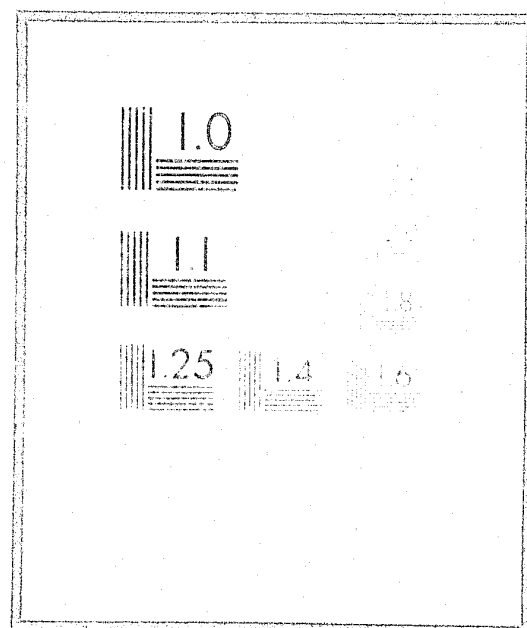


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U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
WASHINGTON, D.C. 20531

**the
other
side
of
crime...**

**the
victim**

Task Force on Critical Problems
New York State Senate
Albany, N.Y.

January 1975

39012

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ACQUISITIONS

Summary and Recommendations

Although there are over 50,000 aggravated assaults committed in New York State each year, only a small number of the victims now receive financial assistance through the State's Crime Victims Compensation Board. There is no state program to provide services to the victim during the period of crisis and recovery following a crime. The police are often overburdened and cannot direct the crime victim to medical services, temporary housing, transportation, and other services.

The suspect of a crime is given his rights at the time of apprehension. However, the victim, all too often a law-abiding citizen, does not have an explicit legal status and is often unaware of the resources presently available. Further, the victim usually receives little comfort or emergency aid at a time of deep personal tragedy. Justice and common sense tell us that it is time to give as much thought to the rights of the victim as to the rights of the criminal.

It is recommended that the Senate Standing Committee on Crime and Correction study legislative action which would:

- 1.) Establish a Crime Victim's Bill of Rights that would assure the right of the victim to:
 - be advised of services and resources available to him;
 - receive emergency aid, including medical and psychiatric services;
 - personal protection during investigation of the crime and subsequently as may be necessary;
 - job protection during court appearances as a witness;
 - receive speedy financial assistance from the Crime Victims Compensation Board, if eligible.
- 2.) Create within the Division of Criminal Justice Services a crime victim advocate program. The victim advocate program should consist of four-member teams (three advocates and a secretary) and should be implemented in three cities as demonstration projects.

The demonstration projects should be conducted for a period of one year. At the end of this time, a report should be submitted to the Governor and the Legislature evaluating the feasibility of expanding the program statewide. The report should include an assessment of the demonstration program by the Division of Criminal Justice Services staff and also the results of a random sampling of the victims served. This approach would test the effectiveness of the program's design in achieving its objectives.

Introduction

National concern with the increase of crime is heightened by the realization that billions of dollars have been spent to process and "rehabilitate" known criminals, while the victims of their crimes are virtually ignored. New York State spent \$132 million in FY73-74 for correctional services, and \$2 million for crime victim compensation.

Although victims of crime have historically and almost universally enjoyed the right of reparation, this right has been gradually confiscated by the state and replaced by a system of punishment for the criminal while providing little or no material consideration for the victim. Theoretically, the victim of serious crime has recourse to civil action for damages incurred, but this avenue is seldom followed because: a) the victims may not have the resources necessary for litigation; or b) the offender has insufficient assets to warrant a suit. There is little likelihood that either compulsory or voluntary restitution by the offender to the victim could be extensively and uniformly employed in this country,¹ since 43 percent of the persons tried for all felonies are found to be indigent for the purpose of court appointment of defense counsel and 56 percent are not released prior to trial because they cannot raise bail.²

Recognition of these issues has prompted the consideration of victim compensation programs that would be financed and administered by the state.³ New Zealand and Great Britain were the first to experiment with such programs in 1964, and since that time several states, including California, New York, Maryland, Massachusetts, Hawaii, Illinois and New Jersey have implemented limited victim compensation plans. Legislation is now pending, both in Congress and in several state legislatures, which would greatly extend the reach of such programs, particularly for victims of violent personal attacks.

