meetings, developing a hostage family newsletter, and helping them contact governmental agencies. In 1990, the organization developed *Coping with the Iraq/Kuwait Crisis: A Handbook* for families and friends of Americans detained in Iraq and Kuwait (Young and Stein 1990). In addition, NOVA has coordinated crisis response teams in nearly a dozen countries including Canada, Japan, Bosnia, and Croatia.
- NOVA has been actively involved in training initiatives on international crisis response issues. Prior to the 1996 Summer Olympics in Atlanta, Georgia, the Office for Victims of Crime (OVC) provided funds to NOVA for the training of victim advocates and volunteers on national and international crisis intervention and response, including instruction from experts on how to assist foreign nationals victimized in the United States. After the bombing during the Olympics in Atlanta's Centennial Park, these advocates were instrumental in ensuring that victims received needed services.
- After the President signed the Antiterrorism Act in 1996, the OVC Director met with more than a dozen victims who attended the signing. The surviving family members whose loved ones had been killed abroad by terrorists in various countries emphasized several concerns regarding the "system." They expressed dissatisfaction in a number of areas including notification procedures about the death of their loved ones; the red tape that exists when they try to find out information about their cases; the lack of regular communications about case status from responsible government officials; and the lack of coordination between governmental agencies involved in these cases. They also expressed great appreciation for the opportunity to meet one another and to discuss their cases and their concerns. The group meeting helped diminish their sense of isolation (OVC 1999a).
- Following the bombing of Khobar Towers in Dharain, Saudi Arabia, OVC used its new authority under the Antiterrorism Act to ensure that the survivors of the nineteen military service members killed in that attack were aware of compensation and assistance benefits. In December 1997, OVC, in conjunction with the FBI, the Department of Defense, and the Department of the Air Force, hosted a meeting at the FBI Academy at Quantico, Virginia, for the surviving family members of the servicemen killed in the bombing of Khobar Towers. OVC established a 1-800 line for the families and the other victims in the U.S. Attorney's Office in the District of Columbia to provide current information about the case investigation and the status of the alleged terrorists (Ibid.).
- In the aftermath of the simultaneous bombings of two U.S. Embassies in East Africa on August 7, 1998, OVC has worked with many different federal agencies including the U.S. Departments of State, Defense, Labor, Health and Human Services, and Justice; Office of Personnel Management; Agency for International Development; and Central Intelligence Agency to ensure that information, benefits, and services are made available to the victims

of those attacks. OVC has also funded positions at the U.S. Department of State to assist these victims in accessing services, obtaining compensation, and getting information on the criminal trial. In May 1999, OVC, in conjunction with the U.S. Department of State and the U.S. Attorney's Office for the Southern District of New York, hosted a meeting for the victims and surviving family members to provide information about benefits and the current status of the criminal case (Ibid.).

- Recent international terrorist attacks against the U.S. have brought to light many of the unique and complex problems in coordinating an appropriate short- and long-term response to victims of terrorism abroad, and the need to develop a federal protocol for responding to future international terrorist incidents. Terrorism crimes tend to involve large numbers of victims and may include employees of various federal agencies as well as tourists, business representatives, and foreign nationals. Obtaining critical information about victims and providing emergency relief and ongoing services may be complicated and difficult. Access to compensation, benefits, and services can depend on which agency the victim works for and their status as a state resident. OVC has taken a leadership role in coordinating the development of a high-level working group to develop a federal protocol to ensure a more seamless response to victims of such incidents in the future (Ibid).

TRAFFICKING OF WOMEN, CHILDREN, AND MIGRANTS

The issue of international trafficking is gaining prominence in national and international discussions of crime. People are trafficked to the United States for many exploitative purposes, including sexual exploitation and slave labor. The victimization that flows from such trafficking is significant, yet for many reasons, these victims are largely without services. The crime of trafficking encompasses a range of conduct, and its victims include not only the women, men, and children trafficked but also in many cases, their families at home. Many trafficking victims are forced by their traffickers to break the law, and as a result, they are frequently treated as criminals themselves and may be imprisoned or deported without ever receiving services. Any effective plan for addressing the needs of trafficking victims must thus address a complex range of issues, including citizenship and residency, cultural and language needs, and age-specific needs.

The federal government has undertaken a number of initiatives to examine ways to address these complex issues:

- In fiscal year 1997, OVC funded the Filipino American Service Group, Inc. (FASGI) to provide direct services to Asian women and children trafficked and held as garment or sex industry workers. FASGI worked to assist trafficked women in re-establishing healthy and normal lives; ensure their availability for service as effective material witnesses while reducing the costs to taxpayers, and provide a model that can be used in other regions of the country. The project developed guidelines for use by the U.S. Immigration and Naturalization Service (INS) and the U.S. courts in releasing trafficked women to community care and developed a preliminary curriculum for a continuum of care for "Southeast Asia Women in Transition" (OVC 1999a).

- In June 1998, OVC convened a focus group on assistance and outreach to victims of international trafficking. The purpose of the focus group was to gather views about how best to meet the needs of victims of international trafficking, including those who have been trafficked for commercial sexual exploitation, slave labor, and other unlawful purposes. The meeting was attended by victim service providers, immigrant rights advocates, and others who come directly in contact with trafficked victims. Representatives from various U.S. Department of Justice components including INS and the FBI attended the meeting as well as representatives from the State Department and the Department of Labor. Recommendations will be used by OVC for future program planning (Ibid.).
- OVC is currently working with the Department of Justice Worker Exploitation Task Force, various service providers throughout the country, and numerous nongovernmental organizations to develop a training video for federal law enforcement personnel on the issues facing victims of trafficking. This video is expected to be completed in August 1999 (Ibid.).

COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

Each year, an estimated one million children enter the multibillion dollar illegal sex market (World Congress Against Commercial Sexual Exploitation 1996). Children are coerced, kidnaped, sold, deceived, or otherwise trafficked into forced sexual encounters. The phenomenon of “sex tourism,” which mainly involves men traveling to other countries to engage in sex with children, is well documented. The exact nature of exploitation differs from one country to another.

- In Asia, children are sold, knowingly or unknowingly, into the sex trade by families or friends.
- In Africa, evidence suggests that the employment of children as domestic help frequently includes sexual exploitation.
- In Europe, children are trafficked from poorer to more affluent countries where the market for children is fueled by organized pedophile rings and high-tech information services. These rings also exist in Australia, Canada, the United Kingdom, and the United States.

The damage commercial sexual exploitation causes children is unfathomable. Children are robbed of their natural sexual development, their sense of dignity, identity, and self-esteem. Their physical and emotional health are put at tremendous risk, their rights are violated, and their only support may come from those who exploit them. To address these issues, Assistant Attorney General Laurie Robinson led the U.S. delegation to the World Congress Against Commercial Sexual Exploitation of Children in Stockholm, Sweden, in 1996. OVC provided funds to the Education Development Center, Inc. to develop a report on strategies to stop the sexual exploitation of children, *Child Sexual Exploitation: Improving Investigations and Protecting Victims—A Blueprint for Action* (EDC 1995), which was distributed at the conference. A videotape and user’s guide entitled *Joining Forces Against Child Sexual Exploitation* were also developed to encourage replication of multijurisdictional team approaches to handling these types of crimes. Since the World Congress, an interagency

working group comprised of representatives from the President's Interagency Council on Women; the Departments of Defense, Education, Justice, Labor, and State; U.S. Customs; and U.S. Postal Inspection Service have met periodically to develop a coordinated federal agency strategy for prevention, investigation, and intervention in cases of commercial sexual exploitation of children.

INTERNATIONAL PARENTAL CHILD ABDUCTION

Parental abduction cases often involve international marriages that dissolve, with one parent returning to a native country with children who are too young to give legal consent. It is estimated that each year in the United States more than 350,000 children are abducted by a parent (Finkelhor, Hotaling, and Sedlak 1990). Of those abductions, reports vary on the numbers of children taken across international borders. One study found that children were known or believed to have been taken to another country in more than one-fifth of all child abductions. Earlier studies with smaller sample groups found that up to 40 percent of abductions may cross international boundaries (Grief and Hegar 1993). Only a small percentage of these cases are ever reported to the State Department, however. The State Department's Office of Children's Issues Statistics reported a total 1,057 international child custody cases in 1994 (U.S. Department of State 1994).

The costs of searching for children who have been abducted are staggering. Many parents exhaust their life savings on telephone calls, attorneys, and private investigators. A 1990 study found that in international cases, more than half of the searching parents spent more than \$10,000 and a few spent more than \$50,000 in their efforts to retrieve their children (Grief and Hegar, 1993). Accurate statistics on recovery rates are not available, according to the National Center for Missing and Exploited Children, but success or failure often depends on whether the child was taken to one of the forty-five countries that have signed the *Hague Convention on the Civil Aspects of International Child Abduction*. The recovery rate for Hague Convention countries varies by how well the courts of each country implement the treaty. Recovery rates for non-Hague countries are very low.

Since 1985, the Justice and State Departments have worked together through the National Center for Missing and Exploited Children to track kidnaped children taken across international borders and to help their parents obtain lawful custody under the Hague Convention's treaty on international child abductions. As a part of this joint initiative, OVC will pay travel-related reunification costs for American parents who can prove that substantial economic hardship prevents them from recovering their children from overseas. In 1999, the International Center for Missing and Exploited Children was created to specifically address cases involving child abduction and exploitation that cross national borders.

BATTERED IMMIGRANT WOMEN

Until the passage of the Battered Immigrant Women provision of the Violence Against Women Act, immigrant women who were dependent on their batterer for their legal status could not escape their abusive situation without risking deportation. The new provision allows immigrant victims the opportunity to apply for legal status independent of their abusive spouse. While

some immigrants have already benefited from this new measure, still others who may be eligible are not simply because they and the immigration officials handling their case are unaware the law exists. As such, all immigration and asylum officers should be fully trained concerning the existence of the new law, along with all policies and procedures created to implement the law. The officers should also be trained to identify immigrants who may be eligible and assist them with filing applications to avail themselves of the new provision.

OVC has been working with the Immigration and Naturalization Service (INS) to establish a victim-witness program to identify victims of crime and refer them to services. Since its inception, INS has established sixty-eight Victim-Witness Coordinators throughout the country to assist crime victims. OVC, in conjunction with INS, has recently developed a training video, *A Balance to Maintain*, for all INS employees on victims' issues. A national training program is under development.

IMMIGRANTS WHO HAVE BEEN VICTIMS OF TORTURE

In November 1998, OVC conducted a focus group with the Center for Victims of Torture (CVT) to explore ways that OVC can work with CVT to educate victim service providers about the unique needs of these vulnerable immigrant victims. CVT has conducted several training workshops for federal law enforcement personnel and is exploring avenues to train victim service providers around the country.

INTERNATIONAL COOPERATION AND INFORMATION SHARING

As crime has become increasingly international, new methods of information sharing and cooperation have become essential. Not only is it important for countries to assist one another in developing strong justice systems that can effectively address victims' needs, but it is often important for countries to work together in investigating and prosecuting crimes and working with victims. UNOJUST, the United Nations Online Crime and Justice Clearinghouse, is a technical assistance program, designed by the National Institute of Justice in the U.S. Department of Justice and the Office of International Narcotics and Law Enforcement in the Department of State, to help the United Nations develop a technical capacity for global electronic information exchange on criminal justice issues. UNOJUST provides an opportunity for criminal justice practitioners around the globe to share and exchange information about issues including victimization. These and other methods of information sharing and cooperation will become increasingly important in the effort to address victims' rights and services at the international level.

DECLARATION OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER

UNITED NATIONS

DEPARTMENT OF PUBLIC INFORMATION

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power emanated from the deliberations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985. The General Assembly adopted the Congress's recommended text later that year, on 29 November, when it adopted resolution 40/34, reproduced below.

The Declaration recommends measures to be taken at the international and regional levels to improve access to justice and fair treatment, restitution of crime, and it outlines the main steps to be taken to prevent victimization linked to abuses of power and to provide remedies for victims of such treatment.

Annex

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

A. VICTIMS OF CRIME

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

Restitution

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependents. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

Compensation

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependents of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

Assistance

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.

16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

B. VICTIMS OF ABUSE OF POWER

18. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

20. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.

21. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.

INTERNATIONAL ISSUES IN VICTIM ASSISTANCE SELF-EXAMINATION

1. Why is it important to discuss international issues in victim assistance? What relevance does it have to victim services in the United States?
2. Name two organizations working to address crime victims issues in the international arena. What specific activities have these organizations undertaken?
3. What international document is considered the “Magna Carta” for crime victims? Name four specific components of this document.
4. What issues need to be considered in developing services for international tourist victims?
5. Describe two other emerging issues in international victim assistance and why they are important.

board. The IVW mission is to facilitate the implementation of the U.N. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
< <http://www.victimology.nl/> > .

In April 2000, the United Nations held the Tenth Congress on the Prevention of Crime and the Treatment of Offenders in Vienna, Austria. Member states in attendance issued a declaration that contains two paragraphs related to victims issues. In the first, member States state that they will “introduce, where appropriate, national, regional, and international action plans in support of victims of crime, such as mechanisms for mediation, and restorative justice” and “establish 2002 as a target date for member States to review their relevant practices, to develop further victim support services and awareness campaigns on the rights of victims and to consider the establishment of funds for victims, in addition to developing and implementing witness protection policies.” In the second, member States “encourage the development of restorative justice policies, procedures and programmes that are respectful of the rights, needs and interests of victims, offenders, communities and all other parties” (Tenth United Nations Congress 10–17 April 2000).

