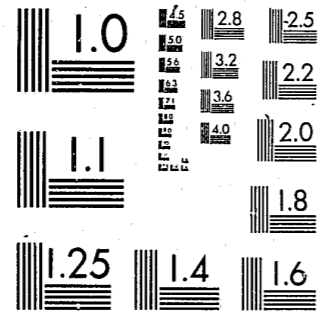


National Criminal Justice Reference Service



This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504.

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U. S. Department of Justice.

National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

DATE FILMED

11/9/81

MP-1

VICTIM/WITNESS ASSISTANCE PROGRAM

A Report to the
Hawaii State Legislature



by the
HAWAII CRIME COMMISSION
State Capitol
Honolulu, Hawaii 96813

THOMAS T. OSHIRO
Chairman

JANUARY 1981

78382

285

George R. Ariyoshi
Governor

Jean S. King
Lieutenant Governor

This report provides a study of victim/witness assistance programs, recommendations, and statutes for consideration by the Legislature.

The Crime Commission recommends implementation of the statutes to aid victims and witnesses of crimes in Hawaii.

A brief executive summary will allow interested persons to quickly grasp the study, understand the recommendations and statutes.

A table of contents will allow the reader to find specific information without having to read the complete report.

THOMAS T. OSHIRO
Chairman
Hawaii Crime Commission

COMMISSION MEMBERS

RAFAEL ACOBA

BORICK PEROFF

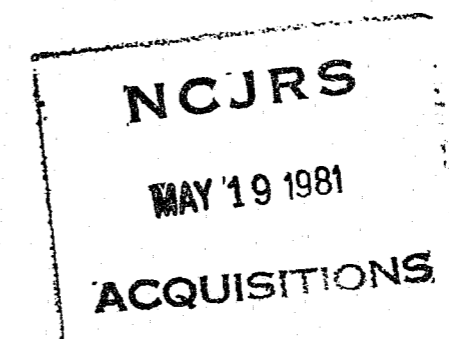
A. VAN HORN DIAMOND

NAPUA STEVENS POIRE

ALWYN KAKUDA

FRANK WHITE, JR.

NEAL OKABAYASHI



Edward J. Hitchcock
Staff Director

Gerald Miyoshi
Legal Counsel

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by
Hawaii Crime Commission

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

ACKNOWLEDGMENTS

The staff wishes to acknowledge the invaluable assistance and cooperation received in our study from persons who have been victims of crime who attended our public hearings and who participated in our victim study.

We also wish to thank those who were willing to share their knowledge and experience with us and who at this time are assisting victims of crime.

We hope that our study and recommendations will contribute to the efforts already being made in the area of victim/witness assistance in improving services available to victims and witnesses.

COMMISSION STAFF

ROWENA A.E. ADACHI
FRANCES K. ASATO
JOHN L. BASSFORD
DELIA C. BOLOSAN
REX F. HITCHCOCK
DAVID L. KEKUMANO
GWEN F. KOMETANI
GAYLORD B. LYMAN
ARLEEN A. MIYASHIRO

CARRIE MIYASHITA
EUGENIE A. PARNAR
GERALD J. REARDON
GIL C. SILVA, JR.
LOUIS L. STAUNTON
AMY K. TATSUNO
MARTHA TORNEY
JOSEPH E. ZAREMBA

TABLE OF CONTENTS

EXECUTIVE SUMMARY, PART ONE AND TWO	1
PART ONE: THE VICTIM/WITNESS ASSISTANCE STUDY	
I. INTRODUCTION.	11
II. THE VICTIM/WITNESS IN THE CRIMINAL JUSTICE SYSTEM: PROBLEMS ENCOUNTERED.	15
A. Introduction.	15
B. Physical Injury/Death	16
C. Economic Loss	16
1. Medical, hospital services.	16
2. Lost wages.	18
3. Hiring replacement for absenteeism.	18
4. Hiring caretaker for household.	19
D. Property Losses	20
1. Damage.	20
2. Unrecovered stolen property	20
3. Losses due to inability to identify property.	21
4. Property retained as evidence	22
E. Problems as a Result of Reporting the Crime, Interviewing with Criminal Justice Agencies, Testifying.	23
1. Time loss	23
2. Transportation.	26
3. Questioning by criminal justice agencies.	29
4. Appearance scheduling	29
F. Other Problems.	30
1. Psychological trauma.	30
2. Intimidation and harassment	33
3. Lack of understanding about the criminal justice process	34
4. Insensitivity of criminal justice agencies.	36
5. Status or disposition of case	37

TABLE OF CONTENTS - continued

III. THE VICTIM/WITNESS IN THE CRIMINAL JUSTICE SYSTEM: SERVICES PRESENTLY BEING OFFERED.	41
A. State	41
1. Children's Protective Services.	41
2. Mental Health Centers	41
B. Oahu.	42
1. Victim/Witness Kokua Center	42
2. Sex Abuse Treatment Center.	43
3. Catholic Social Services.	47
4. Other agencies.	48
C. Kauai	48
1. Aid to Victims.	48
2. Kauai Spouse Abuse Center	49
3. Women's Center.	50
D. Maui.	50
1. Kokua Service	51
2. Women Helping Women	51
E. Hawaii.	53
1. Victim/Witness Assistance Service	53
2. Sexual Assault Support Service.	54
3. Women's Center.	54
4. Help Line	54
5. Family Crisis Center.	55
IV. VICTIM COMPENSATION STATUTES.	56
A. Introduction.	56
B. Selected Provisions of Victim Compensation Statutes.	57
1. Coverage.	57
2. Time limitations.	58
3. Compensable losses.	58
4. Financial need.	58
5. Award limits.	59
6. Persons ineligible for compensation	60
7. Other features.	61

TABLE OF CONTENTS - continued

V. RECOMMENDATIONS	74
A. General	74
B. Victim/Witness Bill of Rights	75
C. Offender Assessments.	78
D. Limiting Commercial Exploitation of Crime	81
E. Criminal Injuries Compensation Commission	82
1. Additional staff.	82
2. Adequate revolving fund	83
F. Proposed Statutes	84
APPENDICES	
A. Table 1, Legislative Appropriations for Claims in Hawaii.	102
Table 2, Budget for Hawaii Criminal Injuries Compensation Commission	103
B. Sources of Information.	104
C. Directory of Victim/Witness Assistance Programs in Hawaii.	106
D. Citations to Victim Compensation Statutes	108
PART TWO: VICTIM STUDY	
I. INTRODUCTION.	110
II. METHODOLOGY	111
III. FINDINGS AND DISCUSSION	113
A. Interviews: Data Analysis.	113
1. Police.	119
2. Prosecutors	124
3. Courts.	129

TABLE OF CONTENTS - continued

B. Public Forums and Hearings. 132

APPENDICES

A. Victim Questionnaire. 136

B. Total Population by Ethnicity and Type of Crime . . 144

C. Total Population by Age and Type of Crime 145

D. Total Population by Sex and Type of Crime 146

E. Total Population by Employment Status and Type of
Crime 147

F. Total Population by Location and Type of Crime. . . 148

BIBLIOGRAPHY. 149

EXECUTIVE SUMMARY,
PART ONE AND TWO

EXECUTIVE SUMMARY - PART ONE

A. INTRODUCTION.

Criminal justice system professionals have come to recognize that many victims will not participate in court proceedings if they are traumatized by their interactions with the system, and that conversely, if they are physically protected and given emotional support, they are more willing to press charges and present evidence. It is this recognition that has led many jurisdictions to institute programs offering such services as information and advice, social/emotional support, and case status information in order that victims' and witnesses' cooperation is encouraged thereby reducing the number of cases that must be dismissed for the lack of such cooperation, and maximizing the chance of achieving justice for all.

What this study attempts to do is to catalog and categorize the efforts being expended in Hawaii to restore the balance in our criminal justice systems, too long concerned only with defendants, with care and concern for the forgotten clients, the victims and witnesses of crime. It also attempts to thoroughly assess the situation here in Hawaii in terms of how present services are meeting the present needs of victims/witnesses, in order that concrete recommendations could be made as to what may be done to improve or add to these services.

B. METHODOLOGY.

To accurately assess the kinds of problems victims/witnesses face here in Hawaii as they interact with our criminal justice system, and the degree to which they do, actual victims/witnesses were interviewed, the matter was discussed with professionals in the field, the relevant literature was reviewed, and public hearings were conducted. To determine what needs, concerns, and problems of victims/witnesses are not being met, an inventory of services presently being provided was compiled, primarily by querying professionals in the field, extensively detailing the functions and tasks of each program or organization providing aid or assistance to victims/witnesses.

A comparison of this inventory with the problem areas previously isolated was then made for the purpose of ascertaining whether there are any problems which are not being addressed at all or which are being addressed inadequately. Based on the findings of this comparison, the documented experience of other jurisdictions, and discussions with professionals in the system, recommendations will be made aimed at making the delivery of present services as efficient and effective as possible, offering new services where none are presently available, and otherwise attempting to minimize the trauma, inconvenience, and "cost" of being a victim or witness of crime.

C. FINDINGS.

The results of the study provide a detailed picture of most,

if not all, the problems encountered by victims/witnesses as they interact with the criminal justice system. These range from not being able to find a babysitter when the need arises to go to court to testify to having to pay large medical bills and suffer loss of wages because of injuries sustained as a result of being a victim of crime.

The results also indicate that a wide range of services are presently being provided to victims/witnesses ranging from direct cash payments made to victims of violent crimes to emotional support provided by Women Helping Women, a voluntary organization of, appropriately, women helping women.

Each island has one or more entities providing services. On Kauai, there is a victim/witness assistance service in operation, funded by LEAA and partially by state and county monies. It is called Aid to Victims and employs one full-time counselor and one part-time secretary and is under the auspices of the mayor's office. In addition, there are two YWCA-sponsored programs: a spouse abuse center and a women's center.

Maui County is the only county that does not have a victim/witness assistance program per se, although most services are being performed by private organizations, such as Kokua Service, which maintains a 24-hour help line, and Women Helping Women, which performs many of the typical victim/witness assistance services.

Hawaii County, like Kauai, has a victim/witness assistance

service, funded initially by LEAA, but now on county funds. It consists of one full-time counselor and one full-time secretary and is attached organizationally to the prosecutor's office although physically located in the police department complex. In addition, the YWCA sponsors several programs including a sexual assault support service and a women's center.

Honolulu, too, has a victim/witness assistance service called the Victim/Witness Kokua Center, consisting of a director, two counselors, one secretary, and four volunteers, and housed in the prosecutor's office. It was originally funded by the LEAA but has recently been funded by the City and County of Honolulu. In addition, there is a Sex Abuse Treatment Center situated at Kapiolani-Children's Medical Center providing medical and social services for victims of sexual assault and numerous other private agencies providing other services.

D. DISCUSSION AND RECOMMENDATIONS.

While the preliminary findings have served to confirm that there can be little doubt about the desirability or the necessity of providing services to victims/witnesses, they have also served to point out that there is a limit to what can be done to assist victims/witnesses. While the philosophy behind providing services for victims and witnesses of crime is to make their interaction with the criminal justice system as pleasurable as possible, or conversely, and more accurately, as least inconvenient and traumatic as possible, it must be

recognized that some trauma is inherent in the way the system works and that no matter how many services are offered, this trauma cannot be removed without changing the system itself. For example, a professional can provide a victim emotional support but ultimately, it is the victim, not the professional, who has to go on the witness stand and possibly be subjected to grueling cross-examination by defense counsel.

The Hawaii Crime Commission's recommendations are as follows:

1. Increasing the operating budget of the Criminal Injuries Compensation Commission to allow for hiring an additional staff person to alleviate the heavy workload and backlog of cases.

2. The Criminal Injuries Compensation Commission be authorized to establish a revolving fund to allow monetary compensation to be awarded without undue delay to victims whose cases have been favorably closed by the Compensation Commission.

3. The passage of three statutes: a bill of rights for victims of crimes, a law guaranteeing a witness job and pay in the event he is subpoenaed to testify in court, and a law limiting commercial exploitation of sensational crimes.

a. Relating to rights of victims and witnesses in criminal proceedings. This bill creates a new chapter in the Hawaii Revised Statutes by providing rights to victims and witnesses of crime, ensuring that they are treated with dignity, respect, courtesy, and sensitivity. The bill provides victims

and witnesses with ten rights.

- 1) To be informed of the final disposition of the case, or about plea bargaining. To be notified if the perpetrator is released from custody.
- 2) To be notified that court proceeding will go as scheduled.
- 3) To receive protection from harm and threats.
- 4) To be informed of financial assistance and other social services available.
- 5) To be informed of witness fees.
- 6) To be provided with a secure waiting area during court proceedings.
- 7) To have stolen property returned promptly.
- 8) To be provided with employer intercession services to ensure employers will cooperate with the criminal justice process.
- 9) To be entitled to speedy disposition of the case.
- 10) To have family members of homicide victims afforded the rights under (1) to (4) and (6) to (9).

The bill also creates within each county, a victim/witness assistance unit to arrange for services for victims and witnesses of crime.

The bill also provides that the counties and agencies that provide services for victims/witnesses may be reimbursed by the state for costs incurred in providing victim/witness assistance services. SLEPA is the agency designated to determine the level of services for which the county or agency may be reimbursed.

SLEPA, along with the Criminal Injuries Compensation Commission, in addition to supplemental funds from the state general

funds, is to use proceeds from the special indemnity fund to reimburse the counties. This fund is made up of assessments collected from offenders and is based on the following scheme:

- 1) Felony with maximum authorized imprisonment over five years: \$20.00.
- 2) Felony with maximum authorized imprisonment not exceeding five years: \$10.00.
- 3) Misdemeanor: \$5.00.
- 4) Petty misdemeanor or violation (excluding traffic violations): \$3.00.

b. Relating to employees as witnesses in criminal proceedings. This bill proposes that employees who are subpoenaed to testify in any criminal action, proceeding, or investigation will not be disciplined by their employers for any time loss.

c. Relating to limiting commercial exploitation of crime.

The purpose of this bill is to ensure that any person or other legal entity that contracts with any convicted offender or his representative regarding the reenactment of a violent crime shall submit to the Criminal Injuries Compensation Commission a copy of the contract and pay over to the commission any profits owed to the convicted offender or his representative. The victim may receive an amount from the profits only if he files a civil suit and recovers a money judgment for damages against the convicted offender or his representative within five years of the date of payment to the commission.

EXECUTIVE SUMMARY - PART TWO

A. INTRODUCTION.

This part summarizes statistical data analyses performed on data obtained from personal interviews, public forums, and public hearings conducted with the express purpose of eliciting background information, facts, and opinions from victims of crime in regards to their victimization and their experiences interacting with the criminal justice system. Data so obtained were coded, keypunched, and computer generated tables were produced using the Statistical Package for the Social Sciences, a manufacturer-supplied report generator program.

B. METHODOLOGY.

A questionnaire was designed to obtain relevant socio-economic background data on the respondents as well as the perceived treatment of the victim by the various components of the criminal justice process. In addition, every attempt was made to elicit from the respondents any and all types of criticisms they may have had about their experiences.