In particular, New York State in 1967 under the provisions of Article 22 (§623) of the Executive Law established the Crime Victims Compensation Board to give govern-

mental financial assistance to many innocent persons and families who suffered personal physical injury or death as a result of criminal acts.

The Board, consisting of five full-time members appointed by the Governor, reviews the claims of victims to determine their eligibility for financial assistance in accordance with the provisions of the Crime Victims Compensation legislation. Claims are sent directly to the Board by the victims.

During 1972 the Board awarded compensation to 715 persons out of a total of 2,061 claims. Both the number of claims and the number of payments awarded appear modest in light of the criminal assault statistics for New York State. For only six of the New York State major cities the number of criminal assaults reported to the police in 1972 was 39,866.⁴

A Case for Victim Advocates

A New Yorker is robbed, raped, beaten or killed about every eleven minutes of every day. Within these few minutes, the crime victim and his family may undergo a dramatic change in their daily routines which may affect their lifestyle for many years.

The case of a widowed woman with two children who was raped and stabbed in New York City in 1973, can be cited as an example. The woman recovered from the stab wounds, but was unable to return to work for many weeks. When she had recovered, her job was no longer available and she was forced to accept welfare. She refused to appear in court due to a fear that her attacker, realizing that she survived the attack, would again attempt to kill her. In addition, she feared losing her new job if she took time off to appear in court.

Another example involves the shooting death of a young father of two in New York City last December. While cashing a check at a local bank the man became a witness to a robbery. The hold-up men subsequently shot into the bank patrons, killing the man. His widow, expecting a third child, and his children were waiting at home for him to return from the bank to embark on a Christmas shopping expedition. However, the family now, with an unborn child, was without a father and husband, had no income, and was facing funeral expenses at Christmas time.

Similarly, a shooting spree in October 1973 by a five-time drug offender on 34th Street in New York City left two bystanders dead and two others seriously wounded. The offender was subsequently killed by Transit Authority police officers. The dead victims, 53 and 60 years of age, both left wives, and the younger man had two sons, ages 12 and 15. The wounded men, 38 and 73 years of age, both had families and were unable to return to work for many months. Thus, four families, involving 10 persons, had their lives disrupted by this single crime.

These cases exemplify to some extent the traumas facing crime victims. There were about 137,000 violent crimes reported to police in New York State last year.

About 50,000 of these crimes, including 2,000 murders and 4,000 rapes, resulted in bodily injury or death to the victim. In most cases, these aggravated assaults involved the use of a dangerous weapon. The 50,000 victims of these aggravated assaults are often forgotten. What happens to the victim and his family after a murder, rape, or other violent assault is often an unanswered question. For example, who will transport a non-driving wife to a hospital? Or, who will watch small children while the wife attends to her injured husband? Or, who will arrange for replacement of broken eye glasses? Or, who will help with funeral services?

Recent research indicates that the victims of crime and their families not only suffer from great trauma, but suffer loss of earnings and incur medical expenses which may heavily tax their usually marginal earning capability.

An analysis of crime victimization⁵ in eight U.S. cities⁶ has indicated that for both white and black (including other minority groups) victims there is a decrease in victimization as family income increases.⁷ Table 1 illustrates that lower income families are more likely to be the victims of aggravated assaults.