Specific victim initiatives considered by member States at the Tenth Congress include the following:

CREATION OF AN INTERNATIONAL FUND FOR THE SUPPORT OF VICTIMS OF TRANSNATIONAL CRIME

An expert working group met in January 1999 to consider the feasibility of creating an international fund for victims of crime and abuse of power. The working group recommended that such a fund be established to support the following:

- Technical assistance to develop and/or strengthen victim support services and organizations.
- Awareness campaigns on victim rights and crime prevention.
- Eligible victim claims resulting from international and transnational crime, where national avenues of recourse and/or redress are unavailable or insufficient (*Proposal for the Foundation* 27–28 January 2000).

At the Congress, member States took note of the recommendations and tasked the Secretary General of the United Nations Commission on Crime Prevention and Criminal Justice with reviewing the recommendations and examining existing mechanisms at the international level to provide assistance to victims of crime and abuse of power. The Secretary General is to report his findings to the Commission at its next meeting in 2001.

CREATION OF BASIC PRINCIPLES ON THE USE OF RESTORATIVE JUSTICE

Member States approved a resolution to consider the feasibility and desirability of establishing guiding principles on the use of restorative justice practices. The United Nations Commission on Crime Prevention and Criminal Justice will again consider this topic in 2002.

**REVISED DRAFT PROTOCOL TO PREVENT, SUPPRESS, AND PUNISH
TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN**

An Ad Hoc Committee of the United Nations General Assembly established to create a protocol that promotes and facilitates cooperation among member States to prevent, investigate, and punish international trafficking in persons, particularly women and children, came up with several recommendations. According to the Ad Hoc Committee, member States should:

- Adopt measures to prevent trafficking and severely punish those who engage in trafficking.
- Ensure that victims of trafficking receive appropriate protection in accordance with their best interests, and ensure their safe and voluntary return to their countries of origin, of habitual residence, or to a third country.
- Educate the public about the causes and consequences of trafficking in persons.
- Provide victims with the appropriate legal, medical, psychological, and financial assistance whenever it is deemed necessary.
- Prevent any type of penalty from being imposed on victims of trafficking.
- Abolish those practices that allow a husband, family, or clan to order the transfer of a woman to another person for payment or other benefit to an international crime organization (Ad Hoc Committee 6–17 December 1999).

SECTION 7, INTERNATIONAL ISSUES IN VICTIM ASSISTANCE**STATISTICAL OVERVIEW**

- Recent studies indicate that of the estimated 9 million prostitutes working in India, 30% are children, a large number of whom have been trafficked from Bangladesh, Nepal, and Pakistan (ECPAT n.d.).
- It is estimated that 30% of the commercial sex workers in Cambodia are less than eighteen years of age, at least one-half of whom have been forced into the trade (Ibid).
- A recent study in Greece identified 2,900 minors in prostitution—more than 200 were younger than twelve years old. Forty percent of the minors had been brought from regional countries suffering from conflicts and lack of social cohesion including Uzbekistan, Armenia, Albania, and Iraq (Ibid).

ASSISTANCE TO FAMILIES OF PAN AM 103 VICTIMS

The bombing of Pan Am Flight 103 on December 21, 1988, over Lockerbie, Scotland, took the lives of 270 individuals from twenty-one countries, including 189 Americans. It was the worst terrorist atrocity in aviation history. Reserve funds from the Crime Victims Fund, available through the Victims of Crime Act (VOCA) set aside for victims of terrorism and mass violence have been drawn upon to assist families of Pan Am 103 victims. The U.S. Department of Justice, Office for Victims of Crime (OVC), in partnership with the Scottish government, is working to ensure that Pan Am 103 victims' families receive information and assistance throughout the trial process. A comprehensive database at OVC contains updated information on more than 600 family members, and OVC has a full-time coordinator for the Pan Am 103 project. In coordination with the Scottish prosecutors, police, and the Scottish Court Service, OVC is providing the following services to families:

- An international toll-free telephone line into OVC for victim families, operational since June 14, 1999, and accessible from the sixteen countries where the families are located. Scottish prosecutors, police, and court service personnel provide regular updates for the information line.
- A secure, informational Web site for victim families (contracted through the Syracuse University Law School) that provides updated information about the case, an "electronic scrapbook" of archival information on the bombing and the victims, information about victim services, and a discussion forum for families to communicate with each other. Acting as agent for OVC, the Syracuse participants will summarize daily transcripts of the trial.

- Trial updates using traditional mail for members without Internet access.
- Funding for staff to coordinate victim services throughout the trial:
 - A victim-witness coordinator in the Netherlands to provide assistance in locating lodging, arranging local transportation, and assisting with other needs.
 - An on-site officer for the Scottish Court Service at Kamp van Zeist, who serves as a family liaison officer with the Court.
 - A Scottish prosecutor who serves as legal liaison with the families to explain Scottish law and procedure.
- Funding assistance to the Scottish court to create a separate, secure waiting area for the families at the trial.
- Funding assistance and coordination of case briefing meetings for victim families by the Lord Advocate (equivalent to the U.S. Attorney General) and his team, held in August and September 1999, in Washington DC; Dumfries, Scotland; and London, England.
- The coordination of four remote sites for closed circuit viewing by victim families (immediate relatives only) of trial proceedings in the United States and the United Kingdom that will be secured by U.S. Marshals and managed by Scottish Court personnel.
- Funding and coordination of travel and lodging for two family members from each victim family for one week to attend the trial in the Netherlands or in one of the remote court sites.
- Funding for uncompensated mental health counseling for immediate family members throughout the trial process.
- Development and printing of a Lockerbie Trial Handbook, co-funded by OVC and the University of Glasgow Law School, that provides information on Scottish law and legal procedure. In addition, OVC developed a briefing book for the families that provides information about the trial site, the remote sites, and travel information.

UPDATE ON U.N. INITIATIVES TO ADDRESS INTERNATIONAL VICTIMIZATION

The United Nations General Assembly adopted a *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* in November 1985. Since then this landmark document has served as the basis for victim services reform at national and local levels throughout the world. One of the projects that has resulted from this declaration is the International Victimology Web Site (IVW).

In June 1999, IVW was launched as a resource for all those interested in improving justice for victims of crime and abuse of power. A two-year pilot program, sponsored by the U.N. Center for International Crime Prevention, the Research and Documentation Center of the Netherlands Ministry of Justice, and the World Society of Victimology, IVW is a database of victimology research in progress, a database for victim services and victimization prevention, a resource for promising practices in victim services, a document and publications hosting page, a link to other victimology resources on the Internet, and a victimology news page and bulletin

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SECTION 6, RURAL VICTIMS

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SECTION 7, INTERNATIONAL ISSUES IN VICTIM ASSISTANCE**STATISTICAL OVERVIEW**

- Recent studies indicate that of the estimated 9 million prostitutes working in India, 30% are children, a large number of whom have been trafficked from Bangladesh, Nepal, and Pakistan (ECPAT n.d.).
- It is estimated that 30% of the commercial sex workers in Cambodia are less than eighteen years of age, at least one-half of whom have been forced into the trade (Ibid).
- A recent study in Greece identified 2,900 minors in prostitution—more than 200 were younger than twelve years old. Forty percent of the minors had been brought from regional countries suffering from conflicts and lack of social cohesion including Uzbekistan, Armenia, Albania, and Iraq (Ibid).

ASSISTANCE TO FAMILIES OF PAN AM 103 VICTIMS

The bombing of Pan Am Flight 103 on December 21, 1988, over Lockerbie, Scotland, took the lives of 270 individuals from twenty-one countries, including 189 Americans. It was the worst terrorist atrocity in aviation history. Reserve funds from the Crime Victims Fund, available through the Victims of Crime Act (VOCA) set aside for victims of terrorism and mass violence have been drawn upon to assist families of Pan Am 103 victims. The U.S. Department of Justice, Office for Victims of Crime (OVC), in partnership with the Scottish government, is working to ensure that Pan Am 103 victims' families receive information and assistance throughout the trial process. A comprehensive database at OVC contains updated information on more than 600 family members, and OVC has a full-time coordinator for the Pan Am 103 project. In coordination with the Scottish prosecutors, police, and the Scottish Court Service, OVC is providing the following services to families:

- An international toll-free telephone line into OVC for victim families, operational since June 14, 1999, and accessible from the sixteen countries where the families are located. Scottish prosecutors, police, and court service personnel provide regular updates for the information line.
- A secure, informational Web site for victim families (contracted through the Syracuse University Law School) that provides updated information about the case, an "electronic scrapbook" of archival information on the bombing and the victims, information about victim services, and a discussion forum for families to communicate with each other. Acting as agent for OVC, the Syracuse participants will summarize daily transcripts of the trial.

- Trial updates using traditional mail for members without Internet access.
- Funding for staff to coordinate victim services throughout the trial:
 - A victim-witness coordinator in the Netherlands to provide assistance in locating lodging, arranging local transportation, and assisting with other needs.
 - An on-site officer for the Scottish Court Service at Kamp van Zeist, who serves as a family liaison officer with the Court.
 - A Scottish prosecutor who serves as legal liaison with the families to explain Scottish law and procedure.
- Funding assistance to the Scottish court to create a separate, secure waiting area for the families at the trial.
- Funding assistance and coordination of case briefing meetings for victim families by the Lord Advocate (equivalent to the U.S. Attorney General) and his team, held in August and September 1999, in Washington DC; Dumfries, Scotland; and London, England.
- The coordination of four remote sites for closed circuit viewing by victim families (immediate relatives only) of trial proceedings in the United States and the United Kingdom that will be secured by U.S. Marshals and managed by Scottish Court personnel.
- Funding and coordination of travel and lodging for two family members from each victim family for one week to attend the trial in the Netherlands or in one of the remote court sites.
- Funding for uncompensated mental health counseling for immediate family members throughout the trial process.
- Development and printing of a Lockerbie Trial Handbook, co-funded by OVC and the University of Glasgow Law School, that provides information on Scottish law and legal procedure. In addition, OVC developed a briefing book for the families that provides information about the trial site, the remote sites, and travel information.

UPDATE ON U.N. INITIATIVES TO ADDRESS INTERNATIONAL VICTIMIZATION

The United Nations General Assembly adopted a *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* in November 1985. Since then this landmark document has served as the basis for victim services reform at national and local levels throughout the world. One of the projects that has resulted from this declaration is the International Victimology Web Site (IVW).

In June 1999, IVW was launched as a resource for all those interested in improving justice for victims of crime and abuse of power. A two-year pilot program, sponsored by the U.N. Center for International Crime Prevention, the Research and Documentation Center of the Netherlands Ministry of Justice, and the World Society of Victimology, IVW is a database of victimology research in progress, a database for victim services and victimization prevention, a resource for promising practices in victim services, a document and publications hosting page, a link to other victimology resources on the Internet, and a victimology news page and bulletin

board. The IVW mission is to facilitate the implementation of the U.N. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
< <http://www.victimology.nl/> > .

In April 2000, the United Nations held the Tenth Congress on the Prevention of Crime and the Treatment of Offenders in Vienna, Austria. Member states in attendance issued a declaration that contains two paragraphs related to victims issues. In the first, member States state that they will “introduce, where appropriate, national, regional, and international action plans in support of victims of crime, such as mechanisms for mediation, and restorative justice” and “establish 2002 as a target date for member States to review their relevant practices, to develop further victim support services and awareness campaigns on the rights of victims and to consider the establishment of funds for victims, in addition to developing and implementing witness protection policies.” In the second, member States “encourage the development of restorative justice policies, procedures and programmes that are respectful of the rights, needs and interests of victims, offenders, communities and all other parties” (Tenth United Nations Congress 10–17 April 2000).

Specific victim initiatives considered by member States at the Tenth Congress include the following:

CREATION OF AN INTERNATIONAL FUND FOR THE SUPPORT OF VICTIMS OF TRANSNATIONAL CRIME

An expert working group met in January 1999 to consider the feasibility of creating an international fund for victims of crime and abuse of power. The working group recommended that such a fund be established to support the following:

- Technical assistance to develop and/or strengthen victim support services and organizations.
- Awareness campaigns on victim rights and crime prevention.
- Eligible victim claims resulting from international and transnational crime, where national avenues of recourse and/or redress are unavailable or insufficient (*Proposal for the Foundation* 27–28 January 2000).

At the Congress, member States took note of the recommendations and tasked the Secretary General of the United Nations Commission on Crime Prevention and Criminal Justice with reviewing the recommendations and examining existing mechanisms at the international level to provide assistance to victims of crime and abuse of power. The Secretary General is to report his findings to the Commission at its next meeting in 2001.

CREATION OF BASIC PRINCIPLES ON THE USE OF RESTORATIVE JUSTICE

Member States approved a resolution to consider the feasibility and desirability of establishing guiding principles on the use of restorative justice practices. The United Nations Commission on Crime Prevention and Criminal Justice will again consider this topic in 2002.

**REVISED DRAFT PROTOCOL TO PREVENT, SUPPRESS, AND PUNISH
TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN**

An Ad Hoc Committee of the United Nations General Assembly established to create a protocol that promotes and facilitates cooperation among member States to prevent, investigate, and punish international trafficking in persons, particularly women and children, came up with several recommendations. According to the Ad Hoc Committee, member States should:

- Adopt measures to prevent trafficking and severely punish those who engage in trafficking.
- Ensure that victims of trafficking receive appropriate protection in accordance with their best interests, and ensure their safe and voluntary return to their countries of origin, of habitual residence, or to a third country.
- Educate the public about the causes and consequences of trafficking in persons.
- Provide victims with the appropriate legal, medical, psychological, and financial assistance whenever it is deemed necessary.
- Prevent any type of penalty from being imposed on victims of trafficking.
- Abolish those practices that allow a husband, family, or clan to order the transfer of a woman to another person for payment or other benefit to an international crime organization (Ad Hoc Committee 6–17 December 1999).