The Commission's investigative staff handled the contacts and interviews with victims and administered the questionnaire. Of 235 names, interviews were obtained from 83 cases, or 35.3 percent. The majority of cases not completed was because the victim could not be located or had moved to the mainland.

To gather more information on the victim's perspective and experiences in the criminal justice system, the Commission held public forums on the neighbor islands and public hearings on Oahu. These meetings gave victims who were not interviewed an opportunity to present their opinions.

C. FINDINGS AND DISCUSSION.

1. Interviews.

The data indicated the majority of cases involved property crimes (60.8 percent) while 36.7 percent involved violent crimes and 2.5 percent involved sex crimes.

Social characteristics indicated younger people living in urban areas were more likely to be victims of violent crimes. However, there is a tendency for the likelihood of violent victimization to slightly increase again after the age of 40.

Other variables revealed that Caucasians were victims of violent and sex crimes almost twice as often as Japanese. Female respondents had a slightly higher occurrence of violent and sex crimes than males did.

The data indicated that convictions were reached in a majority of the cases.

a. Police ratings. A majority of the respondents rated the police performance high--25.1 percent "excellent" and 58.2 percent "good." A cross-tabulation indicated the police were rated high when a conviction was gained and lower when there was no conviction. The two factors affecting the police ratings were

(a) whether the respondents were kept informed of case status and (b) whether an arrest was made.

b. Prosecutor ratings. Approximately 60 percent of the respondents met with the prosecutors. The majority of the respondents rated the prosecutors "good" (52.2 percent) and "fair" (28.2 percent). A cross-tabulation indicated higher ratings when a conviction was gained than when there was no conviction.

c. Court ratings. A majority of the respondents who were involved with the courts rated them "good" (58.8 percent) and "fair" (29.4 percent). A cross-tabulation indicates favorable ratings when a conviction was gained.

2. Public hearings, forums.

The Commission also held public forums and hearings on the islands in which victims presented the staff with their experiences of being victimized by crime and their interactions with criminal justice agencies. Accounts of their testimony are included in this report.

PART ONE:
THE VICTIM/WITNESS ASSISTANCE STUDY

I. INTRODUCTION

I. INTRODUCTION

Victims and witnesses have been termed the "real clients" of a criminal justice system. While prosecutions for crimes are commenced in the name of the state, on behalf of all the people, they are initiated by individual persons for crimes committed against them. Moreover, more often than not it is their efforts and cooperation, and theirs alone, that spell the difference between success and failure in any given case, and the justice sought is, in part, sought for them. Yet the welfare of victims and witnesses has largely been ignored and neglected by the very system that was designed to serve them. While the past decade has produced major improvements for protecting the rights of the accused, providing humane treatment to the convicted, and delivering services to the ex-offender, victims and witnesses of crime, for the most part, have been treated more as bits of evidence than as human beings who have needs and feelings and who are faced with problems arising out of their involvement with the criminal justice system. This insensitivity on the part of busy criminal justice system professionals, caught up in attempting to do their own jobs, unwittingly transformed a system designed to aid innocent people into one which, at times, punishes them for being victims. It is no wonder that justice suffered as cases were dropped and suspects released because an increasing number of victims/witnesses, frustrated by the system which consumed what was perceived as

unreasonable amounts of their time, stopped cooperating with public officials.

However, an encouraging shift in attitude has taken place in recent times. A growing number of states have initiated programs designed to help the average citizen caught up in the criminal justice system. These programs provide a range of aid, from counseling and emergency social services for victims, to improvements in scheduling and notification of case status to prevent unnecessary court appearances by both victims and witnesses. Moreover, more than one-half of the states have instituted some form of criminal injury compensation program to compensate crime victims for personal injury or their dependents in cases resulting in the victim's death. Some states also compensate good Samaritans for property damage or loss. This type of program provides financial assistance to victims of certain crimes in the form of cash payments ranging from \$5,000 to \$50,000. Its obvious effect is to help reduce the "cost" of being a victim by eliminating or minimizing one aspect thereof, i.e., the financial burden of medical expenses, loss of wages, and the like.

Court administrators and criminal justice practitioners have come to recognize that many victims will not participate in court proceedings if they are traumatized by their interactions with the system, and that conversely, if they are physically protected and given emotional support, they are more willing to

press charges and present evidence. It is this recognition that has led many jurisdictions to institute programs offering such services as child care, social/emotional support, and case status information in order to encourage the cooperation of victims and witnesses, thereby reducing the number of cases that must be dismissed for the lack of such cooperation, and maximizing the chance of achieving justice for all.

What this study attempts to do is to categorize the efforts being expended in Hawaii to restore the balance in our criminal justice system, too long weighted in favor of defendants, and to shift some of the emphasis onto the forgotten clients of the criminal justice system, the victims and witnesses of crime.

To determine what needs, concerns, and problems of victims/witnesses are not being met, an inventory of services presently being provided was compiled, primarily by querying professionals in the field, extensively detailing the goals and objectives, functions, and tasks of each program or organization providing aid or assistance to victims/witnesses. A comparison of this inventory with the problem areas previously isolated was then made for the purpose of ascertaining whether there were any problems which were not being addressed at all or were being addressed inadequately. Based on the findings of this comparison, the documented experience of other jurisdictions, discussions with professionals in the system, and a review of the literature on victim/witness assistance programs, recommendations were made

aimed at making the delivery of present services as efficient and effective as possible, offering new services where none are presently available, and otherwise attempting to minimize the trauma, inconvenience, and "cost" of being a victim or witness of crime.

II. THE VICTIM/WITNESS IN THE CRIMINAL JUSTICE SYSTEM:
PROBLEMS ENCOUNTERED

II. THE VICTIM/WITNESS IN THE CRIMINAL JUSTICE SYSTEM:

PROBLEMS ENCOUNTERED

A. INTRODUCTION.

A person victimized by crime may suffer physical injury, or property damage or loss, or both. If physical injuries requiring medical treatment or hospitalization are suffered, the victim also incurs medical and, possibly hospital expenses. If the victim is employed, loss of wages occurs. If the victim is hospitalized for an extended period or is permanently disabled, a caretaker for children or other members of the victim's household may have to be hired.

If property is stolen, it may be damaged or destroyed. If the police are able to recover it, it may be useless because it is perishable. There are times when property cannot be returned because the victim is unable to positively identify it as his own. The victim may also lose the use of his property even though it has been recovered and identified as belonging to him when the property is retained as evidence for extended periods of time.

Psychological trauma is also a result of being victimized. The confusion in and apprehension about going to proceedings that most victims/witnesses know little about often causes trauma almost equal to that of being a victim.

The following outlines some of the problems victims and witnesses encounter as a result of being victimized, of being an eyewitness to a crime, or of otherwise participating in the criminal justice system. In addition, services provided by the state and the several counties to rectify these problems are also documented.

B. PHYSICAL INJURY/DEATH.

Physical injury is too often the inevitable result of crime. Injuries can be as minor as a few small cuts and bruises, or as serious as injuries to internal organs, compound fractures, knife or gunshot wounds, or concussions resulting in partial or total disability, or even death. Physical injury usually results in economic losses such as medical and hospital bills, lost wages, and sometimes in death. The psychological and economic burdens brought upon the victim's family are substantial. Each of these burdens will be discussed in other sections.

C. ECONOMIC LOSS.

1. Medical, hospital services.

Injuries caused by crime often leave the victim with not only pain and suffering, but also with the medical and hospital bills incurred. Although victims of certain crimes may collect compensation for such bills from the Criminal Injuries Compensation Commission, many victims are unaware of this service. The following account was obtained in an interview of a victim of

attempted murder.

A male Caucasian was knocked unconscious after he was run down with a car by his assailant. He was taken to the hospital by his brother-in-law and another witness and treated for his injuries. The police located the suspect and charged him with attempted murder. Although attempted murder is one of the crimes for which a victim may receive compensation, the victim was never informed that he could file a claim with the Criminal Injuries Compensation Commission for his injuries.

a. State. The Criminal Injuries Compensation Commission provides monetary compensation to victims for medical and hospital bills that are not covered by insurance. For more detail on this subject, see the section on victim compensation statutes beginning on page 56.

b. Counties. In Honolulu, the Sex Abuse Treatment Center (SATC) provides rape victims with free medical services at the time of the crisis. These medical services are limited to examination for physical trauma, gynecological damage, tests for pregnancy and venereal disease, treatment for the prevention of pregnancy and venereal disease, blood tests, and urine tests. For cuts and bruises or for more serious injuries, the victims must be transferred to another hospital.

In the other counties, Aid to Victims (Kauai), Women Helping Women (Maui; rape victims only), and the victim/witness counselor in Hilo assist victims with filing claims for medical and hospital bills with the Criminal Injuries Compensation Commission.

2. Lost wages.

In addition to injuries and medical bills, a victim who is disabled also suffers lost wages. If the disability is permanent, the victim is burdened for life.

a. State. Besides applying for temporary disability insurance, which most employers are required to provide for employees injured during non-work hours, victims may also apply to the Criminal Injuries Compensation Commission for compensation of economic losses suffered as a result of their temporary or permanent disability. For more discussion on this matter, see the section on victim compensation statutes, page 56.

b. Counties. In Honolulu, there are no agencies which assist victims with lost wages. In the other counties, Aid to Victims (Kauai), Women Helping Women (Maui; rape victims only), and the victim/witness counselor in Hilo assist victims to file claims for economic losses with the Criminal Injuries Compensation Commission.

3. Hiring replacement for absenteeism.

When a victim who is self-employed is temporarily disabled, he is forced to hire an emergency replacement or suffer business losses. When the disability is permanent, the victim is usually forced to terminate his business. In a case in Hilo:

An elderly businessman was assaulted when he caught a burglar in his store. The assailant grabbed a shovel and began beating the owner. As a result, the victim suffered broken bones. Being the sole proprietor, he was forced to close his store temporarily while he recovered from his injuries.

a. State. The Criminal Injuries Compensation Commission will take into consideration the business losses a self-employed victim suffers from his absence from his business. The claim may qualify as lost wages depending upon the commission's decision. More discussion on this matter is on page 56, victim compensation statutes section.

b. Counties. There are no agencies in Honolulu that aid self-employed victims suffering from business losses. In the other counties, the same agencies that deal with other economic loss-related problems assist victims in filing claims with the Criminal Injuries Compensation Commission.

4. Hiring caretaker for household.

A victim who is hospitalized or disabled is unable to care for children or other household members, and may have to hire a temporary caretaker for the family. When a victim is killed or dies because of injuries caused by crime, the victim's family must also bear the heavy economic burdens caused by funeral expenses and more importantly the loss of its breadwinner.

a. State. Although the Criminal Injuries Compensation Commission grants awards to the victim's dependents where death is the result of the crime and also compensates the victim's family for funeral expenses, the commission does not specifically compensate for caretaker services. (See victim compensation statutes section, page 56.) The Department of Social Services and Housing is also empowered by statute to pay for funeral

expenses but only for indigent persons.

b. Counties. No agency currently exists in the counties to assist victims or their dependents with caretaker services or for funeral expenses.

D. PROPERTY LOSSES.

1. Damage.

The victim often suffers property damage and losses as a result of a criminal act. The victim may suffer torn clothes, a ransacked home, or a stripped car. For example:

A restaurant owner in Maui was a victim of burglary when culprits broke into his restaurant and stole his safe. Two juveniles were arrested by a beat officer when he caught them in the act of removing the safe. Although the safe was returned, the victim suffered damages to his restaurant where the juveniles broke in to remove the safe.

a. State. The Criminal Injuries Compensation Commission compensates for property damage but extends this coverage to good Samaritans only. Otherwise, aside from the victim's homeowner or business insurance policy, the victim must assume the loss of his property.

b. Counties. At present, there are no agencies in the counties to compensate or to assist victims for the loss or damage to personal and real property.

2. Unrecovered stolen property.

The victim of robbery, burglary, or theft suffers the loss of his property when the police are unable to recover the

stolen property. The following are descriptions of such cases gleaned from interviews with victims:

A Japanese female owned a jewelry store which was robbed while she was away on a business trip. A female employee was murdered during the robbery and about \$65,000 worth of jewelry was taken. The jewelry was never recovered and the case remains unsolved.

A manager of a Maui department store reported that the store was burglarized. A juvenile was arrested and the case turned over to family court. The stolen merchandise was never recovered nor was restitution to the store manager made. The manager feels that restitution should be compulsory and that in cases involving juveniles, the parents or legal guardians should be held responsible for any damages or losses.

A robbery was committed in a hotel and the culprit escaped with \$25,000 in cash. Although the robber was caught and found guilty, the \$25,000 was never recovered nor was restitution made.

a. State. The victim assumes the loss where the police are unable to recover the stolen property unless the victim has an insurance policy which will cover such loss. Otherwise, there is no state agency which deals with this problem.

b. Counties. No agency currently offers any assistance to victims who have suffered property losses.

3. Losses due to inability to identify property.

In cases where the victim is unable to identify positively his property either by serial number or by some other means, he is unable to recover his property.

a. State. The state does not provide victims assistance in recovering personal property.

b. Counties. In all the counties, outside of insurance coverage for property loss, stolen property that the owner is unable to identify through serial number or other means remains a problem.

4. Property retained as evidence.

The victim suffers temporary, but often extended, loss of use of his property in cases where personal belongings are retained as evidence until the completion of trial or appeal. For businessmen, merchandise may become obsolete or stale and thus unsalable. Carrying costs are also unreimbursed. The two cases that follow illustrate the frustrations victims face when their property is retained as evidence.

A female owner of a grocery store was the victim of burglary when three males broke into her store and stole four or five cases of beer and several cartons of cigarettes. A neighbor reported the incident and the police arrived in time to apprehend the suspects. As far as the owner knows, the beer and cigarettes have been retained as evidence. When she calls the police station to make inquiries about her case or the return of her property, she is put on hold until she gets frustrated and hangs up. She sees the situation as "hopeless."

A female resort shop owner was a victim of robbery when she was held at gunpoint and the suspect fled with three expensive rings. The suspect was arrested, the merchandise recovered and retained as evidence, and the suspect was brought to trial. The suspect was found guilty and the defense attorney appealed the case. Three years have passed since the case was appealed and the rings are still being held as evidence. The victim believes that three years is an unreasonable length of time to retain property as evidence.

a. State. There is no state agency which facilitates the return of property retained as evidence.

b. Counties. No agency in Honolulu or Maui assists the victim in the return of property retained as evidence. In Kauai, the victim assistant or Aid to Victims facilitates the return of property retained as evidence by obtaining the prosecutor's signature on the release form so that the police can release the property to the victim. The victim/witness counselor in Hilo also assists in the return of property to victims.