Table 1. — Number of White and Black (including other minority groups) Victims Per 1,000 Population in Eight U.S. Cities.⁵

| Income Group | White No./1,000 | Black and Other Minority Groups No./1,000 |
|-----------------|--------------------|---|
| Under \$7,500 | 83 | 72 |
| \$7,500—\$9,999 | 51 | 49 |
| \$10,000 and up | 59 | 64 |

One of the most tragic factors facing the victim of aggravated assault is the fact that he is unable to immediately pay for the services that most middle income groups take for granted. Of every five victims who needed medical attention, only one needed non-hospital attention,⁸ three needed hospital emergency room treatment, and one required at least an overnight hospital stay. Of those requiring hospital stay, about 10 percent were confined for eight or more days. Over 40 percent of the victims earn less than \$7,500 annually. Thus, with 10 percent of the victims incurring medical

expenses in excess of \$250 and another 20 percent having expenses of \$50-\$250, it is apparent that such expenses can create a heavy financial burden on lower income families.

Although the economic burden may be great, the victim and his family also faces other burdens. Foremost, the victim's right to function as a citizen, worker, parent, or spouse may be impaired. Generally, the victim finds himself:

- 1) in need of emergency services (medical, food, transportation, etc.) until such time as he can return home;
- 2) without an income to support himself and his family, and in some instances, without a job;
- 3) fearing reprisal by his attacker if he cooperates with the police;
- 4) unable to lose further time from work to appear as a court witness.

All of these factors exacerbate the already frustrating and tragic position of the victim or his family. A person who is attempting to do his part as a citizen, a parent, a spouse, and a worker, who is suddenly brought to his knees emotionally, physically, and financially, at the hands of an attacker, deserves better treatment.

While the Miranda decision has reduced the imbalance of rights for the suspect, justice and common sense indicate that the crime victim should be assured that his right to perform as a normal citizen is not impaired. Although the concept of compensation of crime victims is admittedly a good one, it does not adequately serve all of the victim's needs. Many needs of the victim extend far beyond, and in some cases, do not include the basic financial payment to the "eligible" victim offered by New York and other states.

The realization of the need for expanding services to the victim of the crime has been dealt with on a limited basis in some states, including New York, but generally through local initiatives. Presently, there are 12 crime victim centers throughout the country.⁹ Otherwise, assistance to victims of crime is virtually non-existent.

The State of New York has a responsibility to the thousands of people who are victimized by aggravated assault every year.¹⁰ The fact that over 50,000 persons are victims of aggravated assault each year in New York State, and that only 715 persons

were compensated by the Crime Victims Compensation Board in 1972, raises a question as to how well the State of New York is fulfilling its responsibility to the victims of crime.¹¹

The effectiveness of the Crime Victims Compensation Board is hampered by a long lag time between submission of a claim and actual payment (generally over two months). The Board has limited staff and must investigate each claim prior to payment. Even then, after a laborious investigation the possibility exists that assistance may not be granted. About two-thirds of the claims are rejected because the victim did not supply sufficient information or simply was not eligible for assistance. The Board has no screening mechanism to assure that claim forms are properly completed and the victim is eligible for aid. There is a need to bridge the gap between the victim and the resources available to him, and there is a need to provide additional services.

Victims need an advocate who could intervene in the crisis, inform the victim of his rights, and act as a community coordinator, i.e., make contact with community service agencies and, if necessary, arrange needed emergency aid. A victim advocate is needed to assist the Crime Victims Compensation Board in more effectively providing financial assistance to victims by helping the victims in completing claim forms and in immediately informing the victims whether or not they are eligible for financial assistance.

As already noted, victims may be reluctant to appear in court due to a fear of reprisal or a threat of losing their jobs. However, it has been found that with the assistance of another person, in this case a victim advocate, the witness is more willing to appear in court, as well as more willing to provide information regarding the crime to the police.¹² This would allow resolution of more crimes by the justice system.