SECTION 7, INTERNATIONAL ISSUES IN VICTIM ASSISTANCE**ABSTRACT**

Victim issues transcend many borders, cultures, and legal systems. Not only is the United States visited by millions of foreign nationals each year, but citizens of the United States travel and live all over the world. Crime does not limit itself to the borders of a particular country. This chapter addresses a number of international crime victim issues that have become increasingly important as our societies have become more global and mobile. Issues such as tourist victimization, crime victim compensation, international terrorism, and commercial exploitation of women and children are just a few of the complex issues in international victim assistance. This chapter also discusses some of the efforts that are being undertaken by the United Nations and other organizations at the international level to address these issues.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The background and history of the victims' movement at the international level.
- The content and significance of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.
- The major international organizations working to address crime victims issues.
- Emerging issues in providing services to U.S. citizens victimized abroad.
- Types of international crime victims and victim advocacy response.
- New developments in meeting the needs of foreign citizens victimized in the United States.

STATISTICAL OVERVIEW

Crime afflicts urban populations in all parts of the world. The extent of that crime was recently examined through the *International Crime Victimization Survey*, which measured crime in more than fifty different countries. Bypassing differences in legal codes and definitions of crime that have made comparing crime data among countries difficult, the survey has produced the most comparable cross-national data on crime available to date. Conducted in 1989, 1991, and 1996, the survey found the following:

- More than a third of all urban dwellers in the world do not feel safe in their own neighborhoods at night.
- Crime rates are highest in major cities in Africa and Latin America.
- In every country surveyed, including the United States, no more than 10% of victims received assistance from a specialized victim assistance agency. (*International Crime Victimization Survey* 1997)

Because of differences in legal codes and definitions of crime among countries, reliable data that are comparable across nations has been difficult to obtain. The *International Crime Victimization Survey* is one positive step towards compiling comprehensive, multinational data on crime victimization. More research in this area is needed, however, particularly for crimes such as child abuse and domestic violence which are largely unreported to police in most countries.

INTRODUCTION

In recent years there has been increased attention in the United States on the unique needs of American citizens victimized abroad as well as those of foreign citizens victimized in the United States. There have also been considerable efforts to address victimization issues at an international level through standards-setting, training programs, conferences, and other initiatives. Rights and services for crime victims vary considerably from one country to another, and countries can learn a great deal from one another about ways to address crime victims' needs.

This chapter is largely based on a report, *New Directions from the Field: Victims' Rights and Services for the 21st Century*, and a background paper written for that report by Dr. Marlene Young, Executive Director of the National Organization for Victim Assistance (OVC 1998, Chap. 18). Some of the activities that have been undertaken at the national and international level to address the realm of international victim assistance are discussed in this chapter.

THE VICTIMS' MOVEMENT AT THE INTERNATIONAL LEVEL

While the victims' movement at the international level is still relatively new, the first work in the field of victimology was pioneered in the 1940s by an Israeli researcher, Benjamin Mendelsohn, and a German researcher, Hans von Hentig. Later, the work of English legal reformer Margery Fry resulted in the passage of victim compensation legislation in New Zealand in 1963, soon followed by Great Britain and several states in the United States. The rape crisis movement emerged in the United States and other countries in the early 1970s.

International recognition of victimology as a distinct branch of criminology came with the first International Symposium on Victimology, held in Jerusalem in 1973, where a series of papers on victim compensation, crisis intervention, and the concept of a victim ombudsman were

presented. By the end of the 1970s, those ideas were reflected in the establishment of victim service programs such as rape crisis centers, domestic violence shelters, and victim-witness units in a number of countries including the United States, United Kingdom, and Canada.

While the United States was just one of several nations interested in victims' issues at that time, it was clearly one of the leaders in the emerging international victims field. The publication of the 1982 *Final Report* of the President's Task Force on Victims of Crime was a landmark document not only in the U.S., but internationally as well. A number of other countries created their own task forces based on the American model, and discussions of victims' rights and services gained visibility in international forums such as the United Nations.

UNITED NATIONS INITIATIVES TO ADDRESS VICTIMIZATION

During the past two decades, the United Nations has undertaken a number of initiatives to address the needs of crime victims at the international level. One of the most significant is the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (Declaration), adopted by the United Nations General Assembly in 1985 (OVC 1998, Chap. 18). Considered a "Magna Carta" for crime victims around the world, the Declaration is based on the philosophy that victims should be treated with compassion and respect for their dignity, and that they are entitled to access the mechanisms of justice and to receive prompt redress for the harm they have suffered.

The Declaration purposefully speaks of basic principles of justice for crime victims, which include access to justice and fair treatment, restitution, compensation, and assistance. The last category includes material, medical, psychological, and social assistance through comprehensive use of governmental, voluntary, community-based, and indigenous groups. The Declaration also addresses various principles of justice for victims of abuse of power. A copy of the Declaration is included at the end of this chapter.

Governments and organizations around the world have responded to the challenge of implementing the Declaration in different ways. Victim justice became a much livelier public issue in Brazil, Germany, India, the Philippines, Poland, and Sweden, to cite six of many possible examples, following its adoption. Victim assistance programs and services have developed around the globe in such diverse nations as Japan, Mexico, the Netherlands, New Zealand, and Nigeria. Other countries, however, have only begun to establish mechanisms to respond to victims' concerns.

Since the adoption of the Declaration, the U.N. has taken a number of steps to foster its implementation worldwide. These efforts have largely been spearheaded by the U.N. Commission on Crime Prevention and Criminal Justice, which meets once a year in Vienna, Austria. For example, in 1996, the United Nations Commission on Crime Prevention and Criminal Justice adopted a resolution calling for the development of an international victim assistance training manual to help countries worldwide develop programs for victims of crime.

The U.S. government and the government of the Netherlands took leadership roles in working with scores of experts in victim issues from every region of the world to develop two documents: a *Handbook on Justice for Victims*, designed to assist practitioners in developing comprehensive victim services; and a *Guide for Policymakers*, designed to educate policymakers about the Declaration itself.

OTHER U.N. EFFORTS TO ADDRESS VICTIMS' ISSUES

- *Fourth United Nations Conference on Women.* In 1995, the Fourth United Nations Conference on Women in Beijing, China, was a significant step forward in the international arena for victims of domestic violence. The Conference's final document, the *Platform for Action*, is a powerful and progressive statement about the empowerment of women and the imperative to eliminate violence against women in all forms. First Lady Hillary Rodham Clinton's message was heard around the globe when she said, "It is a violation of human rights when individual women are raped in their communities and when thousands of women are subjected to rape as a tactic or prize of war. It is a violation of human rights when a leading cause of death worldwide among women ages fourteen to forty-four is the violence they are subjected to in their own homes. If there is one message that echoes forth from this conference, it is that human rights are women's rights . . . and women's rights are human rights."
- *Crime Prevention and Human Rights.* The work of the United Nations in preventing abuse of power and violations of human rights is long-standing, and among the results have been the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *Convention on the Prevention and Punishment of the Crime of Genocide*, the *Convention on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, the *Convention on the Rights of the Child*, and the *Convention on Elimination of All Forms of Discrimination Against Women*. The United Nations has also developed international guidelines to reduce abuses against the elderly, the handicapped and the mentally ill, and has drafted basic principles and guidelines on the reparation of victims of gross violations of human rights and humanitarian law.
- *Efforts to Establish an International Criminal Court.* In recent years the United Nations Security Council has worked to establish two ad hoc international criminal tribunals for the former Yugoslavia and Rwanda. The decades-long effort to establish a permanent International Criminal Court is close to becoming a reality through the action of the United Nations. The Preparatory Committee on the Establishment of an International Criminal Court has given positive consideration to provisions related to victims, in particular with regard to the proposed creation of a Victim and Witnesses Unit.

WORLD SOCIETY FOR VICTIMOLOGY

Another international organization that specifically addresses victims' issues is the World Society for Victimology, a nonprofit, nongovernmental organization (NGO) with members from around the world brought together by their mutual concern for victims. Members include

victim assistance practitioners, scientists, social workers, physicians, lawyers, university professors, and students. The purposes of the World Society for Victimology are to promote research on victims and victim assistance; to advocate their interests throughout the world; to encourage interdisciplinary and comparative research in victimology; and to advance the cooperation of international, regional, and local agencies, groups, and individuals concerned with the problems of victims.

The origins of the World Society for Victimology are rooted in the works of early victimologists and in the pioneering of the first International Symposium on Victimology organized in Israel in 1973. This symposium provided the first international forum for scholars, practitioners, and students to focus on victimology. The World Society for Victimology sponsors various activities, such as symposia, workshops, and study programs, and holds international symposia on victimology every three years. To date, symposia have taken place in Tokyo, Zagreb, Jerusalem, Rio de Janeiro, Adelaide, and Amsterdam. In the year 2000, the symposium is scheduled to take place in Montreal, Canada.

MEETING THE NEEDS OF INTERNATIONAL CRIME VICTIMS

A number of international issues have become increasingly apparent to the victim assistance field in recent years, including crimes against international tourists, victim compensation, international terrorism and crisis response, and crimes against children. The following are illustrative examples of such complexities:

- A Japanese student is murdered while on a U.S. college campus. The District Attorney, cognizant of the need for fair treatment and access to justice for the surviving family members, is faced with problems in providing information and notification, opportunities for participation, and effective support for grieving relatives an ocean away.
- A U.S. citizen is severely beaten and sexually assaulted while on vacation in Amsterdam. Her home state does not provide victim compensation to citizens who are outside state boundaries, and is not deemed to have a reciprocal compensation agreement with the Netherlands, which, like many nations, requires such an agreement to compensate a foreign national injured within its borders. She and her family now face serious financial hardship as a result.
- A young German is robbed and severely beaten while on a business trip to the United States. The accused is released and the case is eventually dismissed because the prosecutor cannot afford to transport the victim two or three times back to the United States.
- A U.S. citizen is killed in a terrorist attack in another country. There is no provision for death notification or support to the family members by trained, qualified service providers.
- An international couple with a two-year-old child separates. In violation of the custody order, the mother kidnaps the child and returns to her country of origin. The father, a U.S. citizen, expends hundreds of thousands of dollars on legal fees, telephone calls, and private investigators in his attempt to get the child back.

VICTIMIZATION OF TOURISTS

International tourist crime is a chronic and growing problem, increasingly causing economic decline, deterring investment, and threatening quality of life in countries all over the world. Tourists who become victims often face unique issues such as isolation and culture shock, lack of familiar social support, travel stress, and language barriers. In addition, most tourists are not familiar with the laws of the country they are visiting, nor the criminal justice, social services, health, and mental health systems with which they must interact after victimization.

Throughout the world, tourist-dependent economies have implemented a variety of promising, comprehensive programs to deal with the increasing number of tourists who become victims of crime. Many of these programs assist both domestic and international travelers. Programs to assist tourist victims have been implemented in the United States in New York City; Orlando, Florida; and throughout Hawaii. They are also available in Dublin, Ireland; Amsterdam, Netherlands; Buenos Aires, Argentina; San Jose, Costa Rica; and throughout New Zealand and Aruba. Specialized services provided by these programs generally include replacement of personal identification, assistance with transportation and lodging, emergency medical assistance, advocacy and support through embassies and consulates, bereavement services, and communication assistance.

More communities with large numbers of tourists should consider establishing special programs to assist international tourists who are victims of crime. OVC awarded the National Organization for Victim Assistance (NOVA) a two-year grant to develop a plan that would identify more effective services to foreign travelers victimized in the U.S. and U.S. travelers victimized abroad. The goals of this grant were to—

- Identify issues in tourist victimization.
- Identify promising practices in this area.
- Develop brochures for tourists leaving and coming to the U.S. summarizing general information on forms of victimization that may affect them and general resources available.
- Develop a companion handbook for use by victim assistance programs to assist them in working with tourist victims.

RESPONDING TO U.S. CITIZENS VICTIMIZED ABROAD

A coordinated, comprehensive plan of action is needed to respond to the needs of U.S. citizens who are victimized abroad. American citizens victimized abroad and their families often do not receive comprehensive victim assistance services in the country where the crime occurs or when they return home. This situation is complicated further when the crime involves terrorism or mass violence. International investigations become very complex, frequently involving multiple agencies. Often victims do not know where to turn for information or assistance. Victim advocates have suggested that the federal government consider establishing a victim ombudsman at the State or Justice Department to coordinate and streamline responses to Americans who are victimized abroad. Such an ombudsman would have responsibility for contacting victims and providing information and referrals to local services, updating victims

on the status of the investigations, and serving as a point of contact to guide victims through the federal system. In response to this suggestion, and in response to the multiple acts of terrorism involving U.S. citizens abroad, OVC has funded positions at the U.S. Department of State to assist the victims of the bombings of the U.S. embassies in Kenya and Tanzania in accessing services, obtaining compensation, and getting information on the criminal trials.

CRIME VICTIM COMPENSATION AROUND THE WORLD

In countries all over the world, victims of crime suffer physical injuries, emotional pain, and financial losses. While many nations provide victim compensation benefits, they often do not apply to foreign travelers. When they do, the small percentage of victim tourists who learn that compensation benefits are available are often discouraged by the legal intricacies of applying for compensation.