E. PROBLEMS AS A RESULT OF REPORTING THE CRIME, INTERVIEWING WITH CRIMINAL JUSTICE AGENCIES, TESTIFYING.

1. Time loss.

a. Work. A victim or witness must take time off from work, and use either vacation or leave without pay, each time his presence is required by a criminal justice agency. A self-employed victim or witness has to hire an emergency replacement or suffer business losses. The victim is required to file police reports, look at mug shots, be interviewed by detectives and prosecutors, appear in court to testify, and so forth. In one case:

A middle-aged male was assaulted and immediately reported the incident to the police. The suspect was arrested at a nearby bus stop. Although the victim appeared at the preliminary hearing, the defendant did not. The victim decided not to appear at the second preliminary hearing because he could not afford to lose another day's work. As a result, the case was dismissed and the charges were dropped.

1) State. Time losses that victims and witnesses suffer as a result of filing police reports, looking at mug shots, and being interviewed by detectives and prosecutors are not compensable. However, time losses that victims/witnesses suffer as a result of testifying in court are partially compensated for by law. Witness fees, originally \$4.00 per day, have been increased to \$10.00 per day in criminal cases through the efforts of the Victim/Witness Kokua Center during the 1980 legislative session.

2) Counties. The Victim/Witness Kokua Center in Honolulu appears to be the only county agency that assists in obtaining witness fees. The other counties do not provide this assistance. Otherwise, in all the counties, victims and witnesses must bear the costs of time loss when their knowledge or presence is required on those occasions other than testifying in court. The same holds true for those witnesses who are self-employed and who suffer business losses because their presence require them to be away from their businesses.

b. Finding caretaker for children or others. Should the victim or witness have young children or other members of the household who must be cared for, a babysitter or caretaker must be found each time the presence of the victim/witness is required by a criminal justice agency. The inability to find a caretaker due, more often than not, to last minute notice being given to testify or otherwise appear in court, results in

tardiness or the nonappearance of the victim or witness and, in turn, may result in delays or postponements in the criminal justice process. The witness who is unable to find a babysitter has no alternative but to bring the child to court where a court clerk may end up babysitting.

1) State. No state agencies provide victims or witnesses with caretaker or babysitting services.

2) Counties. In Honolulu, the Victim/Witness Kokua Center will provide child care services only if the victim or witness cannot make other arrangements for such services. In the other counties, obtaining care services for children or other members of the household does not seem to pose a problem. In Kauai, on occasions when the need arises, Aid to Victims arranges care services for the witness.

c. Waiting long hours to testify. The witness often waits long, tedious hours in uncomfortable settings while waiting to testify. Many times while waiting outside the courtroom he may come into uncomfortable and sometimes intimidating contact with the defendant's family or friends. The witness may also waste a whole day waiting for his turn to testify only to discover that his presence was not needed but that he has to return the next day to await his turn again. For example:

A Waipahu male complained about the hours he had to spend waiting to testify as a witness. The service station which he managed was burglarized, and the police made an arrest while the suspect was climbing through a window. The matter was taken to court, with

the station manager appearing as a witness. The station manager complained that the day he appeared at court, he waited five hours before he was finally called to testify-- for only four minutes.

1) State. Witness lounges are in the planning stages for the new circuit court building on Oahu. Two witness rooms will be provided for each courtroom. These proposed witness lounges will provide a more comfortable environment for those who are waiting to be called as witnesses.

2) Counties. In all the counties, members or volunteers from Victim/Witness Kokua Center and SATC (Honolulu), Aid to Victims (Kauai), Women Helping Women* (Maui), and the Sexual Assault Support Service* (Hawaii) accompany victims to court. This ameliorates some of the victim's discomfort in having to wait long hours in courthouse corridors, with the ever present possibility of coming into contact with the defendant and the defendant's family and friends. Having someone who the victim knows is understanding and caring makes the victim less apprehensive about his testifying.

2. Transportation.

a. To police station, treatment facility, home. After a criminal act has been committed, the victim must find his own way to the police station to report the crime and, if injured, may have to find his own way to a treatment facility and then

*victims of sexual assault only

home, unless an ambulance is required.

1) State. There are no agencies which help victims with transportation after the criminal act is committed.

2) Counties. In Honolulu, SATC provides rape victims with transportation to a treatment facility and then home. SATC arranges transportation for the victim to Kapiolani-Children's Medical Center (the SATC's headquarters) and then ensures that the victim reaches home safely. If the home was the scene of the crime, SATC tries to provide emergency shelter. In Kauai, Aid to Victims arranges transportation home or to a treatment facility for the victim after the commission of a crime. In Maui and Hawaii counties, transportation arrangements are not provided.

b. To prosecutor's office, courts. Victims and witnesses usually have to find their own transportation to the prosecutor's office and the courts. Difficulty in finding transportation to the courts may result in tardiness or nonappearance, thus resulting in delays in court proceedings.

1) State. There is no state agency to provide victims and witnesses with transportation to and from the prosecutor's office and the courts.

2) Counties. In Honolulu, there are no agencies which provide transportation services for witnesses who have to go to the prosecutor's office or appear in court. The victim/witness has to provide his own transportation or ride a bus or taxi.

In the other counties, obtaining transportation to and from the courts or the prosecutor's office does not appear to be much of a problem.

c. Parking problems. Parking is frequently a problem in Honolulu, but not on the outer islands. Often, finding a parking space in Honolulu is impossible, which causes the witness to be tardy, results in delays in court proceedings, and increases witness frustration.

1) State. The state will make arrangements to waive enforcement of parking tickets for witnesses. However, many are not aware of this fact. The state is also trying to alleviate parking problems with the new circuit and district court buildings being planned for Honolulu. The new circuit court building proposes approximately 600 parking stalls, and the new district court building now under construction will have approximately 300 parking stalls. The number of public parking stalls has yet to be determined.

2) Counties. As discussed, Honolulu's parking problem at the courts may be remedied with the construction of the new circuit and district court buildings. In the other counties, parking is generally not a problem. The only exception is Maui when the county council holds public meetings. On these occasions, the public uses most of the parking stalls since the county building is located next to the courthouse.

3. Questioning by criminal justice agencies.

The victim may be asked the same question by the police officers, the detectives, and the prosecutors about the events of the crime for their reports on files, each time having to relive the whole incident again.

a. State. There are no state laws, orders, rules or practices which would ameliorate this problem.

b. Counties. In Honolulu, SATC has a standard report form which is used to question the victim and which is then used by the police as background information. With this report, the victim does not have to answer the same questions over again. Aid to Victims in Kauai arranges for one person to act as a resource person and to maintain continued contact with victims throughout each point in the criminal justice process so that the victim, even though he may have to answer the same questions repeatedly, has someone by him to help him through the criminal justice process. In the other counties, there are no agencies which deal specifically with the problem of victims having to answer the same questions posed by the different criminal justice agencies.

4. Appearance scheduling.

Witnesses who are subpoenaed are usually required to appear in court by a certain time (usually in the morning) and may have to wait a long time before they are called in to testify. In contrast, professional witnesses (doctors, policemen, expert

witnesses) are placed on call and given a fifteen minute or half an hour notice prior to taking the stand. This courtesy is not extended to other witnesses. Another problem witnesses face is, after being subpoenaed for a particular date, they show up only to be told that the case has been continued to another date. This may be frustrating to witnesses who had to arrange time off from work or to find a babysitter and who would have to do the same things over again for their next scheduled appearance.

a. State. At present, there are no state laws, orders, rules, or practices which address this problem.

b. Counties. Victim/Witness Kokua Center (Honolulu), Aid to Victims (Kauai), and the victim/witness counselor in Hilo all monitor case scheduling to notify witnesses of any changes in court dates. There is no agency in Maui to handle this problem.

F. OTHER PROBLEMS.

1. Psychological trauma.

The victim suffers psychological trauma both by being victimized by crime and by having to endure the criminal justice process.

a. State. There are services in the state for victims suffering from psychological trauma as a result of the crime as well as a result of the hardships of going through the criminal justice system. The Children's Protective Services provides

counseling and support services for victims of child abuse and incest. The agency also makes outside referrals to private agencies for long-term, follow-up services. Counseling services are available to victims by the various Mental Health Centers throughout the islands. The centers provide counseling for a slight fee, but absorb the cost in cases where the client is unable to pay.

b. Counties.

1) Honolulu (Oahu). Crisis counseling services are provided by Victim/Witness Kokua Center to victims of violent crime who suffer psychological trauma as a result of the criminal act. Otherwise, the center makes referrals to other social service agencies. The SATC also provides counseling for victims of sexual assault and for the victim's family.

The Catholic Social Services provides counseling to children who are victims of child abuse and incest.

Other private agencies that provide counseling services to victims include Child and Family Service, Kahumana Counseling, and the Waianae Rap Center.

2) Kauai. Aid to Victims provides crisis intervention as well as counseling for victims. Crisis intervention is accomplished through a dedicated counselor and referrals from the police, hospitals, doctors, attorneys, and a 24-hour "hotline" at the Kauai Women's Center.

Kauai Women's Center is also available to provide counseling

services for women.

3) Maui. Counseling services for victims suffering psychological trauma as a result of crime, or participation in the criminal justice system, are available through Kokua Service and Women Helping Women. Kokua Service maintains a 24-hour Help Line and provides telephone crisis counseling. Women Helping Women provides immediate "in person" contact with the victim, which includes emotional support through the police investigation and medical examination, and crisis and ongoing counseling. These services are made available through dedicated volunteers who are on call 24 hours daily.

4) Hawaii. Counseling services for victims suffering psychological trauma as a result of crime, or participation in the criminal justice system, are available through the victim/witness counselor, the Sexual Assault Support Service, Help Line, the Women's Center, and Family Crisis Center. The victim/witness counselor provides counseling for all victims of crime while the Sexual Assault Support Services provides crisis intervention and counseling to rape victims. The Women's Center provides peer counseling for women who are victims of sexual abuse and spouse abuse.

Help Line provides telephone counseling for those in a crisis situation. Family Crisis Center maintains a hotline and provides counseling to the call-in clientele.

2. Intimidation and harassment.

The victim often lives in constant fear of some sort of retaliation by the offender or the offender's family or friends against himself or his family. Such fear may cause the victim to decide to withdraw his cooperation with the police or prosecution. The two cases that follow exemplify these fears:

An 18-year-old male was robbed of a cassette/radio by three males. Although the police recovered his cassette/radio and arrested the suspects, the victim did not press charges against the suspects because of threats he received from the suspects. He did not report the threats to the police, however, because he felt the police could do nothing.

A young Filipino couple were beaten in the parking lot of their restaurant in Waipahu by a gang of teenagers. During the attack, the wife's purse containing \$1,500 and jewelry was stolen by a female who fled the scene. Three days later, the female suspect, who had fled with the wife's purse, was seen loitering around the restaurant area and the police were summoned. The suspect refused to cooperate with the police and identify the other members of the gang. The couple are afraid and concerned that the gang will retaliate against them for identifying the female suspect. The police, though, have been very cooperative about responding to the couple's calls whenever suspicious characters frequent the area.

a. State. No state social service agency has dealt directly with this problem, preferring to leave it to law enforcement agencies. For example, the State Career Criminal Prosecution Program provides funds to county agencies for witness protection in career criminal prosecution. An expanded

discussion of this topic is covered in a Hawaii Crime Commission study on "Witness Protection."

b. Counties. In all the counties, the police department is the only agency the victim can call when threatened or intimidated. Otherwise, the most other agencies can do is to provide escort services (to work, to court, to home, etc.), 24-hour telephone contact, or counseling.

3. Lack of understanding about the criminal justice process.

Many victims and witnesses are unfamiliar with the criminal justice system. For example, when asked about her feelings about her involvement with the criminal justice system, a woman whose business establishment was robbed complained that she could not understand why she had to appear in court on three different occasions. She also complained about how she could not understand the proceedings because the court system was "too complicated."

Most victims and witnesses obtain their knowledge about the workings of the criminal justice system from newspaper, television, and motion pictures. As a result, they often have a one-dimensional view of the criminal justice system that, in turn, leads to numerous misconceptions. This unfamiliarity with the system and the misconceptions held by victims and witnesses may create feelings of confusion and thus apprehension about participating in the criminal justice process. These feelings are heightened when no one explains why their participation is necessary in a certain proceeding or why a certain proceeding is required. In

addition, courtroom tactics and practices by attorneys may also increase these feelings of apprehension and confusion. For example, the victim or witness may be subjected to exhaustive cross-examination and what may be perceived as hostile questioning. This often makes the witness feel as though he or she is on trial instead of the defendant.

a. State. At the state level, except for the Hawaii Crime Commission's Principles of Criminal Proceedings in Hawaii's Judicial System, there has been little effort by any agency to educate the victim or witness, much less the general public, on criminal proceedings and practices. Also, there are no state laws, orders, or rules to deal with the problems of lack of knowledge and apprehension.

b. Counties. In Honolulu, victims who lack an understanding of the criminal justice process are provided with information by the Victim/Witness Kokua Center and SATC. These two agencies attempt to ensure that the victim fully understands the entire criminal justice process. Victim/Witness Kokua Center also stages mock trials to give victims and witnesses an idea of what they can expect when they go to court proceedings and to get a clearer understanding of the process. Counselors from the center will also accompany the victims to interviews with the prosecutors and to court proceedings so that the victim or witness will feel less apprehensive about his participation in the criminal justice system. The SATC also arranges for a

volunteer legal advocate to accompany the rape victim to court proceedings.

Similarly, in the other counties, Aid to Victims (Kauai) and Women Helping Women (Maui; sexual assault victims only) provide escort services to the prosecutor's office and to the courts and also information and assistance with court procedures. These functions are divided in Hawaii County. The Sexual Assault Support Service accompanies rape victims to the prosecutor's office and courts whereas the victim/witness counselor provides information and advice.

4. Insensitivity of criminal justice agencies.

The trauma that many victims suffer when victimized by crime is often heightened when the agencies within the criminal justice system are not sensitive toward the victims and their problems. For example:

A Hilo woman reported to the police that a man was at her house harassing her and was attempting to break in to rape her. The man had taken screens and louvers off the windows, calling the woman's name from time to time. When the police arrived, the officer approached the man and asked "eh what brah, you and your old lady having one fight?" Not one of the police officers approached the woman to question her. The woman was upset that the officers simply assumed that it was a domestic quarrel, and one of the officers even insisted that the woman at least listen to what the man had to say to get his side of the story. The officer refused to believe that the man was actually trying to break in to rape her.

A young girl was psychologically traumatized when she was sexually abused by her neighbor.

Consequently, she became afraid of men and would only speak to a female police officer. However, when the case was set for trial, the prosecutor assigned to the case only maintained telephone contact with the parents and never met with the child to prepare her for the trial.

a. State. There are no state laws, orders, rules, or practices (other than individual efforts) to address this problem of victims and witnesses.

b. Counties. Except for Honolulu and Kauai, there are no agencies in the other counties that deal with the insensitive handling of victims or witnesses. In Honolulu, the Victim/Witness Kokua Center advocates the victims' and witnesses' point of view and concerns with criminal justice agencies. Aid to Victims in Kauai ensures that the victim's concerns are acknowledged by providing liaison and advocacy services for victims with the police, prosecutors, probation, and the Criminal Injuries Compensation Commission.