A Victim Advocate Program

Although there are a number of administrative alternatives available for the operation of a victim advocate program,¹³ such a program, to be effective, must be carried out in conjunction with the local community and, particularly, the local police. The local police are generally the first to come in contact with the victim, therefore, the police station may be the logical location for the victim advocate's offices.¹⁴

A victim advocate should have a general knowledge of the criminal justice system, previous counseling experience, and a familiarity with the community and its services.¹⁵ It is not necessary that the advocate be a lawyer. A "victim advocate team" consisting of four members (one director-advocate, two advocates, and one secretary) can serve approximately 1,000 crime victims annually.¹⁶ It may be possible and indeed desirable that paraprofessional volunteers, ex-offenders, ex-victims, etc., be encouraged to join the team.

To illustrate how a victim advocate might operate, a typical chain of events after the discovery of a violent crime can be constructed:

- 1) Police arrive at the scene of the crime:
 - a) arrange emergency aid and transportation for victim, if necessary;
 - b) notify victim advocate to come to the scene or meet the victim at a hospital (where a suspect is apprehended, the victim is usually detained for participation in arraignment proceedings and is given necessary medical and other assistance by the police).
 - c) complete on-the-scene investigation of the crime.
- 2) Victim advocate provides for the crime victim's immediate needs:
 - a) initiate appropriate emergency victim aid, e.g., food, clothing, medical care, etc.;
 - b) act as a temporary buffer between media and the victim;
 - c) identify and contact nearest relative, friend, or other personal source of solace and/or assistance.
- 3) Victim advocate follow-up with crime victim:
 - a) submit claim form, if eligible, to the Crime Victims Compensation Board;
 - b) arrange with local police to provide protection to the victim

- if he fears reprisal by the offender or his associates;
- c) discuss any employment difficulties resulting from loss of work time due to the crime, and assist where possible;
- d) arrange for the victim to press charges and to testify in court about the crime;
- e) arrange with the victim's employer for necessary time off so that the victim may appear in court.

Effective implementation of a victim advocate program would require a contractual agreement between local and state government. The contract should contain the following elements:

1.) Responsibilities and Power

- a) State Government.-- Ultimate responsibility for the program and its operation would rest with the Division of Criminal Justice Services (DCJS).¹⁷
- b) Local Government.--Local government would assure, in a contract with the state, that both its agencies and the community service agencies will cooperate fully with a victim advocate team.
- c) Community Service Agencies.--Hospitals, clinics, social work centers, crisis intervention units, and other similar service organizations would enter agreements with the local government to provide services to the crime victim and cooperate with the victim advocate team.

2.) Monitoring and Enforcement

The DCJS would monitor the victim advocate program performance in conjunction with local government agencies and community service agencies. The DCJS should enforce the requirements of the victim advocate program by:

- a) close screening of victim advocate applicants;
- b) requiring regular monitoring of each victim advocate team by DCJS staff;
- c) requiring quarterly reports and evaluations of progress;
- d) regular auditing of program expenditures.

3.) Financing

The state would finance the victim advocate program, augmented where possible with federal funds. Local government would contribute office space for the victim advocate team.

4.) Role of the Victim Advocate Team

The victim advocate team would take the following actions:

- a) familiarize itself with all federal, state, and local laws pertaining to victim compensation and serve as a resource for victims who need information in obtaining these funds;
- b) cultivate and maintain a working relationship with city and state attorneys, local and state police, state legislators, city officials, community leaders, community service agencies, community clubs and volunteer groups, so that the available services can be provided to the victim quickly and effectively;
- c) make itself available to the community-at-large as a crime prevention resource working in conjunction with other agencies (e.g., police) in an effort to prevent people from becoming potential victims. This would include carrying on a continuous public relations program to inform the community of the victim advocate program;
- d) administer an emergency victim aid fund in conjunction with the central office of DCJS.

5.) Hold-Harmless Provision

The victim advocate would be held harmless from participating in court action against the offender, based on:

- a) the need to assure that the victim will not incriminate himself;¹⁸
- b) the victim advocate would be providing services to the victim and could not perform these services if compelled to regularly appear as a court witness.

The victim advocate could, however, provide the courts and correctional agencies with whatever general and non-self-incriminating information on the victim deemed necessary to facilitate the rehabilitation of the offender, and contribute to the pre-sentence investigation by providing information on the victim that has relevant bearing on the commission of the crime in question and thus on the sentencing process.