To inform travelers from all nations about benefits that exist in the country they are visiting and how to apply for those benefits, the Office for Victims of Crime, in partnership with the U.S. Department of State, developed an *International Crime Victim Compensation Program Resource Directory* in 1996. The State Department sent surveys to U.S. embassies in 174 nations, and questionnaires were then forwarded to the appropriate officials in each country. Of the ninety-one countries that responded, thirty countries in addition to the United States reported that they have established victim compensation programs. These programs are listed in the directory. This directory is updated annually and contains information from foreign countries and the U.S. on their programs, eligibility requirements, application procedures, and compensable costs.

International reciprocity in the provision of victim compensation, restitution, and other assistance in cases involving foreign nationals is very important. As more and more people travel around the world, crimes against foreign citizens, both in the United States and abroad, are likely to increase.

One recent development in crime victim compensation is the Antiterrorism and Effective Death Penalty Act, signed into law by President Clinton in 1996. This new legislation amends the Victims of Crime Act (VOCA) to provide for a new VOCA eligibility requirement that each state provide compensation for any resident who is injured or killed in a terrorist attack in a foreign country. States are not required to pay benefits when the crime is not a terrorist act. Therefore, it is imperative that advocates inform victims that some foreign countries have crime victim compensation programs, and that in some cases, victims may be eligible to receive benefits from the country where the crime occurred (OVC 1999b).

INTERNATIONAL CRIME VICTIMS AND RESPONSE ISSUES

INTERNATIONAL TERRORISM AND CRISIS RESPONSE

International crises such as terrorist attacks involve victims and survivors from many different countries, and local caregivers are sometimes unable to intervene usefully due to lack of education, resources, and language and cultural barriers. Moreover, because of complicated

international investigations which frequently involve multiple jurisdictions and agencies, the rights, needs, and services available to victims of terrorism may be overlooked.

Several organizations have provided assistance to victims of international terrorism and their families. For example,

- The National Organization for Victim Assistance (NOVA) worked in the 1980s with family members of U.S. hostages taken in Iran and Lebanon by convening support group meetings, developing a hostage family newsletter, and helping them contact governmental agencies. In 1990, the organization developed *Coping with the Iraq/Kuwait Crisis: A Handbook* for families and friends of Americans detained in Iraq and Kuwait (Young and Stein 1990). In addition, NOVA has coordinated crisis response teams in nearly a dozen countries including Canada, Japan, Bosnia, and Croatia.
- NOVA has been actively involved in training initiatives on international crisis response issues. Prior to the 1996 Summer Olympics in Atlanta, Georgia, the Office for Victims of Crime (OVC) provided funds to NOVA for the training of victim advocates and volunteers on national and international crisis intervention and response, including instruction from experts on how to assist foreign nationals victimized in the United States. After the bombing during the Olympics in Atlanta's Centennial Park, these advocates were instrumental in ensuring that victims received needed services.
- After the President signed the Antiterrorism Act in 1996, the OVC Director met with more than a dozen victims who attended the signing. The surviving family members whose loved ones had been killed abroad by terrorists in various countries emphasized several concerns regarding the "system." They expressed dissatisfaction in a number of areas including notification procedures about the death of their loved ones; the red tape that exists when they try to find out information about their cases; the lack of regular communications about case status from responsible government officials; and the lack of coordination between governmental agencies involved in these cases. They also expressed great appreciation for the opportunity to meet one another and to discuss their cases and their concerns. The group meeting helped diminish their sense of isolation (OVC 1999a).
- Following the bombing of Khobar Towers in Dharain, Saudi Arabia, OVC used its new authority under the Antiterrorism Act to ensure that the survivors of the nineteen military service members killed in that attack were aware of compensation and assistance benefits. In December 1997, OVC, in conjunction with the FBI, the Department of Defense, and the Department of the Air Force, hosted a meeting at the FBI Academy at Quantico, Virginia, for the surviving family members of the servicemen killed in the bombing of Khobar Towers. OVC established a 1-800 line for the families and the other victims in the U.S. Attorney's Office in the District of Columbia to provide current information about the case investigation and the status of the alleged terrorists (Ibid.).
- In the aftermath of the simultaneous bombings of two U.S. Embassies in East Africa on August 7, 1998, OVC has worked with many different federal agencies including the U.S. Departments of State, Defense, Labor, Health and Human Services, and Justice; Office of Personnel Management; Agency for International Development; and Central Intelligence Agency to ensure that information, benefits, and services are made available to the victims

of those attacks. OVC has also funded positions at the U.S. Department of State to assist these victims in accessing services, obtaining compensation, and getting information on the criminal trial. In May 1999, OVC, in conjunction with the U.S. Department of State and the U.S. Attorney's Office for the Southern District of New York, hosted a meeting for the victims and surviving family members to provide information about benefits and the current status of the criminal case (Ibid.).

- Recent international terrorist attacks against the U.S. have brought to light many of the unique and complex problems in coordinating an appropriate short- and long-term response to victims of terrorism abroad, and the need to develop a federal protocol for responding to future international terrorist incidents. Terrorism crimes tend to involve large numbers of victims and may include employees of various federal agencies as well as tourists, business representatives, and foreign nationals. Obtaining critical information about victims and providing emergency relief and ongoing services may be complicated and difficult. Access to compensation, benefits, and services can depend on which agency the victim works for and their status as a state resident. OVC has taken a leadership role in coordinating the development of a high-level working group to develop a federal protocol to ensure a more seamless response to victims of such incidents in the future (Ibid).

TRAFFICKING OF WOMEN, CHILDREN, AND MIGRANTS

The issue of international trafficking is gaining prominence in national and international discussions of crime. People are trafficked to the United States for many exploitative purposes, including sexual exploitation and slave labor. The victimization that flows from such trafficking is significant, yet for many reasons, these victims are largely without services. The crime of trafficking encompasses a range of conduct, and its victims include not only the women, men, and children trafficked but also in many cases, their families at home. Many trafficking victims are forced by their traffickers to break the law, and as a result, they are frequently treated as criminals themselves and may be imprisoned or deported without ever receiving services. Any effective plan for addressing the needs of trafficking victims must thus address a complex range of issues, including citizenship and residency, cultural and language needs, and age-specific needs.

The federal government has undertaken a number of initiatives to examine ways to address these complex issues:

- In fiscal year 1997, OVC funded the Filipino American Service Group, Inc. (FASGI) to provide direct services to Asian women and children trafficked and held as garment or sex industry workers. FASGI worked to assist trafficked women in re-establishing healthy and normal lives; ensure their availability for service as effective material witnesses while reducing the costs to taxpayers, and provide a model that can be used in other regions of the country. The project developed guidelines for use by the U.S. Immigration and Naturalization Service (INS) and the U.S. courts in releasing trafficked women to community care and developed a preliminary curriculum for a continuum of care for "Southeast Asia Women in Transition" (OVC 1999a).

- In June 1998, OVC convened a focus group on assistance and outreach to victims of international trafficking. The purpose of the focus group was to gather views about how best to meet the needs of victims of international trafficking, including those who have been trafficked for commercial sexual exploitation, slave labor, and other unlawful purposes. The meeting was attended by victim service providers, immigrant rights advocates, and others who come directly in contact with trafficked victims. Representatives from various U.S. Department of Justice components including INS and the FBI attended the meeting as well as representatives from the State Department and the Department of Labor. Recommendations will be used by OVC for future program planning (Ibid.).
- OVC is currently working with the Department of Justice Worker Exploitation Task Force, various service providers throughout the country, and numerous nongovernmental organizations to develop a training video for federal law enforcement personnel on the issues facing victims of trafficking. This video is expected to be completed in August 1999 (Ibid.).

COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

Each year, an estimated one million children enter the multibillion dollar illegal sex market (World Congress Against Commercial Sexual Exploitation 1996). Children are coerced, kidnaped, sold, deceived, or otherwise trafficked into forced sexual encounters. The phenomenon of “sex tourism,” which mainly involves men traveling to other countries to engage in sex with children, is well documented. The exact nature of exploitation differs from one country to another.

- In Asia, children are sold, knowingly or unknowingly, into the sex trade by families or friends.
- In Africa, evidence suggests that the employment of children as domestic help frequently includes sexual exploitation.
- In Europe, children are trafficked from poorer to more affluent countries where the market for children is fueled by organized pedophile rings and high-tech information services. These rings also exist in Australia, Canada, the United Kingdom, and the United States.

The damage commercial sexual exploitation causes children is unfathomable. Children are robbed of their natural sexual development, their sense of dignity, identity, and self-esteem. Their physical and emotional health are put at tremendous risk, their rights are violated, and their only support may come from those who exploit them. To address these issues, Assistant Attorney General Laurie Robinson led the U.S. delegation to the World Congress Against Commercial Sexual Exploitation of Children in Stockholm, Sweden, in 1996. OVC provided funds to the Education Development Center, Inc. to develop a report on strategies to stop the sexual exploitation of children, *Child Sexual Exploitation: Improving Investigations and Protecting Victims—A Blueprint for Action* (EDC 1995), which was distributed at the conference. A videotape and user’s guide entitled *Joining Forces Against Child Sexual Exploitation* were also developed to encourage replication of multijurisdictional team approaches to handling these types of crimes. Since the World Congress, an interagency

working group comprised of representatives from the President's Interagency Council on Women; the Departments of Defense, Education, Justice, Labor, and State; U.S. Customs; and U.S. Postal Inspection Service have met periodically to develop a coordinated federal agency strategy for prevention, investigation, and intervention in cases of commercial sexual exploitation of children.

INTERNATIONAL PARENTAL CHILD ABDUCTION

Parental abduction cases often involve international marriages that dissolve, with one parent returning to a native country with children who are too young to give legal consent. It is estimated that each year in the United States more than 350,000 children are abducted by a parent (Finkelhor, Hotaling, and Sedlak 1990). Of those abductions, reports vary on the numbers of children taken across international borders. One study found that children were known or believed to have been taken to another country in more than one-fifth of all child abductions. Earlier studies with smaller sample groups found that up to 40 percent of abductions may cross international boundaries (Grief and Hegar 1993). Only a small percentage of these cases are ever reported to the State Department, however. The State Department's Office of Children's Issues Statistics reported a total 1,057 international child custody cases in 1994 (U.S. Department of State 1994).

The costs of searching for children who have been abducted are staggering. Many parents exhaust their life savings on telephone calls, attorneys, and private investigators. A 1990 study found that in international cases, more than half of the searching parents spent more than \$10,000 and a few spent more than \$50,000 in their efforts to retrieve their children (Grief and Hegar, 1993). Accurate statistics on recovery rates are not available, according to the National Center for Missing and Exploited Children, but success or failure often depends on whether the child was taken to one of the forty-five countries that have signed the *Hague Convention on the Civil Aspects of International Child Abduction*. The recovery rate for Hague Convention countries varies by how well the courts of each country implement the treaty. Recovery rates for non-Hague countries are very low.

Since 1985, the Justice and State Departments have worked together through the National Center for Missing and Exploited Children to track kidnaped children taken across international borders and to help their parents obtain lawful custody under the Hague Convention's treaty on international child abductions. As a part of this joint initiative, OVC will pay travel-related reunification costs for American parents who can prove that substantial economic hardship prevents them from recovering their children from overseas. In 1999, the International Center for Missing and Exploited Children was created to specifically address cases involving child abduction and exploitation that cross national borders.

BATTERED IMMIGRANT WOMEN

Until the passage of the Battered Immigrant Women provision of the Violence Against Women Act, immigrant women who were dependent on their batterer for their legal status could not escape their abusive situation without risking deportation. The new provision allows immigrant victims the opportunity to apply for legal status independent of their abusive spouse. While

some immigrants have already benefited from this new measure, still others who may be eligible are not simply because they and the immigration officials handling their case are unaware the law exists. As such, all immigration and asylum officers should be fully trained concerning the existence of the new law, along with all policies and procedures created to implement the law. The officers should also be trained to identify immigrants who may be eligible and assist them with filing applications to avail themselves of the new provision.

OVC has been working with the Immigration and Naturalization Service (INS) to establish a victim-witness program to identify victims of crime and refer them to services. Since its inception, INS has established sixty-eight Victim-Witness Coordinators throughout the country to assist crime victims. OVC, in conjunction with INS, has recently developed a training video, *A Balance to Maintain*, for all INS employees on victims' issues. A national training program is under development.

IMMIGRANTS WHO HAVE BEEN VICTIMS OF TORTURE

In November 1998, OVC conducted a focus group with the Center for Victims of Torture (CVT) to explore ways that OVC can work with CVT to educate victim service providers about the unique needs of these vulnerable immigrant victims. CVT has conducted several training workshops for federal law enforcement personnel and is exploring avenues to train victim service providers around the country.

INTERNATIONAL COOPERATION AND INFORMATION SHARING

As crime has become increasingly international, new methods of information sharing and cooperation have become essential. Not only is it important for countries to assist one another in developing strong justice systems that can effectively address victims' needs, but it is often important for countries to work together in investigating and prosecuting crimes and working with victims. UNOJUST, the United Nations Online Crime and Justice Clearinghouse, is a technical assistance program, designed by the National Institute of Justice in the U.S. Department of Justice and the Office of International Narcotics and Law Enforcement in the Department of State, to help the United Nations develop a technical capacity for global electronic information exchange on criminal justice issues. UNOJUST provides an opportunity for criminal justice practitioners around the globe to share and exchange information about issues including victimization. These and other methods of information sharing and cooperation will become increasingly important in the effort to address victims' rights and services at the international level.