5. Status or disposition of case.

Often a victim will go through the frustrating experience of not being able to find out from some criminal justice agency the status or disposition of his case. In some cases, he may not know the proper agency or person to call. A victim may interpret this lack of information as a lack of interest on the part of criminal justice personnel in his case. As a result, the victim may become frustrated and lose interest in proceeding with his complaint or he may refuse to continue to participate and cooperate with the police and prosecutors.

For example, in the following cases, all the victims never found out the disposition of their cases.

A jewelry store on Kauai was burglarized and \$4,000 worth of merchandise was taken. The victim, on numerous occasions, attempted to obtain information on the status of his case but was unsuccessful because a juvenile was involved and juvenile proceedings are kept confidential.

A manager of a department store on Maui was summoned by police to identify some recovered property which was apparently stolen from the store. The merchandise was identified as the store's property and was returned within a week. The store manager was never informed about the final disposition of the case and never knew what happened to the juvenile. The manager feels that either the prosecutor, courts, or someone else should keep the victim informed of any developments on the case.

The owner of a grocery store was the victim of a burglary when three males broke into her store during the early morning hours and took four or five cases of beer and several cartons of cigarettes. The police arrived in time to apprehend the suspects and recover the merchandise. As far as the owner knows, the beer and cigarettes have been retained as evidence, and she sees the suspects roaming the area. When she calls the police station for information about developments in her case, she is often put on hold until she gets frustrated and hangs up. She has tried to make further inquiries but feels it is "hopeless."

a. State. No state agency at present deals with informing victims and witnesses about the status or final disposition of their case. Victims who become witnesses and proceed through the prosecutorial process must seek information about the status of their case themselves.

b. Counties. Except for Maui, there are agencies in the other counties which provide case status information to the victims. The victims are also informed about the final disposition of their cases. The agencies that provide these services are Victim/Witness Kokua Center, the SATC, Aid to Victims, and the victim/witness counselor in Hilo.

ECONOMIC LOSS:

Medical expenses
 Lost wages
 Property loss:
 (a) property damage
 (b) property retained for
 evidence; facilitate
 return
 Caretaker for victim
 or family while victim
 recuperates

	Criminal Injuries Comp. Comm.	Children's Protective Services	Mental Health Division, DOH	Victim/Witness Services	Sex Abuse Treatment Center	Catholic Social Center	Aid to Victims	Kauai Women's Center	Kauai Spouse Abuse Center	Women Helping Women	Kokua Services	Victim/Witness Counselor	Hilo Women's Support Service	Family Crisis Center	Help Line
Medical expenses	X														
Lost wages	X														
Property loss: (a) property damage	0														
(b) property retained for evidence; facilitate return						X					X				
Caretaker for victim or family while victim recuperates															

FEAR:

Victim/witness protection/
 surveillance
 Accompany victim/witness
 Emergency shelter
 Counseling
 24-hour telephone contact

Victim/witness protection/ surveillance															
Accompany victim/witness			X	X		X	X		X			X			
Emergency shelter				X		X		0							
Counseling	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
24-hour telephone contact				X				X	X				X	X	

OTHER:

Assistance with court
 procedures
 Appearance scheduling
 Transportation arrangements
 Witness fee assistance
 Restitution assistance
 Status of case
 Child care services
 General information
 Referral service
 Advocate for victim/witness

Assistance with court procedures						0	0	0	X						
Appearance scheduling			0												
Transportation arrangements				X		X									
Witness fee assistance			X												
Restitution assistance															
Status of case			X	0		X						X			
Child care services						0		0							
General information			X	X		X	X		X	X	X	X			
Referral service	X		X	X		X	X	X	X	X	X	X			
Advocate for victim/witness			X	X		X									

KEY: X = complete services
 0 = partial services

III. THE VICTIM/WITNESS IN THE CRIMINAL JUSTICE SYSTEM:
 SERVICES PRESENTLY BEING OFFERED

III. THE VICTIM/WITNESS IN THE CRIMINAL JUSTICE SYSTEM:
SERVICES PRESENTLY BEING OFFERED

Problems that victims and witnesses encounter are many, and gradually programs are being created to meet the victims' and witnesses' needs. Much more, however, remains to be done. The following is a brief outline of the services available for victims and witnesses on the state level and in each county.

A. STATE.

1. Children's Protective Services.

Children's Protective Services, which is under the Department of Social Services and Housing, provides direct services for victims of crime, but its services are not limited to only victims of crime.

The Children's Protective Services deals with child abuse and incest cases.

Services provided include:

- a. counseling and support service,
- b. referring clients out to private agencies for long-term, follow-up services.

2. Mental Health Centers.

The Mental Health Centers under the Department of Health provide counseling services to the general public, including victims of crime. The Mental Health Centers provide these

counseling services for a slight fee--but for those who are not able to afford the fee, the centers absorb the losses.

B. OAHU.

1. Victim/Witness Kokua Center.

The Victim/Witness Kokua Center was created in January 1979 in the office of the prosecuting attorney with funds from a Law Enforcement Assistance Agency (LEAA) grant, with matching funds from the state and county. The program is now funded entirely by the county. Staffed with a director, two full-time counselors, a secretary, and some volunteers, the Victim/Witness Kokua Center provides direct assistance to victims and witnesses of crime. Its services include:

a. Crisis counseling. The center provides crisis counseling for victims who are referred, or wander in as misdemeanor complainants to the prosecutor's office. Often victims are extremely agitated and need help getting through their trauma.

b. Social service referrals. The center makes referrals for victims and witnesses who need medical, legal, financial, housing, or psychiatric assistance.

c. Orientation and explanation. Many victims and witnesses are not familiar with the criminal justice process and thus are afraid or reluctant to participate in the prosecutorial process. The center's staff will go over with the victim the entire process to make him feel more at ease. They also stage

role playing to give the victim an idea of what trial will be like.

d. Monitor victim's case. The center's staff monitors each victim's case and notifies them of any changes in status or court dates.

e. Court accompaniment. The center's staff accompanies victims and witnesses to court appearances to provide moral support and information when needed or requested.

f. Advocates victim's point of view. The center advocates the victim's or witness's point of view and concerns with prosecutors, defense attorneys, private civil attorneys, court officials, probation officers, and social services providers. The Victim/Witness Kokua Center also provides some indirect services for the benefit of victims and witnesses.

g. Promotes public dialogue. The center educates the public about problems and concerns of victims and witnesses in general, through speaking engagements and conferences.

h. Enact legislation. The center works with legislators and other social service groups to enact legislation that will benefit victims and witnesses in general.

i. Promote research. The center promotes research into the problems of victims and witnesses of violent crimes.

2. Sex Abuse Treatment Center.

Another agency that directly aids victims of crime is the Sex Abuse Treatment Center (SATC) situated at the Kapiolani-

Children's Medical Center. The SATC, a private, non-profit organization allotted funds by the state of Hawaii, provides comprehensive care to victims of sexual assault. SATC uses a team of multi-speciality personnel--physicians, nurses, social workers, and crisis intervention workers--to provide crisis and follow-up medical, social, and legal services for sexually abused victims.

a. Medical services. The medical services offered at the time of crisis includes an examination for physical trauma, gynecological damage, testing for pregnancy and venereal disease, blood tests, and urine tests. Prophylactic pregnancy treatment (DES hormones) is offered to women who could become pregnant from the rape. Antibiotic medication is administered to women for protection against venereal disease.

b. Legal evidence collecting services. The SATC assists victims in obtaining legal evidence regarding their assault for later use in criminal prosecution. The SATC staff has been professionally trained in collecting evidence and has been delegated by the police to collect evidence from sexual assault victims. Listed below are the legal tests which provide evidence of sexual penetration or other contact:

- 1) photographs (to provide evidence of injury);
- 2) nail scrapings (to provide evidence of contact with the assailant);
- 3) pubic hair combings (to provide evidence of

sexual contact);

- 4) Woods lamp scan (to provide evidence of seminal fluid on woman's body);
- 5) urine test (to provide evidence of sperm);
- 6) wet mount (to provide evidence of sperm);
- 7) pap smear (to provide evidence of sperm);
- 8) acid phosphatase (to provide evidence of seminal fluid).

The above-mentioned tests are legally admissible evidence and assist a victim in documenting that a sexual assault occurred.

c. Social services. The SATC is staffed with trained counselors who are available to sexual assault victims on a 24-hour basis through the 24-hour rape hotline. The services provided to victims depend upon their needs. The services available include:

- 1) transportation to the SATC;
- 2) information and support during the medical-legal examination;
- 3) counseling for the victim and family;
- 4) making follow-up medical appointments;
- 5) providing information about the criminal justice system;
- 6) informing the victim about the Criminal Injuries Compensation Program;
- 7) assisting the victim with housing arrangements;

- 8) making referrals to other community agencies;
- 9) making certain that the victim is driven home and secure.

d. Follow-up services. The SATC provides a number of follow-up services for victims of sexual assault.

1) Follow-up medical services. Follow-up medical services include repeat pregnancy testing, repeat venereal disease testing, and pregnancy termination if requested by the woman.

2) Follow-up social and legal support services.
These services include:

- a) information and counseling for the victim and family;
- b) information and assistance with the legal process;
- c) information about medical implications of the assault and assistance with obtaining the necessary medical appointments;
- d) referrals to appropriate community agencies;
- e) case status information (obtained from Victim/Witness Kokua Center);
- f) other services requested by victims.

e. Social worker for longer range social and legal support. The SATC social worker plays an important role in providing care to rape victims with continued contact with those

women who need longer-range social and legal support services after the first follow-up interview. The services provided are diverse but often involve the following:

1) counseling for the trauma stemming from the assault and participation in the criminal justice system as a witness;

2) helping the woman with the court process by providing information, legal advocacy, and arranging for volunteer legal advocates to accompany her to the trial;

3) performing a number of services which assist the police and prosecutors such as arranging for the evidence to be picked up, preparing the victim for trial, etc.;

4) providing emotional support and counseling for the family of the victim.

The Sex Abuse Treatment Center has proven to be of great value to the police and the prosecutors and to the City and County of Honolulu. The SATC and Victim/Witness Kokua Center often combine efforts where victims are of mutual concern.

3. Catholic Social Services.

The Catholic Social Services is a private agency which provides a variety of services to clients who are referred from the Children's Protective Services. Services provided include:

- a. group therapy for incest victims,
- b. individual therapy for incest victims.

4. Other agencies.

There are a few other private agencies which provide counseling services. However, the counseling services are not limited to crime victims only. Agencies which provide counseling services include Child and Family Service, Kahumana Counseling, and the Waianae Rap Center.

C. KAUAI.

1. Aid to Victims.

The island of Kauai maintains a victim/witness assistance service. The program, Aid to Victims, is under the auspices of the Mayor's office and is funded primarily by the LEAA with some state and county monies. Staffed with a full-time counselor and a part-time secretary, Aid to Victims primarily assists victims of crimes against the person, such as robbery, rape, assault, kidnapping, homicide, and sex abuse. Secondarily, it assists victims and witnesses of crimes against property, such as burglary and theft. Aid to Victims' stated goal is to ensure that the victim receives any social services needed, that the victim's concerns are acknowledged, and the victim understands the criminal justice procedures and the role and responsibility of each component within the system. Aid to Victims arranges for one person to act as a resource and to maintain continued contact with victims through each point in the criminal justice process, and attempts to ensure victim input to appropriate agencies within the criminal justice system. A number of direct services

to victims of crime are provided, which include:

- a. crisis intervention;
 - b. counseling;
 - c. consoling;
 - d. assistance in locating emergency shelter, food, and transportation after the criminal act;
 - e. referrals to other agencies;
 - f. information regarding legal options available;
 - g. liaison and advocacy activities with police, prosecutor, probation, and Criminal Injuries Compensation Commission;
 - h. assistance in expediting the return of stolen property;
 - i. assistance in preparing witnesses for testifying in court;
 - j. court accompaniment;
 - k. case monitoring;
 - l. legal interpretation and case progress information;
 - m. assistance in arranging for complimentary hotel accommodations for off-island victims returning for court hearings.
- Aid to Victims is also faced with budgetary problems, as its LEAA funds will lapse at the end of June 1981. There has been as yet no commitment by the county council to fund the program.

2. Kauai Spouse Abuse Center.

Kauai Spouse Abuse Center, sponsored by the Young Women's Christian Association (YWCA), serves women who are

abused by spouses who are substance (drug or alcohol) abusers, and women whose children have substance abuse problems. The services provided are as follows:

- a. a 24-hour hotline;
- b. referral services to other agencies and resources;
- c. assistance in preparing temporary restraining orders;
- d. a 6-month residential program;
- e. a 6-month day care program (child must be

accompanied by mother).

3. Women's Center.

Kauai Women's Center, also sponsored by the YWCA, serves women in general and not just women who are victims of crime.

The Women's Center provides the following:

- a. information and referral services;
- b. a drop-in center;
- c. individual and group counseling;
- d. accompaniment to court;
- e. court monitoring;
- f. assistance in writing restraining orders.

D. MAUI.

Maui County is the only county that does not have a victim/witness assistance program. The county is aware of the valuable services such an agency can provide and is looking into the creation of an agency soon.

There are, however, other private agencies which provide

services to victims of crime.

1. Kokua Service.

Kokua Service is a private, non-profit organization sponsored by the YWCA and funded by county grants. The agency maintains a 24-hour help line offered to anyone in a crisis situation including, but not limited to, victims of crime. Through the 24-hour help line, the agency provides telephone crisis counseling and information and referral services.

2. Women Helping Women.

Another agency that provides services for rape and sex abuse victims on Maui is Women Helping Women, a private, non-profit organization operating with an entirely volunteer staff.

The services provided are as follows:

- a. immediate "in person" contact with the victim which includes emotional support through the police investigation and medical examination;
- b. assistance with the filing of a claim with the Criminal Injuries Compensation Commission;
- c. crisis and ongoing counseling for the victim;
- d. assistance with court procedures including court accompaniment should the victim choose to go through prosecution;
- e. community education on rape which includes preventive measures and basic procedures in the event of a rape.

Women Helping Women has already completed various projects on the community level for Maui County. The following is a list of

accomplishments:

- a. prepared a report for former Mayor Cravalho on the problem of rape and how it is handled in Maui County;
- b. spoke about rape to community and school groups;
- c. sponsored self-defense workshops in conjunction with the police department;
- d. arranged for broadcast of public service announcements concerning rape;
- e. designed six one-credit courses on women's studies at Maui Community College in 1976;
- f. sponsored an Assertiveness Training Workshop;
- g. sponsored noon programs focusing on women at Maui Community College;
- h. participation in the 1980 Committee on Criminal Sexual Violence that revised the sexual assault laws and submitted its proposal to the 1980 state legislature;
- i. met with police and designed an information and consent form for all rape victims that report to the police to assure that all victims will be informed of Women Helping Women;
- j. recruited new volunteers to handle spouse abuse and public relations in the community.