Figure 1 illustrates the process or processes involved in a victim advocate program from the time of the individual's victimization. The key element is the critical role played by the victim advocate in terms of bringing the victim in contact with community services, the police, the judicial process, and the Crime Victims Compensation Board.

There is a need for a small emergency victim aid fund to be established in the Central Office of the Division of Criminal Justice Services (DCJS). The fund would be used to purchase the immediate emergency needs of the victim, including:

- transportation to and from a hospital or doctor;
- meals and clothing (if necessary) until the victim can return to his home (i.e., the victim may be required to wait at the police station or other service area prior to returning to his residence);
- temporary housing, should he fear reprisal from the offender if he returns to his residence;
- medical and psychiatric services.

The emergency aid fund would be subject to third-party (insurance) reimbursement where possible. The DCJS and the victim advocate should be jointly responsible for all expenditures from the fund. The victim advocate should not directly handle funds, but should be able to use a voucher to obtain the necessary services. A voucher system would permit accounting control of the emergency fund. It is estimated that a fund of \$20,000 for the first year would be sufficient to serve each victim advocate team, after which time the level of funding could be decreased in proportion to the reimbursement of the fund by the victims.

Increased Number of Claims to the Crime Victims Compensation Board

An increase in the number of claims to the Crime Victims Compensation Board, resulting from increased publicity and the advocate's assistance in filing the victim's claim, can be expected. The cost will have an indirect effect on the cost of the victim advocate program since the increased claims will have a direct effect on the cost to the Crime Victims Compensation program.

Potential Federal Funding

Funds for a victim advocate program may be augmented by the Federal Law Enforcement Assistance Administration (LEAA). Under provisions of the Safe Streets Act of 1968, New York State received \$63 million in grants from LEAA in Fiscal Year 1974.¹⁹

Evaluating a Victim Advocate Program

Critical evaluation of the victim advocate program during its first year is essential. Early evaluation would permit assessment of program efficiency and effectiveness and point to necessary modifications in program design. A victim advocate program established as a demonstration project in three cities would provide sufficient data upon which to base an evaluation.

An evaluation of a demonstration victim advocate program should contain three elements:

- 1.) A Division of Criminal Justice Services (DCJS) assessment of program results based on DCJS program monitoring data. Such monitoring should consider:
 - number of victims who have received services and the type of services, e.g. effectiveness in employment assistance, medical assistance, food, clothing, and vocational rehabilitation programs;
 - pros and cons of having the program administered by the state as opposed to a local agency;
 - pros and cons of having professionals, paraprofessionals, and volunteers serve as victim advocates;
 - effect of the program on preventing further victimization in the community, including reduction of the fear of victimization through educational programs;
 - changes in public attitude toward the police as a result of the program;
 - changes in the attitude of the police toward the victim of crime and his right to be helped;
 - increase in the number of crimes reported to the police;
 - increase in the number of crimes resolved in the courts as a result of the program;
 - changes in the attitude of community service agencies toward the victim.
- 2.) A random sampling by an independent group of victims served to obtain their views on the program. The victims could provide data on how well their needs were met and if these needs were satisfied in a timely manner. A number of police agencies have recognized the need to obtain objective assessments of their effectiveness in the public's eye, and have contracted for such evaluations by independent consultants.

- 3.) A report to the Governor and the Legislature by DCJS which incorporates both the DCJS assessment and the results of the independent victim sampling.

Footnotes

¹Wolfgang, Marvin E. 1965. Victim Compensation in Crimes of Personal Violence. Minnesota Law Review 50:211 (December). pp.223-241.

²Lamborn, Leroy L. 1968. Toward A Victim Orientation in Criminal Theory. Rutger's Law Review 22 (4): 733-768.