DECLARATION OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER

UNITED NATIONS

DEPARTMENT OF PUBLIC INFORMATION

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power emanated from the deliberations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985. The General Assembly adopted the Congress's recommended text later that year, on 29 November, when it adopted resolution 40/34, reproduced below.

The Declaration recommends measures to be taken at the international and regional levels to improve access to justice and fair treatment, restitution of crime, and it outlines the main steps to be taken to prevent victimization linked to abuses of power and to provide remedies for victims of such treatment.

Annex

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

A. VICTIMS OF CRIME

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

Restitution

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependents. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

Compensation

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependents of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

Assistance

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.

16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

B. VICTIMS OF ABUSE OF POWER

18. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

20. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.

21. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.

INTERNATIONAL ISSUES IN VICTIM ASSISTANCE SELF-EXAMINATION

1. Why is it important to discuss international issues in victim assistance? What relevance does it have to victim services in the United States?
2. Name two organizations working to address crime victims issues in the international arena. What specific activities have these organizations undertaken?
3. What international document is considered the “Magna Carta” for crime victims? Name four specific components of this document.
4. What issues need to be considered in developing services for international tourist victims?
5. Describe two other emerging issues in international victim assistance and why they are important.

Funding for Victim Services

SECTION 8, FUNDING FOR VICTIM SERVICES**ABSTRACT**

The provision of quality services for crime victims requires a strong funding base. During the past decade, strong fund-raising skills have become essential job requirements for many victim advocates. This chapter examines sources of potential funding from the public and private sectors and offers guidelines for a variety of fund-raising strategies.

LEARNING OBJECTIVES

Upon completion of this section, students will understand the following concepts:

- The major sources of federal funding for crime victim service programs.
- The fundamental concepts of and significant challenges to fund-raising.
- Critical elements of fund-raising.
- “Nuts and bolts” of grant writing.
- Grant seeking on the Internet.
- An overview of cause-related marketing.
- Increasing fund-raising skills and identifying corporate, foundation, and grant funding sources.
- Promising practices in fund-raising for victim services.

INTRODUCTION

Since the emergence of the first crime victim service programs in the early 1970s, adequate, stable funding has been a persistent challenge. The allocation of LEAA funding for prosecutor-based victim/witness programs in 1974 provided an initial foundation for broad-based governmental support. In the last two decades, support for victim services has grown to include a wide range of public (community, state, and federal governmental levels) and private sector sources.

This pattern of multiple funding sources for crime victim services continues today. It reflects the growing demand for victim services and the fact that no single source can meet the demand for the vast array of services that millions of crime victims need today.

U.S. DEPARTMENT OF JUSTICE FUNDING OPPORTUNITIES

There are a variety of designated and discretionary grant programs for federal, state, and local initiatives offered through the Office of Justice Programs (OJP) within the U.S. Department of Justice. While the key funding streams relevant to victim assistance are described below, some victim service agencies receive grant dollars from other OJP appropriations, often in partnership with allied justice agencies.

Each year, OJP publishes a comprehensive summary of its appropriations relevant to public safety, criminal and juvenile justice, crime prevention, and victim assistance. The OJP *FISCAL YEAR AT-A-GLANCE* publication is available through the Department of Justice Response Center (800-421-6770). Information is also available from OJP's homepage at < www.ojp.usdoj.gov > .

VICTIMS OF CRIME ACT FUNDING

The creation of the Crime Victims Fund, authorized by the Victims of Crime Act (VOCA) in 1984, has greatly increased the amount of federal funding available for crime victim programs. Since FY 1985, VOCA funding has increased from \$68 million to \$324 million collected in FY 1998 for FY 1999 programs. Growth in the fund has enabled OVC to award more than a billion dollars in grants to benefit crime victims through assistance, compensation, and training. VOCA funds have been used to support a growing number of victim assistance programs. It is estimated that approximately 2,000 community-based programs served crime victims in 1986, and more than 9,000 programs serve victims of crime in 1999. VOCA provides funding for approximately 3,000 victim assistance programs serving more than two million crime victims each year; state victim compensation programs serving an additional 200,000 victims; and training and technical assistance on crime victim issues to thousands of professionals nationwide, including federal criminal justice personnel and tribal organizations.

Information that VOCA-funded programs provide to the Office for Victims of Crime (OVC) suggests that the vast majority of federally supported crime victim assistance programs obtain funding from a variety of sources and utilize volunteers to augment the efforts of staff. The average amount of a program's VOCA grant award is less than \$20,000, representing only a small portion of the average program budget.

In addition to VOCA funding, several other programs have been created by federal legislation to address a variety of victim issues. In 1986, the Family Violence Prevention and Treatment Act created funding for shelters for battered women and law enforcement training on the issue of domestic violence. The Child Abuse Prevention and Treatment Act has provided funding for child abuse programs and the Children's Justice Act of 1986 has supported systemic changes in the handling of child abuse cases in the criminal justice system. The Department of Health and Human Services administers these acts, with a portion of the CJA funds transferred to OVC to assist Native American child victims.

VIOLENCE AGAINST WOMEN ACT

The Violence Against Women Act, enacted as Title IV of the Violent Crime Control and Law Enforcement Act of 1994 (VAWA), provides for improved prevention and prosecution of violent crimes against women and children. In addition, the Act creates new legal remedies for certain victims of violent crimes motivated by gender, and significantly increases the amount of federal funding available to support service programs. The following highlights an overview of funding opportunities available from the Violence Against Women Grants Office (VAWGO), as described by the VAWA Web page:

The Violence Against Women Grants Office (VAWGO) in the Office of Justice Programs (OJP) is dedicated to enhancing victim safety and ensuring offender accountability by supporting policies, protocols, and projects that call for zero tolerance of all forms of violence against women, including domestic violence, sexual assault, and stalking. VAWGO administers one formula and four discretionary grant programs authorized by the Violence Against Women Act (VAWA).

VAWGO is committed to working in partnership with state, local, and tribal government officials, as well as non-profit organizations, to encourage the development and support of innovative, effective programs for preventing, identifying, and stopping violence against women and ensuring their safety. VAWA envisions comprehensive community efforts to create and adopt locally responsive approaches that encourage collaboration among all segments, including victim service providers, victims' advocates, criminal justice authorities, health care providers, and community organizations representing educators, businesses, members of the clergy, and others involved in the fight to end violence against women. Communities are encouraged to leverage the coercive power of the criminal justice system to enhance women's safety and manage offenders' behavior. VAWGO is dedicated to ensuring that this vision is carried out as quickly and effectively as possible.

Grant programs administered by VAWGO include:

- *STOP Violence Against Women Formula Grants Program.* The STOP (Services Training Officers and Prosecutors) Violence Against Women Formula Grants are awarded to states and territories to develop and strengthen the criminal justice system's response to violence against women and to support and enhance services for victims. Each state and territory must allocate 25% of the grant funds to law enforcement, 25% to prosecution, and 25% to victim services. The remaining 25% can be allocated at each grantee's discretion within the broad parameters established by VAWA State Contacts.
- *Grants to Encourage Arrest Policies.* The Grants to Encourage Arrest Policies are designed to encourage state, local, and tribal governments to treat domestic violence as a serious violation of criminal law requiring the coordinated involvement of the entire criminal justice system. Grant funds may be used for implementing mandatory or pro-arrest programs and policies; developing policies and training in criminal justice agencies to improve tracking of domestic violence cases; and creating centralized domestic violence units consisting of police, prosecution, the judiciary, or other criminal justice agencies.
- *Rural Domestic Violence and Child Victimization Enforcement Grants.* The Rural Domestic Violence and Child Victimization Enforcement Grant Program is designed to improve and increase services available to rural women and children by encouraging community involvement in developing a coordinated response to domestic violence and child abuse. Police, prosecutors, judges, non-profit, non-governmental victim service agencies, and community organizations in rural jurisdictions are required to collaborate in the development and implementation of programs designed to reduce and prevent violence against rural women and children. Under this program, a state is considered rural if it has a population density of fifty-two or fewer persons per square mile or the largest county has fewer than 150,000 people. Entities in non-rural states are eligible for funding through the state if they are in areas that meet their state's criteria for a rural jurisdiction.

- *STOP Violence Against Indian Women Discretionary Grants Program.* The STOP Violence Against Indian Women Program is designed to develop and strengthen tribal law enforcement and prosecution efforts to combat violence against native women and develop and enhance services for victims of such crimes. Tribes that have law enforcement and prosecution responsibilities must allocate 25% of their grant funds to tribal law enforcement, 25% to tribal prosecution, and 25% to nonprofit, nongovernmental victim service agencies. The remaining 25% may be divided among the three categories at each grantee's discretion.
- *Domestic Violence Victims' Civil Legal Assistance Grants.* The Domestic Violence Victims' Civil Legal Assistance Discretionary Grant Program is designed to strengthen civil legal assistance for victims of domestic abuse through innovative, collaborative programs that reach battered women on a broad range of issues. The core components of projects supported by this grant program include training, mentoring, and collaborative relationships. Funds are being used to support or provide direct legal services on behalf of victims of domestic violence in civil matters directly related to the domestic violence, including but not limited to: cases to obtain, modify or enforce civil protection orders; divorce or legal separation; spousal and child support; child custody and/or visitation; administrative matters such as access to benefits; housing and/or landlord-tenant matters; and matters related to employment, including unemployment compensation proceedings. Eligible recipients include law school legal clinics, legal aid or legal services programs, shelters for battered women, and bar associations. All grant recipients must certify that a conflict screening process is in place to ensure that no civil or criminal legal matters are handled for abusers of clients or for alleged batterers.
- *Grants to Combat Violence Against Women on Campuses.* In FY99, for the first time Congress appropriated \$10 million for Grants to Combat Violent Crimes Against Women on Campuses authorized under the Higher Education Amendments of 1998. These grants will be awarded to higher education institutions to work individually or in consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution, to develop and strengthen effective strategies to combat violence against women, including domestic violence, sexual assault, and stalking on campuses.

EDWARD BYRNE MEMORIAL STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE PROGRAM

The Bureau of Justice Assistance Discretionary Grant Program was authorized by the Omnibus Crime Control and Safe Streets Act of 1968. The Edward Byrne Memorial State and Local Law Enforcement Assistance Program makes direct discretionary grant awards to states, units of local government, and private non-profit groups for the support of state and local criminal justice system initiatives. The FY 1999 Byrne appropriation is \$47 million.

At the national level, Byrne monies support a number of initiatives that incorporate victims' rights and needs, including the National Crime Prevention Council, National Judicial College, and Chicago's Family Violence Intervention Program. While states have discretion about how Byrne dollars are spent, a number of states have utilized this federal funding source to support programs and services such as victim/offender mediation and automated victim notification.

FAMILY VIOLENCE PREVENTION AND SERVICES ACT (FVPSA)

The purpose of the Family Violence Prevention and Services Act is to (1) help states increase public awareness about and prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents; and (2) provide for technical assistance and training relating to family violence programs to states, local public

agencies (including law enforcement agencies, courts, legal, social service, and health care professionals), nonprofit/private organizations, and persons seeking such assistance.

For more information on the FVPSA program, please contact Health and Human Services (HHS), Administration for Children and Families at 202-401-5529 (OVC 1999, 3).

THE PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT (PHHSBG)

In federal fiscal year 1997, Congress appropriated \$35,000,000 for rape prevention and services. Congress mandated that at least 25 percent of the PHHSBG grant funds be devoted to education programs for middle school, junior high school, and high school students. The remainder of the funds must be used by States to support direct services such as rape crisis centers that offer hotline support and victim counseling. In addition, these grants can be used to increase public awareness through training programs for professionals, including police officers and investigators; the preparation of informational materials; and other public education efforts organized by state sexual assault coalitions and other victim advocates.

For more information about the PHHSBG program, contact The Family and Intimate Violence Prevention Team, Division of Violence Prevention, National Center for Injuries Prevention and Control, Centers for Disease Control and Prevention at 770-488-4410 (Ibid., 4).

CHILDREN'S JUSTICE ACT

The Victims of Crime Act (VOCA) authorized grants to States for the purpose of developing, establishing, and operating programs, referred to as Children's Justice Act Grants, designed to improve (1) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and (2) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

For more information on the Children's Justice Act Grant Program, please contact the Office for Victims of Crime at 202-307-5983 (Ibid., 6).

CHILDREN'S JUSTICE ACT TRIBAL GRANT PROGRAM

Since 1989, the Federal Crime Victims Division of OVC has provided funding through the Children's Justice Act Partnerships for Indian Communities (CJA). These funds are used to assist American Indian tribes in developing, establishing, and operating programs to improve the investigation, prosecution, and handling of child abuse cases, particularly cases of child sexual abuse, in a manner that limits additional trauma to the child victim.

For more information on the CJA Tribal Grant Program, please contact the Office for Victims of Crime at 202-307-5983 (Ibid.).