E. HAWAII.

1. Victim/Witness Assistance Service.

Hawaii County does have a victim/witness assistance service. The program originated out of LEAA funds but has recently been funded by the county and made into a civil service position under the prosecutor's office. The program is staffed with a full-time secretary and counselor who provide the following services:

- a. counseling;
- b. information, counsel and advice, and assistance to victims and witnesses of criminal acts;
- c. liaison services between the victims and witnesses and the criminal justice system agencies and case status monitoring for each individual case;
- d. assistance in filing an application for monetary compensation from the state of Hawaii through the Criminal Injuries Compensation Commission;
- e. recovery of property upon apprehension of the guilty party.

Hawaii County's victim/witness assistance program provides services to victims of all types of crime. Although the program is under the prosecutor's office, the victim/witness counselor's office is situated at the main police headquarters. This situation enables the victim/witness counselor to work closely with the police department as well as the prosecutors and allows

him to send out form letters informing all victims of the services provided. The counselor is able to accomplish this by obtaining victims' names from the Records Bureau and reaches all victims whether or not the case is prosecuted.

2. Sexual Assault Support Service.

Sexual Assault Support Service located in Hilo is a private, non-profit organization sponsored by the YWCA which receives county funds and serves sexual assault victims. The agency's main function is to provide crisis intervention.

However, the agency does provide other services:

- a. crisis intervention;
- b. counseling;
- c. information to victims about court procedures;
- d. emotional support by accompanying the victim to the prosecutor's office and to court;
- e. long-term counseling referrals to other agencies.

Hawaii County also has other private, non-profit organizations which provide services for victims of crime.

3. Women's Center.

The Women's Center, sponsored by the YWCA, provides peer counseling for women who are victims of sexual assault and spouse abuse. The Women's Center also provides information and referral services for women.

4. Help Line.

Help Line, a private, non-profit organization sponsored by

the Awareness House, is available to the county for those in a crisis situation and anyone who simply needs someone to talk to. Usually, counseling is done over the telephone.

5. Family Crisis Center.

Family Crisis Center, another private, non-profit organization provides shelter for spouse abuse victims and occasionally for sexual assault victims. The center also maintains a hotline and provides crisis counseling to the call-in clientele.

IV. VICTIM COMPENSATION STATUTES

IV. VICTIM COMPENSATION STATUTES

A. INTRODUCTION.

While the receiving of emotional support, case status information, and other services is invaluable from a victim's or witness's perspective, the most direct assistance he can receive is a cash payment to take care of the cost of replacing a stolen item, to pay medical and/or hospital bills, to replace wages lost due to physical injury or having to testify in court, to reimburse the victim/witness for babysitter fees, taxi or bus fares, and the myriad of other out-of-pocket expenses that the victim/witness must pay by virtue of being a victim/witness.

Moreover, inasmuch as most criminal defendants are judgment proof, i.e., have no assets or property to satisfy a judgment if one were obtained by suit brought against them, victims do not now have a viable option to sue civilly and they would be immeasurably assisted if they could be compensated for pain and suffering, loss of consortium, and other losses normally compensable if they brought civil suit against the criminal perpetrator and prevailed.

Since 1965, 29 states, including Hawaii, have enacted statutes which allow the state to make direct cash payments to victims of crime. However, the conditions under which the cash awards are made and for what types of losses differ from

state to state. In order to improve Hawaii's laws on the chance that another state may have a more efficient and imaginative statutory scheme, the laws of all 29 states were analyzed and compared with Hawaii's.

The chart that follows this discussion summarizes the major differences among the states.

B. SELECTED PROVISIONS OF VICTIM COMPENSATION STATUTES.

1. Coverage.

With the exception of Georgia and Nevada, the other 27 states (including Hawaii) limit coverage to victims whose injury or death had been the direct result of a crime. Georgia's and Nevada's statutes cover only good Samaritans who are injured or killed while preventing a crime, apprehending a criminal, or while coming to the aid of a victim.

Basically, most states have taken one of two approaches in defining the compensable offenses for coverage. One approach is to give a broad definition such as any felony or misdemeanor punishable under the laws of the state and which results in injury or death. The other approach is to list the specific offenses for which compensation can be granted. This latter approach is the one taken by Hawaii.

Hawaii is also one of 23 states that extend coverage to good Samaritans.

2. Time limitations.

Most states allow between one to two years to file a claim for compensation, and most allow extensions for good cause. Hawaii allows up to 18 months.

Except for California, Delaware, and Rhode Island, the other states require notification of the police after the crime has occurred. The time period ranges from 48 hours to three months. The majority of the states specify within 48 or 72 hours.

3. Compensable losses.

The majority of states compensate for medical expenses incurred, loss of earnings or support, and for funeral and burial expenses. Hawaii, Rhode Island, and Tennessee (victims of sex crimes only) are the only states that also allow victims to be compensated for pain and suffering. All states allow the dependents of victims to be compensated in death cases.

In addition, Alaska, California, Kansas, Montana, Oregon, Texas, and Washington provide compensation or referral services for vocational rehabilitation of victims who are disabled and who, as a result, cannot return to their jobs.

Only California, Hawaii, and Georgia compensate for property damage but only if the person whose property was damaged was a good Samaritan.

4. Financial need.

Ten states require the claimant to show some financial need in order to qualify for compensation. This requirement is

waived for victims of sex offenses in New York. In Hawaii, the victim or claimant does not have to show financial need.

In Illinois, the victim must show that all other sources were exhausted in order to be eligible for compensation.

In Alaska, Connecticut, Georgia, and Nevada, the victim's or claimant's need for financial assistance is taken into consideration before an award is made.

5. Award limits.

Eighteen states require the claimant to sustain a minimum loss, usually \$100 or two weeks loss of earnings before becoming eligible for compensation. Some states waive this requirement where the victim or claimant is a senior citizen (over 60 or 65 years of age) or where the victim or claimant would suffer from financial hardship. One state, Wisconsin, exempts victims of sexual assault from the minimum loss requirement. There is no minimum loss requirement in the Hawaii statute.

The maximum limit that can be awarded ranges between \$5,000 to \$50,000 except for the state of Washington where there is no limit. The maximum amounts in some states may apply independently to the different types of expenses or losses that can be compensated. For example, in California, although the most a victim may receive for one particular type of expense is \$10,000, the total aggregate amount that the victim may receive for all expenses or losses may total \$23,000. The maximum award allowable in Hawaii is \$10,000.

6. Persons ineligible for compensation.

The majority of the states, except for California and Delaware, exempt from compensation the victim who is related to the offender. Most of the states also deny compensation to the person who is injured or killed while committing an offense or who acted as an accomplice. In Hawaii, it is possible for an offender or accomplice to apply for compensation but the award made may be either denied or reduced depending on the degree of responsibility assessed by the commission to be attributable to the offender or accomplice.

7. Other features.

a. Deductions or reductions in award. All states deduct money received by the victim through collateral sources (i.e., insurance, restitution from the offender, social security, medicare and medicaid, worker's compensation or temporary disability insurance, etc.) from the final award made. Twenty-five of the states, including Hawaii, may also reduce the amount of the award if the victim, through his or her misconduct, provoked or contributed to his or her injury or death.

b. Emergency award. Some victims or claimants experience financial hardship when forced to wait for a period of time while their claims are being processed. In Hawaii, the average waiting period from the time a claim is filed to the time an award is made may run from 10 to 12 months. To offset this, 15 states provide for emergency awards with the maximum limit for these awards

ranging from \$500 to \$2,500. The emergency in most statutes is described as one where the victim or claimant will suffer financial or some other hardship if immediate payment is not made. Other conditions for receiving an emergency award listed in the statutes are:

1) that a final award probably will be made,

2) that the amount of the emergency award will be deducted from the final award, and

3) that the excess of the emergency award over the final award made will be repaid to the compensation board or other agency responsible for administering the statute.

Although Hawaii at one time had an emergency payment fund provision, this was later amended by deleting the emergency fund and substituting it with a compensation fund from which the commission could disburse final award money. This change was made because, according to the House Standing Committee Report No. 273-74, "the emergency fund has proved impractical and no funds have ever been disbursed under this provision. This is because by the time the commission completes its investigation as to whether a claim has merit, the emergency need has already been met through other sources such as public assistance or help from relatives."

c. Residency requirement. California, Indiana, Kentucky, Nevada, Pennsylvania, Texas, and Virginia compensate only those victims who were residents of the state at the time of the offense.

Virginia also extends coverage to full-time students of colleges and universities, while Pennsylvania and Kentucky will also compensate residents of other states if there is reciprocal coverage in those states for the residents of Pennsylvania and Kentucky.

d. Limiting commercial exploitation of crime. Nine states (Alaska, Illinois, Kentucky, Massachusetts, Minnesota, New York, Tennessee, Texas, Washington) have a provision which requires any person who profits from the commercial exploitation of a crime which occurred in the state to pay to the criminal injuries compensation board or other agency responsible any money owed to the offender or to the offender's representative. The board then deposits the money into an escrow account for the benefit of any victim of crime committed by the offender. After a certain period, usually two to five years, if the victim has not brought civil action against the offender, and the offender has not been convicted, the money deposited into the escrow account will be returned to the offender.

Although the intent of the law is to prevent the offender from profiting from the crime, this law has not resulted in any substantial payments to victims in those states which have this provision. In New York, for example, since this law was passed in 1977, only one escrow account has been established.

e. Penalty assessed for compensation fund. Thirteen states (California, Connecticut, Delaware, Florida, Indiana,

Maryland, Montana, Ohio, Rhode Island, Tennessee, Texas, Virginia, Washington) impose certain costs on persons who have been convicted, fined, or whose bail was forfeited to go into the compensation fund. There are basically two methods used to generate funds. One is to assess a certain percentage of any fine, penalty, or forfeiture to go into the compensation fund. The other is to charge the offender a certain amount depending on the offense or the class of the offense. (See Table 1.)

TABLE 1
SPECIAL FUNDING PROVISIONS OF U.S. VICTIM COMPENSATION PROGRAMS*

California	\$10 (and up to \$10,000) penalty assessment for each conviction resulting in injury or death; otherwise, \$20 for each felony conviction, \$5 for each misdemeanor and for every fine, penalty, and forfeiture imposed and collected. Proceeds deposited in the Indemnity Fund.
Connecticut	\$10 charge imposed against all persons convicted of any crime or certain motor vehicle offenses. Funds are placed in the Criminal Injuries Compensation fund.
Delaware	10 percent additional penalty is levied on every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses; court may also order persons convicted of crimes resulting in personal injury or death to pay a compensating fine. Monies are deposited in the Victim Compensation Fund.

*Based on Table 5.13 from Crime Victim Compensation, by Deborah M. Carrow, U.S. Department of Justice: February 1980.

Florida	\$10 penalty assessment on persons who plead guilty, nolo contendere or who are convicted of any felony or misdemeanor. 5 percent surcharge on fines or bail bonds. Funds placed in the Crimes Compensation Trust Fund.
Indiana	\$15 criminal court cost for all class A misdemeanors and felonies. Funds are deposited in a Violent Crime Victims Compensation Fund.
Maryland	\$10 additional cost imposed on the court costs of all persons convicted of any crime. Motor vehicle offenses are not included. All sums are paid into the state's general funds.
Montana	6 percent of the fines assessed and bails forfeited on all offenses involving violation of a state statute or city ordinances relating to motor vehicles. Funds placed in a crime victims compensation account in the earmarked revenue fund.
Ohio	\$3 addition to court costs for all persons convicted of any offense other than non-moving traffic offenses. Funds are deposited in the reparations special account.
Rhode Island	The following court costs assessed on defendants charged with a felony, misdemeanor, or petty misdemeanor and who plead nolo contendere, guilty or who are convicted: <ul style="list-style-type: none"> (1) \$50 for felonies which carry maximum penalty of 5 years or more imprisonment, (2) \$30 for felonies which carry a maximum penalty of less than 5 years imprisonment, (3) \$10 for all misdemeanors. Money collected deposited into the special indemnity fund for criminal injuries compensation.
Tennessee	\$21 privilege tax on all offenders convicted of a felony; \$10 if convicted by general sessions court. Violations relating to motor vehicle laws are exempt. An offender who is released on parole may be ordered to pay a percentage of his/her income (not to exceed 10 percent). Funds deposited in Criminal Injuries Compensation fund.

Texas	\$15 additional court cost imposed on persons convicted of a felony; \$10 additional court cost imposed on persons convicted of a misdemeanor punishable by imprisonment or fine of over \$200. All funds are deposited in a special Compensation to Victims of Crime Fund.
Virginia	\$15 imposed on all persons convicted of treason, felony, or a class 1 or 2 misdemeanor. All sums deposited in Criminal Injuries Compensation fund.
Washington	\$25 or 10 percent of any penalty or fine (whichever is greater) imposed on any person convicted of a felony or misdemeanor. All sums deposited into the crime victims compensation account.

Generally, the sums collected are to be used for the costs of administering the statute and also for the payment of claims. Although a few states may be able to support their programs almost entirely on the funds generated by the above methods, most of the other states that have this provision have not been able to generate a substantial amount. One problem is that the amount of the funds collected largely depends on the efforts of the agency responsible (usually, the court) to collect the money. Most states use the funds collected as a supplement to their appropriated funds received from the legislature.