³However, the idea of reimbursing the victim for his injuries is not a new one, in Ancient Babylonia, Sections 22-24 of Hammurabi's Code specified that: "If a man has committed a robbery and is caught, that man shall be put to death. If the robber is not caught, that man who has been robbed shall formally declare what he has lost... and the city...shall replace whatever he has lost for him. If it is the life of the owner that is lost, the city or the Mayor shall pay one moneh of silver to his kinfolk."

⁴See Federal Bureau of Investigation. 1972. Uniform Crime Reports for the United States. U.S. Government Printing Office, Washington, D. C.

In considering the small number of claims in comparison to the large number of criminal assault cases, one has to consider four factors which influence the Crime Victims Compensation Board:

- a) There are restrictions regarding the eligibility of victims.
- b) The Crime Victims Compensation Board receives negligible publicity, and according to the Board's annual report (1972), there is no budget money for such expenditures.
- c) Given the budget appropriation (\$3,010,000 for FY74-75), there is an expressed fear on the part of the Board to publicize its existence for fear that it will be unable to finance the added volume of claims. Currently the average claim award is about \$2,300.
- d) The Board claims that it has an ever-growing number of open claims due to the increase in claims and the lack of personnel to process these claims.

⁵Criminal Justice Research Center. 1974. Criminal Victimization in Eight U.S. Cities. Preliminary Report to the Law Enforcement Assistance Administration. Albany, New York.

⁶Cities include: Atlanta, Baltimore, Cleveland, Dallas, Denver, Newark, Portland (Oregon), and St. Louis.

⁷Victimization among whites is higher at lower levels of income than for blacks of the same income group.

⁸Non-hospital attention refers to medical services administered to the victim at the scene of the crime, e.g. first aid, artificial respiration, etc.

⁹These crime victim centers are located in California (2), Illinois, Wisconsin, New York (2), Florida (2), Missouri, Oregon, Rhode Island and Michigan. The 12 do not include the rape crisis centers that have been developed throughout the country.

¹⁰Much of the rationale for compensating victims of crime has come from a belief that police protection to the individual has been inadequate.

¹¹Plagued by the same types of concerns, i.e. few persons applying for victim compensation, etc., California has recently required that victims of violent crime be made aware of their rights under the Victims of Violent Crimes Law. This legislation established

standards for publicizing the existence of the Victims Compensation Laws and requires that, like the suspected criminal, the victim be "read his rights" so that he will be aware of them.

12Results of victim advocate programs operating in Florida indicate that the victims are increasingly cooperative with the police investigation and are appearing as witnesses and plaintiffs more frequently. The Law Enforcement Assistance Administration is in the process of funding victim advocate programs throughout the country with the stated purpose of clearing more crimes through victim cooperation.

13There are a number of techniques for delivering services to the victims, all of which may be used in conjunction with a victim advocate. These include: a hotline, a referral or counselling service, a "store-front" operation, or an information service.

14One of the major problems facing existing victim advocate programs is getting into contact with the victim. Often the police interview the victim and the victim advocate is not immediately notified. The victim may then be difficult to locate. Some victim advocate programs are locating their offices in police stations so as to be notified as soon as possible after discovery of the crime.

15There are no specific educational requirements recommended for the victim advocate team. Their ability to deal with the victims, the criminal justice system, and the community-at-large is of utmost importance.

16Based on the experience of the existing victim advocate programs in the nation, it is generally the consensus that a team of three advocates could serve approximately 1,000 persons per year.

17The Crime Victims Compensation Board now provides financial assistance to eligible victims of violent crime, but it does not provide services to the victim. The Division of Criminal Justice Services (DCJS), however, has a broader mandate which includes many of the services which a victim advocate could provide. The DCJS now provides grants to localities for projects in the criminal justice area, thus is familiar with the procedures of administering and monitoring such programs.

18It is not the intent of this provision nor of the victim advocate program to service the victim who routinely precipitates his criminal assault.

19Division of Criminal Justice Services. 1974. New York State 1974 Comprehensive Crime Control Plan. Document #222. New York, New York, p.10.

END