THE FUNDAMENTAL CONCEPTS OF FUND-RAISING

As victim service providers seek to broaden their funding bases, it is important to understand some general theories about fund-raising. Essentially, there are ten fundamental concepts of fund-raising for victim assistance organizations:

1. *“Fund-raising is not an island.”* Every program within a victim assistance organization has a direct relationship to fund-raising. Victim services, marketing and public relations, community outreach, education, and administration should *all* have a key role in fund-raising initiatives. Funding sources are more prone to support agencies that can prove their activities are integrated while, at the same time, diverse.
2. *All staff should be involved in fund-raising activities.* A “team approach” to fund-raising can strengthen both the scope and success of fund-raising initiatives, from special events to grant writing. It is crucial to determine what special skills each staff member brings to the fund-raising table. For example, an administrative assistant can help format proposals and make calls soliciting letters of support. Victim advocates are in the best position to accurately describe the programs and services that need support. Public relations personnel can help with theme development and writing. Administrators ensure that fund-raising deadlines are met and that funded projects remain on track.
3. *If you don’t ask, you won’t receive.* For many victim advocates, fund-raising is the least desirable duty in their job descriptions. In the competitive world of giving, it is crucial that victim service providers develop basic skills in soliciting funds and in-kind support. The greater one’s comfort and confidence level is with an agency’s programs and services, the easier it becomes to solicit support for such activities.
4. *Solicitation for financial support should be viewed as a “partnership.”* Funding sources essentially make investments in the organizations to which they give financial support. They should not be viewed as simply “a financial resource,” but rather as a partner in a process that builds upon positive programs for the future. In essence, funding sources “hire” victim assistance organizations to get a specific job done with their financial support. By positioning a proposal as a partnership, victim service agencies can improve their success rate in soliciting funds.
5. *Personal relationships play a key role in fund-raising efforts.* The adage “it’s *who* you know” is often applicable to fund-raising activities. Successful fund-raising initiatives often result from strong personal and/or professional relationships between individuals at the funding source and at the victim service organization. While the success of fund-raising activities is highly dependent upon the organization’s ability to comply with funding requirements and provide expected deliverables in a timely manner, such activities often begin with a personal relationship of mutual respect and trust.
6. *The visibility of an organization is one of its best assets.* Funding sources are more likely to support programs and services with which they are familiar. Victim assistance programs with a reputation for performing valuable services that are highly visible in a community increase their likelihood of receiving financial support within that jurisdiction. The linkages between fund-raising, public relations, and community outreach are critical

to success. Equally important is an organization's ability to clearly articulate its mission, vision, goals, and programs.

7. *It takes time and persistence to succeed in fund-raising.* If fund-raising efforts operate on a project-to-project basis, they are likely to fail. They must be institutionalized into an organization's ongoing operations, with a recognition that success does *not* occur overnight.
8. *Constant evaluation of fund-raising activities is critical to success.* An organization's past fund-raising experience is an important foundation to help plan for the future. Each fund-raising initiative must be examined as to what contributed to its success or failure. Feedback from funding sources that either supported or declined to support funding requests can help determine strengths and gaps in fund-raising initiatives. Agencies that build upon their fund-raising successes are more likely to continue such successes in the future.
9. *Fund-raising is a program and a process.* Just as the delivery of victim services is viewed and operated in a programmatic manner, so should fund-raising be considered a program and a process that is integral to an organization's success. Databases can be developed to incorporate standardized pieces of grants and to maintain records of past and potential donors. Job descriptions can clarify the duties of professionals and volunteers specific to fund-raising. Training for new staff about how to raise money, as well as continuing education within an agency's training programs, should be provided.
10. *Fund-raising can be fun.* When fund-raising activities are viewed as an organizational asset, rather than a frustrating challenge, the end result can be efforts that are rewarding and even fun. The capabilities an organization gains by raising funds and in-kind support (including improved services, higher public visibility, more volunteers, and greater employee satisfaction) contribute to the institutionalization of fund-raising initiatives as a core component of victim services.

CHALLENGES TO SUCCESSFUL RESOURCE DEVELOPMENT

In the victim services discipline, there are ten significant challenges to fund-raising that require consideration from victim advocates whose job responsibilities include resource development:

1. *Lack of a development plan integrated within a strategic plan.* Victim service organizations benefit from long-range, strategic thinking about their resource needs and how to meet them. A development plan establishes funding goals to meet an agency's most important needs, activities to meet these goals, and personnel and volunteer needs to assist with fund-raising activities.
2. *Lack of knowledge of potential funding sources.* While there are myriad government and public sector funding sources that support victim-related initiatives, they seldom provide funding without being asked, or without a designated solicitation process. The Internet holds tremendous promise for identifying sources of potential grant dollars; funding sources that are not typically "mainstream" for victim services can also be explored. For

example, grant making agencies that provide funding for minority outreach, alcohol and other drug abuse prevention and intervention, and crime prevention have relevant application to the field of victim assistance. Victim service providers must be aware of these and other opportunities to identify and proactively solicit funding support.

3. *Fear of seeking financial support for victim assistance programs.* Asking for money is the most important, yet most difficult, aspect of fund-raising. Whether one conducts face-to-face appeals for funding, writes grants, or sponsors special events, it is often a challenge to request financial support. Yet the art of asking for money is perhaps the most important skill of a victim advocate whose job responsibilities include fund-raising.
4. *Chasing after grant dollars.* Just because grant money is available does not necessarily mean it is a match for an organization's skills or capacity. Many victim assistance organizations make the common error of "chasing grant dollars" in an effort to maintain their very existence. This can lead to internal struggles while attempting to provide services or develop new programs or training initiatives for which an agency is ill-suited. Instead, victim service organizations should attempt to match their capabilities with grant requests-for-proposals (RFPs), and pass on RFPs that are not a good match.
5. *Seeking project-specific grant funding without financial support to continue the project once funding ceases.* A long-range vision for program development, as it relates to financial support, is critical to success. New initiatives that end abruptly when the funding runs out can be detrimental to an organization, and even harmful to victims who come to rely on the program for support.
6. *Lack of clarity in funding initiatives and goals.* Victim assistance organizations should have a very clear vision of what their fund-raising initiatives hope to achieve. Annual budgets, for example, can include priorities for programs and services based upon available funding, with an understanding that without financial support, certain activities cannot and will not occur. Fund-raising goals can be established that include a baseline (the minimum amount of money that needs to be raised for an organization's basic subsistence) and graduated goals that match priority needs to the amount of money that can be raised to meet them.
7. *Lack of proposal writing skills.* Proposal writing is becoming more precise, particularly with funding agencies' strict expectations and basic formulas that contribute to continued success. Victim service organizations can maintain databases with basic information, such as annual budget, organizational capabilities, and staffing, that can be easily inserted into proposals. However, good writing skills and a strong presentation style are crucial to grant writing success.
8. *Lack of diversity among proposed project staff and volunteers.* Victim service providers should "mirror" the populations they serve. Project staff and volunteers should be diverse by gender, culture, and geography. Such diversity can often be augmented through project advisory boards. Similarly, project proposals should incorporate the needs of traditionally underserved victim populations.
9. *Failure to meet the requirements of existing programs that are funded by grantors.* A strong track record in successful and timely completion of *all* goals for projects that

receive outside funding is one of the greatest assets of a victim service organization's development program. Project deliverables that are late, sloppy, or incomplete can result in a damaged reputation, particularly if an organization receives a significant portion of funding from one source.

10. *Lack of follow-on to ensure that a program or project is indeed successful.* One of the most consistent gaps in victim-related development initiatives is program evaluation. As more states move toward performance-based evaluation measures, and as the federal government seeks program evaluation as a core component of most of its RFPs, victim service organizations must learn how to measure success, and be capable of doing so in a consistent fashion. Many agencies are beginning to team with academia and graduate students to develop evaluation measures and processes that meet program evaluation requirements.

CRITICAL ELEMENTS FOR FUND-RAISING

Some of the greatest strengths of successful fund-raising are also fundamental strengths of basic organizational development. If victim assistance organizations are able to articulate their strengths, they are more likely to receive financial support. These critical elements can be standardized and developed for ready availability in electronic format for quick insertion and editing into fund-raising and grant proposals.

Every victim assistance organization should have a *mission statement* that offers an overall vision for why any agency exists. The following are key elements of a mission statement:

- Who the agency is.
- What needs or problems the agency addresses.
- How needs and problems are anticipated.
- How the agency responds to key stakeholders.
- What are the agency's philosophy and core values.
- What makes the agency unique.
- Why the organization should continue to exist.

Development of an agency mission statement should involve key staff, volunteers, and board members (if applicable) in a focused process that attempts to determine these key elements in three to five sentences.

A description of *organizational capabilities* is helpful to provide a "snapshot" of an agency's strengths, and is often a standard element of grant applications. This overview should address how long the agency has been in existence, its core programs and services, staffing (including use of volunteers), past successful fund-raising endeavors and community support, and the organizational structure (flow chart of staffing and services).

Program descriptions, whether relevant to a specific fund-raising initiative or not, are necessary to provide an overall view of an agency and the scope of its services. An organization should link a proposed project for which it is seeking funding to an existing program in order to show a foundation of ongoing programmatic support.

Data on victim services (including the number, types, and personal demographics of victims served and types of services provided and by whom) help frame an organization as a vital resource for victims in need of support and assistance.

Relationships with allied agencies (including criminal and juvenile justice agencies, community-based programs and services, funding sources, civic organizations, and public policy agencies and elected officials) help establish an organization as a “team player” with an impressive network of allied professionals.

Program evaluation data are often the most neglected component of victim service organizations. Funding sources are eager for “proof” that a program is effective and that it accomplishes what it says it can or will do. Evaluative data can include numbers of clientele served; results of victim satisfaction surveys; findings from focus group research about an agency’s programs and services; and summaries of services provided that directly link to the enforcement of core victims’ rights such as notification, protection, and input/participation in the criminal justice process.

Testimony from satisfied clients is key to showing “the human side” of victim services. While a description of crisis intervention services is adequate, when augmented by a testimonial from a domestic violence victim whose life was dramatically altered in positive ways through victim assistance interventions, the services become essential.

GRANT WRITING

The responsibility of grant writing incorporates much more than simply writing: it requires *systematic planning that contributes to a vision that is clear and concise*. Many grant writers find it helpful to develop an outline for their grant proposal prior to actually beginning the grant writing process. It is imperative that grant writers be flexible here, though, as funders often impose their own outline.

The following guidelines provide an overview of the grant process.

UNDERSTANDING GRANT REQUIREMENTS

When a request for proposals (RFP) is issued, it is important to receive it in a timely manner. Victim service organizations should make sure that they are on relevant mailing lists—the U.S. Department of Justice, state-level public funding sources, and private foundations and charitable trusts—in order to receive RFPs at the time they are released.

As a preliminary motto, agencies should always check the “eligible applicant” section to see if they can apply for the funds or if there are special requirements (e.g., partnership grants). Also, watch for mandatory “letters of intent” or “bidders conference” requirements. Often government and private grants provide guidelines about award specifications (dollar amounts and time frames) and other restrictions. These requirements should be reviewed prior to beginning the grant process. Similarly, if a “grant category checklist” is provided by the grant making agency, it can be a helpful tool to assess the viability of applying for a particular grant.

While grant requirements are usually fairly clear, it is helpful to have several people carefully review and discuss them prior to beginning the actual writing process. It is also helpful to call the contact person listed from the grant making agency to clarify any questions or concerns. The agency’s deadline for receiving the grant application, the maximum length (in pages) of the grant proposal, how many copies are required, and the specific format requirements of the grant (length, spacing, point size, and style of the words, etc.) need to be noted before the writing process begins.

“Selection criteria” are also very important. Often, specific sections of grant proposals count for a certain number of points (usually up to 100). In addition, it is helpful to know how the grant decisions will be made. Is there a peer review process; do agency staff have any input; is it a combination of the two?

DEVELOPING A TEAM APPROACH TO GRANT WRITING

Often different personnel and volunteers within an agency can bring specific skills to the grant writing process. These include technical writing (strong writing skills, good grammar and correct spelling); budget development; program descriptions; knowledge of victim advocacy and victim services; knowledge of program evaluation; and grant administration. Since one person seldom has experience in all of these areas, a team approach to grant writing can be crucial to success.

POSITIONING AN AGENCY

In addition to a clearly articulated mission statement, several other elements lend success to grant writing. An agency’s credibility is an important asset—how it is perceived in the community and the value that the community places on the services that are provided. An agency’s experience with past grant management and implementation is also important. Many grantors request references from entities that have funded prior projects or initiatives sponsored by a victim service organization.

Funding sources view cost effectiveness as one of the most important criteria for supporting projects. While it is important to promise *only* what an agency can deliver, it is also helpful to provide background information that assures the funding source that it is getting “the most bang for its buck.” Therefore, determine what needs can be met for the amount of funds that are sought. Indicate in-kind support and use of volunteers as two factors that contribute to cost-effectiveness.

Perhaps most important is determining what makes an agency that is seeking funding *unique*. The competitive nature of fund-raising requires organizations to show that they are distinct and special. For example, the provision of services to traditionally underserved victim populations (including victims with disabilities, non-English speaking victims, and victims in either rural-remote or highly urban areas) fills a “niche” that makes a proposal stand out. Use of technology to streamline agency processes or service delivery adds to an organization’s uniqueness.

For competitive grants, it is helpful to identify “who the competition might be,” in order to position an organization’s strengths and unique aspects that might differ from other organizations applying for the same funding.

GATHERING BACKGROUND INFORMATION

Regardless of the type of grant that is being sought, there are three areas of background information that are likely to be relevant:

- *Conceptual issues* include how a project fits with an organization’s mission and philosophy; the needs that will be addressed by a project; how an organization can best meet those needs; the project’s logic; and what makes a proposal unique from other submissions.
- *Programmatic issues* include the nature of the project and how it will be conducted; timetable for the project; anticipated outcomes and how they will be measured; and staffing needs (both existing and new, professional and volunteer).
- *Financial issues* include the actual grant budget as well as how it fits within an agency’s overall budget.