SELECTED PROVISIONS OF VICTIM COMPENSATION STATUTES

	ALASKA	CALIFORNIA	CONNECTICUT	DELANARE
Is coverage limited to crimes resulting in injury or death?	YES ^a	YES	YES	YES ^a
How soon after the crime must a claim be filed?	2 yrs.	1 yr.	2 yrs.	1 yr.
Must the crime be reported to the police?	within 5 days	not ascertainable	within 5 days	NO
Which losses are eligible for reimbursement? (a) medical expenses (b) loss of earnings/support (c) pain and suffering (d) funeral/burial expenses (e) other	(a) Yes (b) Yes (c) No (d) Yes (e) atty's fees	(a) Yes (b) Yes (c) No (d) Yes (e) atty's fees prop. damage ^b	(a) Yes (b) Yes (c) No (d) Yes (e) atty's fees	(a) Yes (b) Yes (c) No (d) Yes (e) atty's fees
In death cases, are dependents eligible for award?	YES	YES	YES	YES
Must claimant show financial need?	Board to consider	YES	Board to consider	NO
What is the minimum loss required?	NONE	\$100	\$100	\$25 unless dire hardship
What is the maximum limit on compensation?	\$25,000--victim \$40,000--> 1 depndt	\$10,000	\$10,000	\$10,000
Are reimbursements received by the victim thru collateral sources deducted from the award?	YES	YES	YES	YES
Is the victim ineligible if: (a) related to or living w/ offender (b) the victim was responsible for the crime (c) the victim acted as accomplice	(a) Yes (b) Yes (c) No	(a) No (b) Yes (c) No	(a) Yes (b) Yes (c) No	(a) No (b) Yes (c) Yes
Other provisions:	*Vocational rehab. *limits commercial exploitation of crime *Emergency award up to \$1,500 *Good Samaritan	*Vocational rehab. *Good Samaritan *residency reqmt. *Penalty assessed for comp. fund	*Good Samaritan *Penalty assessed for comp. fund	*Penalty assessed for comp. fund

^aCrimes specified

^bGood Samaritans only

SELECTED PROVISIONS OF VICTIM COMPENSATION STATUTES

	FLORIDA	GEORGIA ^b	HAWAII	ILLINOIS
Is coverage limited to crimes resulting in injury or death?	YES	YES	YES	YES ^a
How soon after the crime must a claim be filed?	1 yr.	18 months	18 months	1 yr. but must file notice of intent w/ Atty. Gen. w/in 6 mos.
Must the crime be reported to the police?	within 72 hours	within 5 days	without undue delay	within 72 hours
Which losses are eligible for reimbursement? (a) medical expenses (b) loss of earnings/support (c) pain and suffering (d) funeral/burial expenses (e) other	(a) Yes (b) Yes (c) No (d) No (e) atty's fees	(a) Yes (b) Yes (c) No (d) Yes (e) property damage	(a) Yes (b) Yes (c) Yes (d) Yes (e) atty's fees, prop. damage ^b	(a) Yes (b) Yes (c) No (d) Yes
In death cases, are dependents eligible for award?	YES	YES	YES	YES
Must claimant show financial need?	YES	Board to consider	NO	NO
What is the minimum loss required?	NONE	NONE	NONE	\$200 unless 65 yrs or older
What is the maximum limit on compensation?	\$10,000	\$5,000	\$10,000	\$15,000
Are reimbursements received by the victim thru collateral sources deducted from the award?	YES	YES	YES	YES
Is the victim ineligible if: (a) related to or living w/ offender (b) the victim was responsible for the crime (c) the victim acted as accomplice	(a) Yes (b) No (c) No	(a) Yes (b) Yes (c) Yes	(a) Yes (b) No (c) No	(a) Yes (b) Yes (c) Yes
Other provisions:	*Good Samaritan *Penalty assessed for comp. fund *Emergency award up to \$500		*Good Samaritan	*Good Samaritan *limits commercial exploitation of crime

^aCrimes specified

^bGood Samaritans only

SELECTED PROVISIONS OF VICTIM COMPENSATION STATUTES

	INDIANA	KANSAS	KENTUCKY	MARYLAND
Is coverage limited to crimes resulting in injury or death?	YES	YES	YES	YES
How soon after the crime must a claim be filed?	90 days; for good cause, 1 year	1 yr.	1 yr.	180 days; for good cause, 2 years.
Must the crime be reported to the police?	within 48 hours	within 72 hours	withing 48 hours	within 48 hours
Which losses are eligible for reimbursement? (a) medical expenses (b) loss of earnings/support (c) pain and suffering (d) funeral/burial expenses (e) other	(a) Yes (b) Yes (c) No (d) Yes (e) atty's fees	(a) Yes (b) Yes (c) No (d) Yes (e) atty's fees	(a) Yes (b) Yes (c) No (d) Yes	(a) Yes (b) Yes (c) No (d) not specified
In death cases, are dependents eligible for award?	YES	YES	YES	YES
Must claimant show financial need?	NO	YES	YES	YES
What is the minimum loss required?	\$100	\$100	\$100 unless 65 yrs. or older	\$100
What is the maximum limit on compensation?	\$10,000	\$10,000	\$15,000	not specified
Are reimbursements received by the victim thru collateral sources deducted from the award?	YES	YES	YES	YES
Is the victim ineligible if: (a) related to or living w/ offender (b) the victim was responsible for the crime (c) the victim acted as accomplice	(a) Yes (b) Yes (c) Yes	(a) Yes (b) Yes (c) Yes	(a) Yes (b) Yes (c) Yes	(a) Yes (b) Yes (c) Yes
Other provisions:	*Good Samaritan *Penalty assessed for comp. fund *Emergency award up to \$500 *residency reqmt.	*Vocational rehab. *Emergency award	*Good Samaritan *Emergency award up to \$500 *limits commercial exploitation of crime *residency reqmt.	*Good Samaritan *Emergency award up to \$1,000 *Penalty assessed for comp. fund

SELECTED PROVISIONS OF VICTIM COMPENSATION STATUTES

	MASSACHUSETTS	MICHIGAN	MINNESOTA	MONTANA
Is coverage limited to crimes resulting in injury or death?	YES	YES	YES	YES
How soon after the crime must a claim be filed?	1 year or within 90 days after death	30 days; 90 days after death; for good cause, 1 yr.	1 yr.	1 yr.
Must the crime be reported to the police?	within 48 hours	within 48 hours	within 5 days	within 72 hours
Which losses are eligible for reimbursement? (a) medical expenses (b) loss of earnings/support (c) pain and suffering (d) funeral/burial expenses (e) other	(a) Yes (b) Yes (c) No (d) No (e) atty's fees	(a) Yes (b) Yes (c) No (d) No	(a) Yes (b) Yes (c) No (d) Yes	(a) Yes (b) Yes (c) No (d) Yes (e) atty's fees
In death cases, are dependents eligible for award?	YES	YES	YES	YES
Must claimant show financial need?	NO	YES	NO	NO
What is the minimum loss required?	\$100	\$100 unless claimant retired or disabled	\$100	NONE
What is the maximum limit on compensation?	\$10,000	\$15,000	\$25,000	\$25,000
Are reimbursements received by the victim thru collateral sources deducted from the award?	YES	YES	YES	YES
Is the victim ineligible if: (a) related to or living w/ offender (b) the victim was responsible for the crime (c) the victim acted as accomplice	(a) Yes (b) Yes (c) Yes	(a) Yes (b) Yes (c) Yes	(a) Yes (b) Yes (c) Yes	(a) Yes (b) Yes (c) Yes
Other provisions:	*Good Samaritan *limits commercial exploitation of crime *filing fee of \$5	*Emergency award up to \$500	*Good Samaritan *limits commercial exploitation of crime	*Good Samaritan *Emergency award *Vocational rehab. *5% of fines, bail forfeited to go to comp. fund

CONTINUED

1 OF 2

SELECTED PROVISIONS OF VICTIM COMPENSATION STATUTES

	NEVADA ^b	NEW JERSEY	NEW YORK	NORTH DAKOTA
Is coverage limited to crimes resulting in injury or death?	YES	YES ^a	YES	YES
How soon after the crime must a claim be filed?	2 yrs.	1 yr.	1 yr.; for good cause, 2 years	1 yr.
Must the crime be reported to the police?	within 5 days	within 3 months	within one week	within 72 hours
Which losses are eligible for reimbursement?				
(a) medical expenses	(a) Yes	(a) Yes	(a) Yes	(a) Yes
(b) loss of earnings/support	(b) Yes	(b) Yes	(b) Yes	(b) Yes
(c) pain and suffering	(c) No	(c) No	(c) No	(c) No
(d) funeral/burial expenses	(d) Yes	(d) Yes	(d) No	(d) Yes
(e) other	(e) atty's fees	(e) atty's fees		(e) atty's fees
In death cases, are dependents eligible for award?	YES	YES	YES	YES
Must claimant show financial need?	Board to consider	NO	YES, unless victim of sex offense	NO
What is the minimum loss required?	NONE	\$100	NONE	\$100
What is the maximum limit on compensation?	\$5,000	\$10,000	\$20,000	\$25,000
Are reimbursements received by the victim thru collateral sources deducted from the award?	Board to consider	Board to consider	YES	YES
Is the victim ineligible if:				
(a) related to or living w/ offender	(a) Yes	(a) Yes	(a) Yes	(a) Yes
(b) the victim was responsible for the crime	(b) Yes	(b) Yes	(b) Yes	(b) Yes
(c) the victim acted as accomplice	(c) Yes	(c) No	(c) Yes	(c) Yes
Other provisions:	*Residency reqmt. *Special section for victims of sexual assault	*Good Samaritan	*Good Samaritan *limits commercial exploitation of crime *Emergency award up to \$500; total amt. of awards not to exceed \$1,500	*Good Samaritan *Emergency award

^aCrimes specified

^bGood Samaritans only

SELECTED PROVISIONS OF VICTIM COMPENSATION STATUTES

	OHIO	OREGON	PENNSYLVANIA	RHODE ISLAND ¹
Is coverage limited to crimes resulting in injury or death?	YES	YES	YES	YES
How soon after the crime must a claim be filed?	1 yr.	6 months	1 year; for good cause, 2 years	2 yrs.
Must the crime be reported to the police?	within 72 hours	within 72 hours	within 72 hours	NO
Which losses are eligible for reimbursement?				
(a) medical expenses	(a) Yes	(a) Yes	(a) Yes	(a) Yes
(b) loss of earnings/support	(b) Yes	(b) Yes	(b) Yes	(b) Yes
(c) pain and suffering	(c) No	(c) No	(c) No	(c) Yes
(d) funeral/burial expenses	(d) Yes	(d) Yes	(d) No	(d) Yes
(e) other	(e) atty's fees		(e) atty's fees	(e) atty's fees
In death cases, are dependents eligible for award?	YES	YES	YES	YES
Must claimant show financial need?	NO	NO	NO	NO
What is the minimum loss required?	NONE	\$250 unless extreme hardship	\$100 unless 60 yrs or older	NONE
What is the maximum limit on compensation?	\$50,000	\$23,000	\$25,000	\$25,000
Are reimbursements received by the victim thru collateral sources deducted from the award?	YES	YES	YES	YES
Is the victim ineligible if:				
(a) related to or living w/ offender	(a) Yes	(a) Yes	(a) Yes	(a) Yes
(b) the victim was responsible for the crime	(b) Yes	(b) Yes	(b) Yes	(b) No
(c) the victim acted as accomplice	(c) Yes	(c) No	(c) Yes	(c) No
Other provisions:	*Good Samaritan *Emergency award *Penalty assessed for comp. fund *Filing fee \$7.50	*Good Samaritan *Emergency award up to \$1,000 *Rehabilitation	*Good Samaritan *Emergency award up to \$1,000 *residency reqmt.	*Good Samaritan *Penalty assessed for comp. fund ¹ Not to take effect until 120 days after enactment of fed. legislation

SELECTED PROVISIONS OF VICTIM COMPENSATION STATUTES

	TENNESSEE	TEXAS	VIRGINIA	WASHINGTON
Is coverage limited to crimes resulting in injury or death?	YES	YES	YES	YES
How soon after the crime must a claim be filed?	1 yr.	180 days	180 days; for good cause, 2 years	1 yr.
Must the crime be reported to the police?	within 48 hours	within 72 hours	within 48 hours	within 72 hours
Which losses are eligible for reimbursement?				
(a) medical expenses	(a) Yes	(a) Yes	(a) Yes	(a) Yes
(b) loss of earnings/support	(b) Yes	(b) Yes	(b) Yes	(b) Yes
(c) pain and suffering	(c) Yes ^c	(c) No	(c) No	(c) No
(d) funeral/burial expenses	(d) Yes	(d) Yes	(d) Yes	(d) Yes
(e) other	(e) atty's fees	(e) atty's fees		
In death cases, are dependents eligible for award?	YES	YES	YES	YES
Must claimant show financial need?	NO	YES	YES	NO
What is the minimum loss required?	\$100 unless justice would not be served	NONE	\$100	NONE
What is the maximum limit on compensation?	\$10,000	\$50,000	\$10,000	No limit specified
Are reimbursements received by the victim thru collateral sources deducted from the award?	YES	YES	YES	YES
Is the victim ineligible if:				
(a) related to or living w/ offender	(a) Yes	(a) Yes	(a) Yes	(a) Yes
(b) the victim was responsible for the crime	(b) Yes	(b) No	(b) Yes	(b) Yes
(c) the victim acted as accomplice	(c) Yes	(c) No	(c) Yes	(c) Yes
Other provisions:	*Good Samaritan *Emergency award up to \$500 *Penalty assessed for comp. fund *limits commercial exploitation of crime	*Good Samaritan *Emergency award up to \$1,500 *Penalty assessed for comp. fund *limits commercial exploitation of crime	*Good Samaritan *Emergency award up to \$1,000 *Penalty assessed for comp. fund *residency reqmt.	*Good Samaritan *Penalty assessed for comp. fund *limits commercial exploitation of crime *Vocational rehab.

*filing fee of \$5
*victims of sex crimes only

*Vocational rehab.
*residency reqmt.

SELECTED PROVISIONS OF VICTIM COMPENSATION STATUTES

	WISCONSIN			
Is coverage limited to crimes resulting in injury or death?	YES ^a			
How soon after the crime must a claim be filed?	2 yrs.			
Must the crime be reported to the police?	within 5 days			
Which losses are eligible for reimbursement? (a) medical expenses (b) loss of earnings/support (c) pain and suffering (d) funeral/burial expenses (e) other	(a) Yes (b) Yes (c) No (d) Yes (e) atty's fees			
In death cases, are dependents eligible for award?	YES			
Must claimant show financial need?	YES			
What is the minimum loss required?	\$200 unless victim of sexual assault			
What is the maximum limit on compensation?	\$10,000			
Are reimbursements received by the victim thru collateral sources deducted from the award?	YES			
Is the victim ineligible if: (a) related to or living w/ offender (b) the victim was responsible for the crime (c) the victim acted as accomplice	(a) Yes (b) Yes (c) Yes			
Other provisions:	*Good Samaritan *Emergency award up to \$500; for funeral expenses, \$2,000			

^aCrimes specified

V. RECOMMENDATIONS

V. RECOMMENDATIONS

A. GENERAL.

The traditional focus of the entire criminal justice process has been on defining and protecting the rights of those accused of committing a crime. Citizens caught up in this process as victims or witnesses are too often taken for granted and treated as mere pawns in the contest between the state and the accused.

The cooperation of citizens is, of course, an essential element of all law enforcement efforts. Without a cooperative citizenry, these efforts are doomed to failure from the outset. Citizens must be willing to call the police, to provide information to them, and to make themselves available and to cooperate whenever they are needed by the prosecutor or the courts. It is becoming increasingly clear, however, that when participation in the criminal justice system becomes too inconvenient, too expensive, too frustrating, too dehumanizing, or too dangerous, citizens eventually refuse to cooperate.

The analyses of the problems faced by victims and witnesses as they interact with the criminal justice system and the present level of services being provided to ameliorate these problems, have indicated that much more can be done by way of reducing the "cost" of being a victim or witness of crime. What is recommended here is a comprehensive approach to rectifying all

or as many of these problems as can be resolved by legislatively establishing a "bill of rights" for victims and witnesses of crime.

B. VICTIM/WITNESS BILL OF RIGHTS.

The proposed victim/witness "bill of rights" is designed to statutorily establish a set of ten rights that inure to the benefit of victims and witnesses of crime, along with a mechanism for ensuring that such rights are not merely illusory, but are conferred upon those individuals who are victims and witnesses of crime without condition or reservation. The intent of the proposed legislation is clear:

In recognition of the civic and moral duty of victims and witnesses of crime to cooperate fully and voluntarily with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this State, . . . [it is the intent of this proposed legislation] to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity; and that the rights extended . . . to victims and witnesses of crime [in this proposed legislation] are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.