CORE COMPONENTS OF A GRANT PROPOSAL

While RFPs differ in their specific requirements, there are generally sixteen core components of a grant proposal:

1. Cover page.
2. Cover letter.
3. Any paperwork required by the RFP.
4. Table of contents.
5. Executive summary.
6. Background and/or statement of need.
7. Project description (goals and objectives).
8. Time-task-deliverable-responsibility plan.
9. Products/deliverables.
10. Project management and staffing.

11. Organization chart.
12. Organizational capabilities.
13. Evaluation.
14. Budget.
15. Budget narrative.
16. Appendices.

The following descriptions of the core components do *not* supplant specific grant requirements issues in RFPs; rather, they are intended as general guidelines for consideration in grant writing.

Cover page. The cover page should include the title of the project; agency to which the proposal is being submitted; the agency that is submitting the proposal; and the date of the proposal (usually the “due date” specified in the RFP). Current software capabilities augment an agency’s ability to format the cover page in an attractive manner, i.e., in a box or with double lines at the top and bottom of the cover page.

Cover letter. The cover letter should be addressed to the director of the grant making agency, unless otherwise specified in the RFP, and signed by the Executive Director, President of the Board of Directors, or top administrator (such as prosecutor or judge) of the agency seeking funds. Sample language for a cover letter can include the following:

I am pleased to submit the enclosed proposal for (project title) to the (grant making agency). Our agency believes we have the vision, capability, and commitment to complete the requirements of this project in full accordance with your request-for-proposal. We appreciate the opportunity to respond to (grant making agency) with this proposal.

If you have any questions or require any clarification of this proposal, you can reach me at (include telephone number, fax number, and e-mail).

Thank you very much for your consideration of this proposal. —

Paperwork required by the Request-for-Proposal. The traditional paperwork required by RFPs includes the application form; assurances of compliance with government statutes; and certifications (for example, lobbying and drug-free workplaces). Often, budget detail worksheets and a “memorandum of understanding” between the grant making agency and potential grant recipient are also required.

Table of contents. If required, the table of contents should include all major titles and subtitles related to the complete components of a proposal, and should be completed *last*. Most software programs make it quite simple to automatically generate a table of contents.

However, it is important to double-check and make sure the page numbers in the table of contents match the page numbers of the text.

Executive summary. Many grant reviewers consider the executive summary to be the most important part of a proposal because it offers a concise overview of what the proposed project is all about. Grant writers should ask: “Would I want to fund this proposal based solely on the executive summary?” If the answer is “no,” the executive summary requires more work.

The executive summary should clarify the problem(s) and need(s) that the proposal addresses; describe the proposed solution; summarize the funding requirements (how much money is being solicited); and provide a brief overview of the grant seeking organization and its expertise. A common error grant writers often make is writing the executive summary *first*, when it should be written *last* (once the full proposal has been carefully crafted).

Most RFPs place a word or page limit on the executive summary (such as one page or 300 words). It is essential that this, and any other technical requirement, be complied with or the proposal may be rejected.

Background and/or statement of need. This section should justify the very reason(s) a project is needed and should offer hope that positive change can occur through the implementation of the proposed project. Often, an RFP includes a summary of need; in such cases, it is a good idea to “mirror” the language included in the RFP, and expand upon the RFP’s stated need with information that shows knowledge of the subject, as well as the uniqueness of the grant writing agency’s qualifications in meeting the need.

The background and statement of need section can include a historical overview, statistics, case studies, research outcomes, quotations from notable professionals in the field, and summaries of relevant public policy initiatives. In the field of victim services, it can be helpful to utilize “the power of the personal story” by highlighting a single victim, relating the proposed project to how it would make (or could have made) a positive difference in the victim’s life.

Other considerations for this important section include whether the project is being offered as a model or demonstration; whether the needs that the project will address are chronic or acute (or both); how or if traditionally underserved victim populations will benefit from the project; and any multi-disciplinary collaboration that can augment the proposed solution. Perhaps most important, the background and statement of need should demonstrate that the potential grantee’s proposed program and solution address the need differently and/or better than other projects that preceded it.

Project description. The project description includes goals and objectives that define how the project will be implemented. Often, project goals are included in the RFP and should be incorporated verbatim in the grant proposal. List a project’s goals, and then draft the proposed objectives in outline form prior to filling in the substantive text.

In general, a project goal identifies the following:

- What will be accomplished through the project.
- How it will be accomplished.
- Which professionals and/or volunteers will be involved in accomplishing the goal.

Project goals should be precise and concise (limited to one or two sentences each). It is important to ensure that each goal can be accomplished by the objectives of the project.

Project objectives define the methods that will be utilized to accomplish the goals of the proposed project. It is helpful to view objectives as measurable outputs. As such, outputs must be tangible, specific, concrete, capable of assessment, and achievable within a specific time period.

The format of goals and objectives can make a significant difference in their clarity. An example of standard format for grant writers is as follows:

Literature review.

Objective 1. Conduct a literature review of resources relevant to substance abuse among victims resulting from the trauma of victimization.

- 1.1 Submit a literature review request to the National Institute of Justice Editors' Advisory Group for inclusion in its monthly resource package (which is mailed to over 160 national criminal and juvenile justice and victim assistance organizations).
- 1.2 Post the literature review request on the (agency's) Web site.
- 1.3 Conduct a literature review on the Internet, utilizing key phrases such as "victims and substance abuse," "alcohol and other drugs," etc.
- 1.4 Conduct an internal literature review of (agency's) extensive library (which includes over (#) documents related to victimology and other topics).
- 1.5 Conduct an external literature review of all federal agencies that deal with crime victims, substance abuse, criminal justice, and juvenile justice, utilizing both their Web sites and in-house libraries for research.

This example offers the basic framework for grant goals and objectives. In reality, each objective would describe in detail how it will be accomplished and ensure that its completion/success can be measured.

Time-task-deliverable-responsibility plan. This plan should be incorporated into a chart, and ultimately offers an "at-a-glance" summary of project staffing, deadlines, and deliverables (directly related to each objective). Utilizing the example cited above for goals and objectives, the time-task-deliverable-responsibility plan would look something like this:

OBJ. #	DELIVERABLE	DUE DATE	STAFF RESPONSIBLE
1.1	Literature review request to NIJ.	Month One	Smith
1.2	Literature review posted on agency web site.	Month One	Alvarez
1.3	Literature review through the Internet.	Months One - Three	Alvarez
1.4	Internal literature review of agency library	Months One - Three	Project Team
1.5	External literature review of relevant federal agencies	Months One - Three	Smith

Once the grant is awarded, this one-page chart also serves as a schedule or “master plan” for major grant activities.

Products/deliverables. Products and deliverables are derived primarily from the grant objectives. Once the objectives are developed, it is easy to review them and cull deliverables. Each product or deliverable can be “bulleted” in a simple format.

Project management and staffing. This section describes exactly who on the project team is responsible for specific project activities, i.e., objectives and sub-objectives, products and deliverables. Project staffing should include all professionals and volunteers, and any professionals utilized in an advisory capacity.

For example, many proposals include the use of a “Project Advisory Board.” These are volunteer positions that bring expertise to the grant proposal. Advisory Board members are chosen for their specific knowledge or skills (such as research, writing, or program evaluation), and should be diverse by gender, culture, and geography. Advisory Board members are also utilized to review (and revise, as needed) project deliverables prior to submission to the grant making agency.

All project team members should be identified by their names, titles within the agency, and role within the grant (such as Project Manager or Curriculum Developer). The project management description should do the following:

- Follow the order of seniority, beginning with the Project Director.
- Indicate team members’ reporting procedures (who reports to whom).
- Briefly describe the team members’ qualifications.
- Briefly describe their responsibilities specific to the proposal.

Complete vita for all project team members should be included in an appendix to the proposal.

Organizational chart. The organizational chart offers a visual depiction of project team members and titles that indicate their responsibilities and who reports to whom.

Organizational capabilities. Every victim assistance organization that regularly seeks grant money should maintain and update a summary of its organizational capabilities. It is a good idea to review and revise this document at least four times a year.

This section offers a brief history of the organization, its accomplishments, and capabilities such as the components that follow:

- Agency mission statement.
- Board of Directors or leadership.
- Program activities.
- Direct services to constituents or clientele.
- Curriculum development.
- Training, and technical assistance experience.
- Research and evaluation experience.
- Public policy development and implementation.
- Information and referral services.
- Information resources such as Web site, library, research documents, etc.
- Program evaluation experience.
- How an agency is funded (including public and private support) to provide victim services.

This section can also highlight past accomplishments that resulted from prior grant funding and show a “track record” in successful grant management and completion.

Evaluation. A key to a successful grant proposal is often the proposed evaluation methodology. Evaluation measures the product and analyzes the process that is proposed in the grant application. It describes exactly how the applicant intends to measure outcomes that directly relate to the proposed goals and objectives, including instruments, criteria, and data collection. This section should stipulate which personnel are involved with evaluation and the expected outcomes that will result from the project. In addition, evaluation methodology should provide a description of how the project’s activities can be modified if the evaluation process determines that the original proposed process is not adequate.

The following are four examples of evaluation methodology:

1. Data collection and analysis with a summary report of findings.
2. Victim or user satisfaction surveys, with a cumulative survey report.
3. Findings resulting from focus groups.
4. The number of—

- Training programs conducted.
- Publications distributed.
- Victims served (combined with satisfaction outcomes).
- Opportunities to present resources and materials resulting from the grant.
- Positive citations of the project and related resources.

Budget. Most RFPs provide detailed descriptions of major budget categories. Generally, these categories include such administrative and program costs as follows:

- Personnel (including salary and benefits).
- Consulting fees.
- Travel and per diem.
- Office supplies.
- Communications (including phone, fax, mail, overnight delivery, and e-mail).
- Printing.
- Training, and technical assistance expenses such as audio/visual equipment, room rentals, etc.
- Agency overhead costs. (These must be approved in advance by the grant making agency).
- Total proposed budget costs.

It is also helpful to indicate any in-kind support to the project in the budget. This can be accomplished by having separate columns for “costs/expenses” and “in-kind contributions.”

Budget narrative. Once a proposal’s budget is complete, each separate item must be described in terms that precisely follow the budget figures and briefly describes each expenditure for the budget, for example:

There will be three round-trip airfares from Washington, D.C. to regional training sites for two Project team members to conduct a site assessment and provide training, technical assistance, and follow-on with a site evaluation 180 days after the training takes place. Each round-trip air fare is estimated to be \$600.00 (with cost estimates provided by Action Travel on April 5, 1999).

The budget narrative should offer specific breakdowns of the numbers proposed for the major budget categories, such as the number of salaried hours at the project team members’ hourly rate or the number of training manuals at the estimated cost of producing one manual. In addition, the budget narrative should cite sources from which budget estimates are derived and the date each estimate was received, when possible. Be certain to closely follow any agency imposed ceilings on specific costs (e.g., mileage or per diems).

Appendices. It is important to first determine if appendices or supporting documentation are even allowed in a grant application. If so, appendices might include the following:

- Vita of key project staff and volunteers.
- Verification of tax-exempt status (for nonprofits).
- Past organizational audited financial statements.
- Letters of reference or support.
- News articles that highlight an organization's capabilities.
- Samples of curricula developed for other projects.

PACKAGING THE PROPOSAL

Victim assistance organizations should request information about how a proposal should be presented to the grant making agency. The number of copies required is an important consideration. In addition, it is helpful to send proposals in thin three-ring binders or report folders, depending upon the requirements set forth by the grant making agency.

GRANT SEEKING ON THE INTERNET

(This section is abridged from an article by Andrew J. Grant, and Suzy D. Sonenburg, found on the Internet.)

Grant seekers in nonprofit organizations of all sizes, and interests can use the Internet to learn about available grant opportunities. The Web certainly is a robust resource, and we shall concentrate on pointing out some helpful sites in the balance of the article. But grant seekers should not overlook other important features available on the Internet. E-mail listserv lists, and newsgroups are vital sources for networking. Listservs are discussion groups of people with similar interests-corporate and foundation relations, for example. By sending a subscription request to a listserv, a user will be able to write to all members of that list with a single e-mail posting. Each subscriber receives in e-mail all the messages sent to the list. Newsgroups are similar, but instead of receiving the list postings in e-mail, the user needs to access the newsgroup through software for that purpose and browse through the messages.

The first question, of course, is where does one find out how to locate mailing lists (these use e-mail to link large numbers of people who are interested in a topic), newsgroups and URLs? There are several comprehensive lists of resources on the Internet. An excellent place to start is a homepage called "Internet Resources for Nonprofits." This excellent page lists hundreds of other homepages, newsgroups, and listservs directly or indirectly related to grant seeking. Another is "URLs for Grant Seekers." University development and grants offices often provide valuable information with links to foundation, corporate and other information links. A great example is found at Amherst College's development office. Another good source is The Foundation Center homepage.

By consulting just these four homepages, a grant seeker will find references to many more sites. Many of the sites appear in various places. Seeing the sites repeating as one moves among the homepages is a good indication that the search has been comprehensive. That is, the grant seeker will have located most of the useful sites. The beauty of the Web is that a handful of sites often lead to as much information as is available.

By far the greatest volume of information on the Web about grant opportunities will be found on government homepages. Recently, the U.S. Government Printing Office made several of its publications available on-line for free. Full text searches and downloading articles from the Federal Register and Congressional Record can be conducted on the Web. Considering the subscription rate for the paper Federal Register is \$575, this service alone could pay for a year's worth of Internet access.

The federal government's bible of funding opportunities, The Catalog of Federal Domestic Assistance (CFDA), is at <gopher://portfolio.stanford.edu:1970/1100334> (even though this is a gopher address, it can be accessed with a Web browser; there's no longer a need to run a separate gopher program). Many federal agencies have their own homepages with information about their programs.

The URLs in this section will enable a grant seeker to find much of the information available as well as information related to specific interests, such as health, education, the arts, social services and almost any other topic of interest. All these sites are free. There are others through which their owners offer grants search services for a subscription fee.

Despite this enormous amount of information, there are still notable absences on the Internet, particularly the foundation world.

WHERE ARE THE FOUNDATIONS?

Despite the fact that they have the resources to make a significant impact on the Internet, private grant makers have been reluctant to get on-line. The results of an informal poll conducted in the summer of 1995 by a publication of the National Council on Foundations appear to support our observations that members of the foundation community have been slower to embrace the opportunities offered by the new technology than have been those who seek their support.

As this is written, fewer than three dozen foundations nationwide have sites on the World Wide Web, although this number is growing from month to month. Those foundations that are there in the forefront tend to be the larger and nationally focused foundations such as MacArthur, Carnegie, Rockefeller, and the Robert Wood Johnson Foundation, or those with a particular interest in communications technology such as the Benton Foundation and several corporate foundations.

Their Web sites tend to be purely informational and non-interactive. That is, one can gather information that the foundation has placed there about its mission, program, structure, and grantmaking. In some cases there is a response box for limited feedback, but in most instances there is not even an e-mail address to which one might direct further inquiries. In addition, on a cursory review of the existing foundation Web sites, no foundations that indicate a willingness to receive proposals via e-mail were found.

Nevertheless, as slow as the foundation community is to move in new directions, this particular tide is gaining momentum, and new sites are to be found on the Web on a regular basis. What does this mean to grant seekers? Well, for one thing it means being able to research foundations from their offices as opposed to going to a library.

It also, through the use of hypertext links, broadens the context for the grant seeker. For example, a quick check of The Foundation Center's grant maker information page offers the reader not only information about The Foundation Center's services and a glossary of grantmakers, but also hypertext connections (one-click transfers) to information about how to research foundations, a short course in proposal writing, an explanation and copy of a widely accepted common application form, giving trends, and alternative funding resources.

There is also now a unique opportunity to interact with funders in a venue that hasn't yet been layered with protective screens. The survey described earlier in this article yields the interesting information that an equal proportion of grantmakers and grant seekers are currently using e-mail (52% of those surveyed).

Consequently, whether or not foundations have set up Web pages, many are already on-line and directly accessible in a way that they are not via telephone or through other connections.

USING SEARCH ENGINES FOR RESOURCE DEVELOPMENT

There are a number of commercial Internet search engines that victim advocates can utilize to identify both potential resources for financial support, as well as valuable tips and guidelines for grant writing and fund-raising. Many excellent and relevant Web sites are inter-connected by hyperlinks that make “travel” around the topic of resource development quite simple. Two key phrases that were utilized to research this chapter are “grant writing” and “fund raising.”

CAUSE-RELATED MARKETING

A popular trend that links volunteer agencies with the private sector of America is *cause-related marketing*. This approach to fund-raising involves a partnership with (usually) a corporation that lends its personnel and professional services to a non-profit organization or professional field, resulting in increased public awareness of an issue and increased funding support for important services.

With cause-related marketing initiatives, a corporation or other entity (such as a Chamber of Commerce, national civic organization, etc.) works with a non-profit organization to develop a plan-of-action with specific goals. Such goals might include the following:

- Helping develop a public awareness plan, which includes the development and publication of information resources, creation and dissemination of audio and video public service announcements, design and implementation of billboards, etc.
- Sponsoring a specific fund-raiser, with all planning and implementation costs assumed by the corporation, with funds designated to support the non-profit organization (examples include golf tournaments and “fun runs” that are commonplace in many communities).
- Designating a specific portion of the cost of a corporation’s product (such as 5 percent) to go toward a non-profit organization or cause.
- Donating in-kind contributions, such as computers and other office equipment, to a non-profit organization.
- Donating the professional expertise of the corporation’s personnel in specific areas that have tremendous benefits for non-profit organizations (such as training and technical assistance in technology, development of software for records keeping, accounting support, providing facilitators for strategic planning, etc.).

BENEFITS OF CAUSE-RELATED MARKETING

For the private sector, benefits of cause-related marketing:

- Confirms a corporation's status as an entity that is caring, concerned about important social issues, and involved in their community's or nation's efforts to improve or address a specific problem.
- Provides public awareness that ties the corporation's name to positive outcomes that benefit a community or society as a whole.
- Involves employees in volunteer or professional activities that enhance their communication skills and networking capabilities.
- Publicizes the corporation's name and identity to potential consumers of its products and services.

For victim service providers, benefits of cause-related marketing:

- Provides expertise in specific areas that are often considered "weak points" in an organization's structure (such as public awareness, media relations, materials development, and technology initiation/expansion).
- Generates public awareness about specific rights and services available to victims.
- Often provides funds for programs and services.
- Ties the victim service community directly to the private sector, often to "big name" corporations that have positive name identification with consumers, many of whom are potential clients or donors.

EXAMPLES OF CAUSE-RELATED MARKETING

The concept of cause-related marketing has already had a powerful impact on America's victims' rights movement:

- Women's clothing giant Liz Claiborne has, for several years, joined forces with advocates for battered women's advocates to promote awareness about violence against women and children in the home. Included in their efforts have been a series of hard-hitting public awareness posters (which bear Liz Claiborne's name and corporate logo, and leave room for victim service organizations to include their own contact information) and public service announcements.
- In Dade County, Florida, Andersen Consulting provided over \$600,000 of in-kind contributions, including extensive staff time, to help the Metropolitan Anti-drug Coalition formulate a public awareness and action campaign that focused on substance abuse awareness, prevention, and treatment. Participants included elected officials, criminal justice officials, victim service providers, substance abuse prevention and treatment professionals, churches, and schools.
- Ryka Rose, a woman's athletic shoe corporation that was founded by a sexual assault victim, donates 7 percent of its net profits to organizations that provide services and support to women who have been victimized. In 1992, Ryka Rose donated \$10,000 toward the commencement of the National Center for Victims of Crime's toll-free information and

referral service for victims and professionals. Once this national information service was implemented, Ryka Rose helped publicize INFOLINK by including a laminated card with the toll-free “1-800” number (as well as information on what to do if you become a victim of crime) in each box of shoes sold.

INCREASING THE FUND-RAISING SKILLS OF VICTIM SERVICE PROFESSIONALS

Private sector fund-raising has become increasingly important as a source of support for victim service programs. The following tips will help service providers to become more effective fund-raisers for their organizations.

Victim service providers can do the following:

- Take the effort, time, and expense to attend a course on grant writing. Some are offered free through colleges and universities, while others are available at limited cost. Grant writing is an “art” that requires expertise and experience for success.
- Invite the leadership of local corporations, civic organizations, and social groups to serve as a member of the agency’s board of directors. In addition to providing expertise in a variety of important issues (such as organizational development, accounting, and legal affairs), such leaders provide important connections to potential sources for funds.
- Know the local media! Public awareness about victim services is a key component to any fund-raising strategy.
- Get involved and be a presence in local politics and civic activities. Many victim service organizations receive ongoing, valuable funding from city councils and boards of supervisors. It is helpful if elected officials who make key budget decisions are aware of the important services and support provided to the community by victim service organizations. It is also a good idea to develop strong relationships with civic organizations, and the best way to do this is to get involved as a volunteer.
- Consider asking a community agency with an active “annual giving” campaign to help explore the feasibility of duplicating such a campaign for their victim service organization, and to provide practical information on time commitments, staffing requirements, and financial considerations to launch an “annual giving” campaign.

IDENTIFYING CORPORATE, FOUNDATION, AND GRANT FUNDING SOURCES

In addition to researching fund-raising topics and sources on the Internet (as described earlier in this section), victim service providers or victim assistance program administrators with responsibilities for seeking and obtaining program funding sources may also wish to visit their local library, contact professional organizations, or review publications specifically designed to highlight funding opportunities. The *Chronicle of Philanthropy*, self-named “the newspaper of

the non-profit world,” provides a thorough and comprehensive listing of funding opportunities, funding awards, public events, and current trends in nonprofit issues and charitable giving.

Many local libraries house reference materials for fund-raising or identifying funding sources that may be helpful. For example, directories used by grant writers, business and corporate directories, and The Foundation Center’s listing of private philanthropic funding agencies may provide useful information.

Some professional organizations provide their members with information on funding opportunities. The National Society of Fundraising Executives, with chapters located nationwide, offers its members the use of its fund-raising resource center monthly and quarterly publications (800-666-FUND).

Professional fund-raising publications often provide the fund-raiser with information about available foundation and grant funds, with an emphasis on the funding source’s primary funding interests and geographical requirements. A subscription to these publications is normally required. A sampling of professional publications includes *The Chronicle of Philanthropy* (800-347-6969), *Foundation & Corporate Funding Advantage* (800-220-8600), and *The Public Assistance Funding Report* (800-666-6380).

PROMISING PRACTICES

- In Jacksonville, Florida (through the leadership of an elected official, City Councilman Eric Smith, and other crime victim advocates), the first free-standing facility for comprehensive crime victim services center was established in 1991. The mission of the Jacksonville Victim Services Center is to provide crime victims, survivors, and their families with counseling for mental, emotional, and physical trauma, resulting from criminal victimization within Jacksonville, Florida.

The history of the Center is unique. The development of the Center followed the analysis of a study commissioned in 1982 by the City Council and the Fourth Judicial Circuit State Attorney’s Office to identify victim service needs and develop a plan for a Victim Service Center. With the study complete, the City of Jacksonville established a position dedicated to providing crime victim services and allocated \$25,000 in 1983. By 1985, the City’s funding for victim services had increased to \$190,000, and a Victim Service Division within the Department of Human Services was created. Throughout the late 1980s services continued to expand, and the appropriations increased to more than \$500,000 in 1990. Capitalizing on broad community support, the construction of a new facility designed for the purpose of meeting the needs of Jacksonville’s victims of crime was completed in 1993. The support for the Center has steadily grown, and the services provided have expanded tremendously. Local funding for the Center is currently near \$900,000. Staff of the Center screen 2,300 police reports monthly for appropriate outreach and work with 1,400 victims each month. As a result of their assistance to victims, the City’s crime victims were awarded approximately \$526,000 in crime victim compensation in 1991.

The Center has established a wide range of services for victims. The philosophy of the City's approach is to establish crime victim services in such a way that crime victim services become an essential part of the "infrastructure of the community," not an afterthought funded through sporadic or discretionary funding mechanisms. The Center has identified eight critical elements of success:

1. A community-wide assessment of the needs of crime victims was conducted.
 2. A comprehensive services approach was recommended and adopted.
 3. Key community leaders supported the Center such as elected officials, law enforcement, victims advocates, etc.
 4. Interagency cooperation was ensured by formal agreements and city ordinances.
 5. Financial support from the City of Jacksonville has been stable and steadily increasing.
 6. Center staff have constantly sought feedback from victims and service providers, and have been open to change and to new ideas to expand services.
 7. The Jacksonville Victim Services Center has gained the support of the press and other media in the community.
 8. The Jacksonville community has begun to think of victim services as a necessary part of services in the community. Victim services have become part of the "infrastructure" of community services upon which all citizens of Jacksonville can depend.
- A number of victim service organizations team up with local running clubs and corporations to sponsor ten kilometer and "fun runs." The running clubs publicize the event to their membership and help with logistics; corporations "underwrite" the event by paying for refreshments, tee-shirts for participants, and any paid publicity. Local media usually provide excellent coverage of these events, as they exemplify public-private partnerships at their finest.
 - In California, inmates in the Department of Corrections sponsor annual fund-raisers, with proceeds given to victim service organizations. Activities include barbeques, candy sales, and athletic competitions. In 1994, over \$200,000 was raised and donated to victim services, usually in the community in which the institution is located.
 - Many restaurant chains provide a percentage of their profits for a specified period of time (such as one week) to nonprofit organizations during special commemorative weeks (such as National Crime Victims' Rights Week). Often, servers also contribute a portion of their tips, encouraging their customers to be generous with the money going to a worthy cause. Table stands and public service information on printed placemats provide an overview of this fund-raising event, and also valuable tips on topics ranging from crime prevention and victim assistance to how to detect and report child abuse.
 - Victim service providers are joining forces with the arts community, most of whom have a lengthy tradition of strong community and financial backing, to sponsor events that benefit crime victims. Examples include art shows at galleries and special performances of the community ballet, with proceeds going to benefit victim service organizations. These "arts

and assistance for victims” events represent unique partnerships that easily become “annual events” with loyal supporters.

- More and more judges are ordering community service for non-violent offenders that benefit victim service organizations. Non-violent juvenile offenders help rehabilitate housing for elderly citizens in low-income neighborhoods, including measures that help guarantee the person’s safety and prevent crime (such as installing locks and trimming high bushes). These in-kind contributions hold offenders accountable and, at the same time, assist victims in need.
- Some Departments of Corrections and jails utilize funds from inmate telephone systems to pay wholly or partially for the costs of automated victim notification.

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