The more vociferous complaints lodged against the system have to do with the lack of certain information or the lack of the timeliness of such information. Specifically, victims and witnesses find it most exasperating when they are not given current case status information, e.g., that a trial or hearing has been postponed, or case disposition information, e.g., that the defendant's

felony case was plea bargained to a misdemeanor. Moreover, an equally frustrating situation can occur if they are not informed about the Criminal Injuries Compensation Commission and the fact that they may be eligible to receive witness fees pursuant to state law. Accordingly, four of the ten rights granted in the "bill of rights" have to do with providing victims and witnesses with these kinds of information on a timely basis.

In order that a victim or witness need not be fearful for his own safety because he decides to cooperate with law enforcement officials, two of the rights have to do with requiring that they are protected physically and mentally from harm or intimidation. And, in order to rectify the problem of what seems like interminable delays in court proceedings, victims and witnesses are granted the right to a speedy disposition of their cases in order that the length of time they must endure the stress of their responsibilities is minimized, and the right to have any stolen property expeditiously returned by law enforcement agencies when no longer needed as evidence.

In addition, in order to ensure that employers of victims or witnesses do not unjustly deny their employees pay or other benefits and thus penalize them for participating in the criminal justice process, the right to be provided with employer intercession services is granted. With respect to an employee subpoenaed to testify in any criminal proceeding, it is recommended that such an employee be given the right not to be discharged, docked pay,

or otherwise disciplined on account of his compliance with the subpoena.

Finally, the aforementioned rights are granted to the family members of homicide victims, whether or not they are witnesses or otherwise participate in criminal proceedings.

The statutory scheme being proposed mandates each county to create a victim/witness assistance unit to provide the services required pursuant to the rights granted by the "bill of rights." Separate from this unit the counties may create an advocacy unit to represent the interests of victims/witnesses in general or of particular victims or witnesses. It is recommended that the latter unit assume the advocacy function and work out of a separate office because this function of advocating the interests of victims/witnesses with other agencies may come into conflict with providing services in conjunction with other agencies (such as obtaining status information from the prosecutor's office). Obviously the interests of victims/witnesses would become subordinate and their rights and interests would not be effectively represented if the advocate had to carry out both functions. Of course, if advocacy of victim/witness interests were not the priority of the county, then it has the option of only creating the assistance unit.

Funding for one or both of these units, should both be implemented, would come from the county with reimbursement from the state. The mechanism proposed to ensure that the rights granted by the "bill of rights" are real and not illusory, is one

involving the withholding of state funding for victim/witness assistance programs for counties that fail to carry out duties required under said "bill of rights."

The procedure to be followed involves counties submitting a program plan to the state detailing the kinds and levels of services to be offered. If the plan is approved, the counties would be reimbursed as long as the services were in fact delivered, i.e., that the plan was substantially performed. The specific state agency recommended to handle this aspect of the proposed legislation is the State Law Enforcement Planning Agency (SLEPA), inasmuch as it has the requisite experience in this area, having administered Law Enforcement Assistance Administration (LEAA) monies for a number of years.

Finally, in order to encourage private agencies to also render assistance to victims and witnesses of crime, it is recommended that funding also be used to reimburse programs run by these private agencies, subject to review and approval by SLEPA.

C. OFFENDER ASSESSMENTS.

The funding to support such victim/witness assistance programs to administer services as described in the "bill of rights" is to come from a special indemnity fund made up of monies collected from offenders. This fund is also to be shared with the Criminal Injuries Compensation Commission.

The idea of fining offenders has been implemented in other

states that have adopted crime victim compensation statutes to offset the increasing costs of administering and funding crime victim compensation programs.* These methods are listed in Table 1 on page 63.

The intent behind these methods is to hold the offender personally responsible, to some extent, for paying for the costs of compensating and, in some cases, of assisting the victims of crime. Hawaii is already using the concepts in somewhat limited form. For example, a one dollar assessment is made as part of every traffic fine, with receipts going to the Driver Education Fund of the Judiciary. Additionally, a one dollar underwriter's fee is charged for every no fault insurance policy written in the state, with 50 percent of the receipts given to the Judiciary and 50 percent to the Department of Education to fund driver education. The success of these local assessments provides support for the practicability of a mandatory assessment for all persons convicted in criminal cases.

Accordingly, the Crime Commission recommends that a statute be enacted that requires the courts to assess every person convicted of, or allowed to enter a guilty or nolo contendere (no contest) plea to a crime or violation other than a traffic violation, an amount based on the following schedule:

*To get an idea how much it costs to run such a program, see Table 1, Legislative Appropriations for Claims in Hawaii, and Table 2, Budget for Hawaii Criminal Injuries Compensation Commission, in Appendix A.

(1) Felonies with a maximum authorized imprisonment over five years--\$20.00.

(2) Felonies with a maximum authorized imprisonment not exceeding five years--\$10.00.

(3) Misdemeanors--\$5.00.

(4) Petty misdemeanors and violations--\$3.00.

The assessment shall be mandatory and be in addition to any fine imposed or suspended by the court. The court may only suspend the assessment in cases in which it makes an affirmative finding of exceptional cause that the interests of justice will not be served by the assessment. The funds received shall be divided between the Criminal Injuries Compensation Commission and programs to aid victims and witnesses.

Although such assessments have not been completely successful in providing all the funds necessary for the operation of compensation programs (See Table 2, Awards Collected in Maryland) or, in Hawaii, for driver education, they provide a means by which states have been able to supplement available sources of income. Further, the intent behind these assessments is to make the offender bear some personal financial responsibility in paying for the costs of crime.

TABLE 2
FUNDS COLLECTED IN MARYLAND

<u>FISCAL YEAR</u>	<u>FUNDS COLLECTED</u>	<u>AWARDS PAID</u>
1969	118,949	
1970	135,439	328,000
1971	121,970	614,283
1972	84,254	1,036,605
1973	90,000	893,287
1974	104,964	771,766
1975	118,064	1,577,644
1976	131,522	1,700,589
1977	131,981	1,248,360
1978	268,262	1,468,289

D. LIMITING COMMERCIAL EXPLOITATION OF CRIME.

Commercial exploitation of crime should be limited by requiring any funds obtained from contracts with a person (or the person's assignee or representative) convicted of a crime in Hawaii, with respect to a reenactment of the crime by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of that person's thoughts, feelings, opinions, or emotions regarding the crime, to be deposited in an escrow account for the benefit of any victim of crime committed by the person convicted.

The proposed statute would place the responsibility of

administering the escrow account under the Criminal Injuries Compensation Commission. Because "victim" is defined under the compensation statute as a victim of violent crime* only, the proposed statute would cover only those situations where a violent crime was committed.

Although such a law may be used only infrequently, it demonstrates the resolve of the people and the legislature that crime should not and does not pay.

E. CRIMINAL INJURIES COMPENSATION COMMISSION.

Hawaii has one of the better criminal injuries compensation acts in the country. Benefits paid for bona fide claims have progressed from \$1,000 in 1969 to almost \$320,000 in 1980. Because of the almost phenomenal increase in claims it has processed, to some a measure of its success in aiding victims, the Criminal Injuries Compensation Commission has recently been slowed in its execution of its statutory duties. A number of problems have been identified.

1. Additional staff.

First, the staff of the commission is composed of an executive director, an investigator, and a secretary. The increase in cases processed without an increase in staff has caused the staff to be increasingly overworked. Accordingly, it is the recommendation of the Hawaii Crime Commission that the operating

*Murder, manslaughter, assault, kidnapping, rape, sodomy, sexual abuse.

budget of the Criminal Injuries Compensation Commission be increased to allow the hiring of another person to assist the executive director in carrying out the functions and duties of the commission and to alleviate the heavy workload and backlog of cases now imposed on the staff.

2. Adequate revolving fund.

Second, Hawaii's victim compensation program, like that of most other states, is primarily funded from the state's general revenues. Thus if the funds appropriated for a given year are insufficient to meet all the claims awarded in that year, the applicant who received an award will have to wait until the next legislative session for funds to be appropriated. In Hawaii, this problem is further exacerbated because the legislature must review the compensation awards before funds are appropriated. Thus, according to the Compensation Commission, there are now a hundred victims with closed cases who will have to wait until after the 1981 legislative session to receive the benefit payments awarded. Such delays do little to foster the victim's confidence in the system, or to decrease the trauma and financial hardships inflicted by criminal injuries suffered by the victim.

Accordingly, the Hawaii Crime Commission recommends that the Criminal Injuries Compensation Commission be authorized to establish a revolving fund to allow monetary compensation to be awarded without undue delay to victims whose cases have been favorably closed by the Compensation Commission. To the extent

that an amount can be reasonably estimated, money should be appropriated into the revolving fund to meet all the anticipated claims in the upcoming year. These awards would then be described in the commission's annual report for later review by the legislature.

F. PROPOSED STATUTES.

A BILL FOR AN ACT

RELATING TO RIGHTS OF VICTIMS AND WITNESSES IN CRIMINAL PROCEEDINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

"CHAPTER

RIGHTS OF VICTIMS AND WITNESSES OF CRIME

6 Sec. -1 Legislative intent. In recognition of the
7 civic and moral duty of victims and witnesses of crime to
8 cooperate fully and voluntarily with law enforcement and
9 prosecutorial agencies, and in further recognition of the
10 continuing importance of such citizen cooperation to state
11 and local law enforcement efforts and the general effectiveness
12 and well-being of the criminal justice system of this State,
13 the legislature declares its intent, in this chapter, to ensure
14 that all victims and witnesses of crime are treated with
15 dignity, respect, courtesy, and sensitivity; and that the

1 rights extended in this chapter to victims and witnesses of
2 crime are honored and protected by law enforcement agencies,
3 prosecutors, and judges in a manner no less vigorous than the
4 protections afforded criminal defendants.

5 Sec. -2 Definitions. In this chapter:

- 6 (1) "Crime" means an act or omission that would constitute
7 a crime as defined in section 701-107;
8 (2) "SLEPA" means the state law enforcement planning
9 agency as described in Chapter 844;
10 (3) "Relative" means spouse, parent, grandparent, step-
11 father, stepmother, child, grandchild, brother,
12 sister, half brother, half sister, spouse's parents,
13 or legal guardian;
14 (4) "Victim" means a person against whom a crime has
15 been committed;
16 (5) "Witness" means a person whose testimony or knowledge
17 is desired in any proceeding or investigation by a
18 grand jury or in a criminal investigation, action,
19 prosecution, or proceeding.

20 Sec. -3 Eligibility of victims. A victim has the
21 rights and is eligible for the services under this chapter only
22 if the victim reported the crime to police within five days
23 of its occurrence or discovery, unless he had a reasonable
24

1 excuse not to do so.

2 Sec. -4 Basic bill of rights for victims and witnesses.

3 Victims and witnesses of crime have the following rights:

- 4 (1) To be informed by the police and the prosecuting
- 5 attorney of the final disposition of the case. If
- 6 the crime charged is a felony, the victim shall be
- 7 notified of major developments in the case and when-
- 8 ever the defendant or perpetrator is released from
- 9 custody. The victim shall also be consulted and
- 10 advised about plea bargaining by the prosecutor.
- 11 (2) To be notified that a court proceeding to which they
- 12 have been subpoenaed will not go on as scheduled,
- 13 in order to save the person an unnecessary trip to
- 14 court.
- 15 (3) To receive protection from harm and threats of harm
- 16 arising out of their cooperation with law enforcement
- 17 and prosecution efforts, and to be provided with
- 18 information as to the level of protection available.
- 19 (4) To be informed of financial assistance and other
- 20 social services available as a result of being a
- 21 witness or a victim of crime, including information
- 22 on how to apply for the assistance and services.

- 1 (5) To be informed of the procedure to be followed in
- 2 order to apply for and receive any witness fee to
- 3 which they are entitled.
- 4 (6) To be provided, whenever possible, a secure waiting
- 5 area during court proceedings that does not require
- 6 them to be in close proximity to defendants and
- 7 families and friends of defendants.
- 8 (7) To have any stolen or other personal property expedi-
- 9 tiously returned by law enforcement agencies when no
- 10 longer needed as evidence. If feasible, all such
- 11 property, except weapons, currency, contraband,
- 12 property subject to evidentiary analysis and property
- 13 the ownership of which is disputed, shall be returned
- 14 to the person within ten days of being taken.
- 15 (8) To be provided with appropriate employer intercession
- 16 services to ensure that employers of victims and
- 17 witnesses will cooperate with the criminal justice
- 18 process in order to minimize an employee's loss of
- 19 pay and other benefits resulting from court appearances.
- 20 (9) To be entitled to a speedy disposition of the case
- 21 in which they are involved as a victim or witness in
- 22 order to minimize the length of time they must endure
- 23 the stress of their responsibilities in connection
- 24
- 25

with the matter.

- (10) To have the family members of all homicide victims afforded all of the rights under (1) to (4) and (5) to (9) and analogous services under section -5, whether or not they are witnesses in any criminal proceedings.

Sec. -5 Services for victims and witnesses. There is created within each county a victim/witness assistance unit that shall provide, or arrange for the provision of, the following services to victims and witnesses.

- (1) Court appearance notification services, including cancellation of appearances.
- (2) Victim compensation and social services referrals, including witness fee collection, case-by-case referrals, and public information.
- (3) Escort and other transportation services related to the investigation or prosecution of the case, if necessary or advisable.
- (4) Case progress notification services which may be combined with services under (1).
- (5) Employer intercession services.
- (6) Expedited return of property services.
- (7) Protection services.

- (8) Family support services, including child and other dependent care services.

- (9) Waiting facilities.

Services under (8) and (9) should be arranged in cooperation with the courts to the greatest extent possible.

Sec. -6 Advocacy unit. There may be established in each county an advocacy unit the purpose of which is to allow an attorney or social worker to focus attention on laws, rules, or administrative practices, that have impact upon the processing of cases and that impinge upon victim/witness interests.

Sec. -7 Responsibility for rights and services. (a) Each county is responsible for the enforcement of rights under section -4 and the provision of services under section -5. The courts shall fashion all decisions and orders to enhance the recognition of these rights and the provision of these services, to the extent that they will not conflict with the constitutional rights of the defendant.

(b) The costs of enforcing rights under section -4 and providing services under section -5 shall be paid for by the victim/witness assistance unit but the unit is eligible to receive reimbursement from the State for the costs incurred in providing services under section -5. The costs for providing advocacy services under section -6 shall be paid

1 for by the advocacy unit but the advocacy unit may also apply
 2 for reimbursement from the State for costs incurred in providing
 3 advocacy services. SLEPA shall determine the level of services
 4 for which a victim/witness assistance unit or advocacy unit
 5 may be reimbursed. The victim/witness assistance unit or
 6 advocacy unit shall first submit a program to SLEPA for its
 7 review and approval before filing a claim for reimbursement
 8 with SLEPA. SLEPA may reimburse the victim/witness assistance
 9 unit or advocacy unit on a semiannual basis for services
 10 provided on or after six months after the effective date of this
 11 act.

12 (c) The victim/witness assistance unit and the advocacy
 13 unit shall provide for the implementation of a plan under (d).

14 (d) The victim/witness assistance unit or advocacy unit
 15 shall submit a program plan to SLEPA, if the victim/witness
 16 assistance unit or advocacy unit seeks reimbursement under (b),
 17 for its approval not later than six months after the effective
 18 date of this act. The program plan shall describe the level
 19 of services to victims and witnesses that the victim/witness
 20 assistance unit or advocacy unit intends to provide; the
 21 personnel or agencies responsible for related administrative
 22 programs and individual services; proposed staffing for the
 23 program; proposed education, training, and experience requirements
 24

1 for program staff and the staff of agencies providing related
 2 administrative programs and individual services; the victim/
 3 witness assistance unit's or advocacy unit's budget for imple-
 4 menting the program and other information SLEPA determines to be
 5 necessary for its review. The county prosecutor, the police,
 6 and the courts shall authorize and shall make available to the
 7 person or agency responsible for administering the program all
 8 reports or files, except records or files which are required by
 9 statute to be kept confidential, if the reports or files are
 10 required by the person or agency to carry out program responsibil-
 11 ities. In January of each year, the victim/witness assistance unit
 12 shall submit a report to SLEPA on the operation of the plan,
 13 including the enforcement of rights under section -4 and the
 14 provision of services under section -5. The advocacy unit shall
 15 also submit a report to SLEPA describing its activities for the year.

16 (e) SLEPA may suspend or terminate reimbursement if the
 17 victim/witness assistance unit or advocacy unit fails to comply
 18 with duties under this section. Other state funding to the
 19 victim/witness assistance unit or advocacy unit may also be
 20 delayed at SLEPA's request until the victim/witness assistance
 21 unit or advocacy unit complies with its duties hereunder.

22 Sec. -8 Funding. Funds to reimburse the victim/witness
 23 assistance unit and the advocacy unit for services under this
 24

1 chapter shall come from the special indemnity fund as set forth
2 in § -11. The legislature may appropriate more funds from
3 general revenue funds if there are insufficient funds in the
4 special indemnity fund.

5 Sec. -9 Reimbursement; private agencies. Moneys
6 from the fund may also be used to aid private agencies that
7 provide services for victims or witnesses. A private agency
8 may seek reimbursement from SLEPA by first submitting a program
9 plan to SLEPA for review and approval and by filing a claim
10 for reimbursement with SLEPA. The program plan shall describe
11 the level of services to victims and witnesses the agency
12 provides, the staffing for the program, the agency's budget
13 for administering the program, and other information that SLEPA
14 determines to be necessary for its review. In January of each
15 year, the agency shall submit a report to SLEPA on the operation
16 of the program. For reimbursement purposes, SLEPA shall review
17 and approve the implementation and operation of programs and
18 the annual reports submitted. SLEPA shall determine the level
19 of services for which an agency may be reimbursed.

20 Sec. -10 Intergovernmental cooperation. The county
21 prosecutor, the police, local social service agencies, and courts
22 shall all cooperate with each other to ensure that victims and
23 witnesses of crimes receive the rights and services to which
24

1 they are entitled under this chapter.

2 Sec. -11 Special indemnity fund. (a) There is
3 created a special indemnity fund the proceeds of which are to
4 be divided equally between:

- 5 (1) Criminal injuries compensation commission for its
- 6 compensation fund, and
- 7 (2) State law enforcement planning agency to reimburse
- 8 the counties, other state and private agencies that
- 9 provide victim/witness assistance services.

10 (b) The court shall levy an assessment, in addition to
11 any other penalty or fine against any person who pleads nolo
12 contendere, guilty, or who is found guilty of the commission
13 of any crime or violation other than a traffic violation as
14 follows:

- 15 (1) Where the offense charged is a felony and carries a
- 16 maximum authorized imprisonment over five years,
- 17 \$20;
- 18 (2) Where the offense charged is a felony and carries a
- 19 maximum authorized penalty not exceeding five years,
- 20 \$10;
- 21 (3) Where the offense charged is a misdemeanor, \$5;
- 22 (4) Where the offense charged is a petty misdemeanor or
- 23 violation, \$3.
- 24

S.B. NO.

1 In addition, whenever any person accused of a crime or violation
 2 or appealing a conviction of a crime or violation posts bail
 3 and such bail is forfeited, there shall be deducted from the
 4 proceeds of the forfeited bail a penalty assessment of \$20 or
 5 10 percent of the forfeited bail, whichever is greater. The
 6 penalty assessment is in addition to any other penalty or fine
 7 imposed by law. The penalty assessment shall be collected by
 8 the clerks of the various courts from each person who pleaded
 9 nolo contendere or guilty or who is convicted and all funds
 10 collected shall be paid over to the director of finance for
 11 deposit in the fund established by this section. One dollar
 12 from every assessment collected shall be retained by the clerk
 13 to defray the expenses of collecting and processing these funds.
 14 The court may suspend the assessment if it finds that the
 15 interests of justice would not be served by such payments or
 16 such payments would not be possible for financial reasons.
 17 Under no condition shall a political subdivision be held liable
 18 for the payment of any assessment."

19 SECTION 2. This Act shall take effect upon its approval.

20 INTRODUCED BY: _____

S.B. NO.

A BILL FOR AN ACT

RELATING TO EMPLOYEES AS WITNESSES IN CRIMINAL PROCEEDINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 621, Hawaii Revised Statutes, is
 2 amended by adding a new section to be appropriately designated
 3 and to read as follows:

4 "Sec. 621- Employee not to be disciplined for
 5 testifying. No employer may discharge an employee because the
 6 employee is subpoenaed to testify in any criminal action,
 7 proceeding, or investigation. On or before the first business
 8 day after the receipt of a subpoena to testify, the employee
 9 shall give the employer notice if he or she will have to be
 10 absent from employment because he or she has been subpoenaed
 11 to testify in any criminal action, proceeding, or investigation.
 12 If a person is subpoenaed to testify in any criminal action,
 13 proceeding, or investigation during the course of his or her
 14 employment, the employer shall not decrease or withhold the
 15 employee's pay for any time lost resulting from compliance
 16 with the subpoena. An employer who violates this section may

S.B. NO.

1 be fined not more than \$200 and may be required to make full
2 restitution to the aggrieved employee, including reinstatement
3 and back pay."

4 SECTION 2. New statutory material is underscored.

5 SECTION 3. This Act shall take effect upon its approval.

6 INTRODUCED BY: _____
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

S.B. NO.

A BILL FOR AN ACT

RELATING TO LIMITING COMMERCIAL EXPLOITATION OF CRIME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 351, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "Sec. 351- Limiting commercial exploitation of
5 crime. (a) Every person, firm, corporation, partnership,
6 association, or other legal entity that contracts with an
7 individual person or the representative or assignee of a person
8 who has been convicted of a crime in this State, or found not
9 guilty under Chapter 704, Hawaii Revised Statutes, regarding
10 the reenactment of the crime, by way of a movie, book, news-
11 paper or magazine article, radio or television presentation,
12 or live or recorded entertainment of any kind; or, the
13 expression of the person's thoughts, feelings, opinions, or
14 emotions about the crime, shall submit to the criminal
15 injuries compensation commission a copy of the contract and
16 pay over to the criminal injuries compensation commission any

1 moneys owed to that person or his representatives by virtue of
 2 the contract. After deducting all sums paid to or on behalf
 3 of the victim, the commission shall deposit the moneys in an
 4 escrow account and assign the amount received in each case for
 5 the benefit of any victim of crimes committed by the person.
 6 The moneys shall be paid by the commission to any victim or the
 7 legal representative of a victim if the person is convicted
 8 of the crime or found not guilty under Chapter 704, and the
 9 claimant, within five years of the date of payment to the
 10 commission in the case, brings a civil action in a court of
 11 competent jurisdiction and recovers a money judgment for damages
 12 against the person or his representatives. Notwithstanding any
 13 provision of law for the timely bringing of an action, an action
 14 may be brought pursuant to this section within a five-year
 15 period which begins to run on the date payment is made to the
 16 commission in a case; provided that once the person has been
 17 discharged from his sentence by court order or upon expiration
 18 of sentence, this section shall not apply.

19 When the commission receives a payment pursuant to this
 20 section, it shall attempt to notify any known victims of the
 21 crime and shall publish a notice of that fact in a newspaper
 22 having general circulation in the county where the crime was
 23 committed. The expenses of notification shall be paid from
 24

1 the amount received for that case.

2 When the commission has made payments to or on behalf of
 3 a crime victim to the extent of the payment made, it is
 4 subrogated to any claim or judgment of the victim or his
 5 representative against the offender.

6 Upon a showing by that person convicted of a crime or
 7 found not guilty under Chapter 704, or his representative, that
 8 five years have elapsed from the date of payment to the
 9 commission in the case, and further that no actions are pending
 10 against him pursuant to this section, the commission shall
 11 immediately pay over to him any moneys in the account related
 12 to the case.

13 Notwithstanding any other provision of this section, the
 14 commission shall make payments to a person convicted of a crime
 15 or found not guilty under Chapter 704 from the account of
 16 amounts received with reference to that person upon the order
 17 of a court of competent jurisdiction after a showing by that
 18 person that the moneys shall be used for the reasonable costs
 19 of defense in the appeal of his criminal conviction or in
 20 civil proceeding pursuant to this section and that the person
 21 had insufficient assets, other than funds in the escrow
 22 account and assets which would be claimed as exempt from
 23 execution under state law, to provide for payment of expenses
 24

1 of legal representatives.

2 All moneys received by the commission pursuant to this
3 section shall be deposited in the state general funds, credited
4 to a special account, and are appropriated to the commission
5 for the purposes of this section. The commission shall allocate
6 money in the special account to each case pursuant to this
7 section.

8 Any action taken, whether by way of execution of a power
9 of attorney, creation of corporate or trust entities or other-
10 wise, to defeat the purpose of this section shall be void as
11 against public policy of this State.

12 (b) The failure of a person to pay moneys to the commission
13 in accordance with (a) shall create a debt owing to the commis-
14 sion from that person and shall constitute a preferential lien
15 to the State which may be collected by the commission by civil
16 process."

17 SECTION 2. New statutory material is underscored.

18 SECTION 3. This Act shall take effect upon its approval.

19
20 INTRODUCED BY: _____

APPENDICES

APPENDIX A
TABLE 1
LEGISLATIVE APPROPRIATIONS FOR CLAIMS IN HAWAII

1969	1,000.00
1970	45,906.00
1971	262,157.14
1972	276,028.80
1973	195,921.65
1974*	130,764.29
1975	168,353.33
1976	265,810.79
1977	223,847.13
1978	226,868.55
1979	245,802.36
1980	319,812.67

* In 1974, \$150,000 in addition was appropriated for the compensation fund.

TABLE 2
 BUDGET FOR HAWAII CRIMINAL INJURIES COMPENSATION COMMISSION
 (Operating Expenses)

FY 1968-69	5,688
FY 1969-70	23,544
FY 1971-71	29,640
FY 1971-72*	28,476
FY 1972-73*	29,269
FY 1973-74*	31,667
FY 1974-75*	32,371
FY 1975-76*	43,707
FY 1976-77*	40,707
FY 1977-78*	56,944
FY 1978-79*	61,290
FY 1979-80*	86,357 ¹
FY 1980-81*	68,732

* biennial budget

¹ \$20,000 earmarked for Hilo's Justice for Victims program

APPENDIX B
 SOURCES OF INFORMATION

NATIONAL ORGANIZATIONS ON VICTIM/WITNESS ASSISTANCE:

Commission on Victim/Witness Assistance
 National District Attorneys Association
 666 North Lakeshore Drive
 Chicago, Illinois 60602
 phone: (312) 944-4610

Frank Carrington
 The Crime Victims Legal Advocacy Institute, Inc.
 F & M Building, Suite 9
 210 Laskin Road
 Virginia Beach, Virginia 23451

National Organization of Victim Assistance
 700 North Fairfax Street, Suite 620
 Alexandria, Virginia 22314

National Victim/Witness Resource Center
 108A South Columbus Street
 Alexandria, Virginia 22314
 phone: (703) 549-7953

STATE/COUNTY ORGANIZATIONS:

David A. Lowenberg, Program Administrator
 900 Pima County Courts Building
 111 West Congress
 Tucson, Arizona 85701

Maria Favuzzi, Director
 Victim/Witness Assistance Project
 50 Court Street
 Brooklyn, New York 11210

Marilyn Wagner Culp, Victim Advocate
 Victim Assistance Project
 804 County Court House
 Portland, Oregon 97204

STATE/COUNTY ORGANIZATIONS: (continued)

Christopher T. Bayley, Prosecuting Attorney
Victim Assistance Unit
Office of the Prosecuting Attorney
King County Courthouse
516 Third Avenue
Seattle, Washington 98104
phone: (206) 344-2550

Project Turnaround
Safety Building East, Room 208
821 West State Street
Milwaukee, Wisconsin 53233

APPENDIX C

DIRECTORY OF VICTIM/WITNESS
ASSISTANCE PROGRAMS IN HAWAII

STATE:

Wilfred Pang, Executive Director
Criminal Injuries Compensation Commission
Bethel-Pauahi Building, Room 412
1149 Bethel Street
Honolulu, Hawaii 96813
phone: (808) 548-4680

HONOLULU COUNTY:

Robert Luck, Director
Victim/Witness Kokua Center
1164 Bishop Street, 3rd floor
Honolulu, Hawaii 96813
phone: (808) 523-4158, 523-4843

Paula Chun, Director
Sex Abuse Treatment Center
Kapiolani-Children's Medical Center
1319 Punahou
Honolulu, Hawaii 96826
phone: (808) 947-8511
Hotline: (808) 524-7273

HAWAII COUNTY:

David Yamada, Victim/Witness Counselor
25 Aupuni Street
Hilo, Hawaii 96720
phone: (808) 961-8246

Ginny Aste, Program Coordinator
Sexual Assault Support Service
1190 Waiianuenu Avenue
Hilo, Hawaii 96720
phone: (808) 935-8897
Crisis Line: (808) 935-0677

HAWAII COUNTY: (continued)

Women's Center
145 Ululani Street
Hilo, Hawaii 96720
phone: (808) 961-2737

KAUAI COUNTY:

Kathy Wenner, Director
Kauai Spouse Abuse Center
R.R. 1
Box 295
Kapaa, Hawaii 96746
phone: (808) 822-1748
Hotline: (808) 822-5733

Kauai Women's Center (located on grounds of Lihue United Church)
P.O. Box 308
Lihue, Hawaii 96766
phone: (808) 245-4144

Jeanne Halvosa, Coordinator
Aid to Victims
4280 Rice Street
Lihue, Hawaii 96766
phone: (808) 245-9090

MAUI COUNTY:

Marlene Bertolino, Lehn Hugg
Co-Chairpersons
Women Helping Women
P.O. Box 488
Makawao, Hawaii 96788
phone: (808) 244-7407

APPENDIX D

CITATIONS TO VICTIM COMPENSATION STATUTES

ALASKA	Alaska Stat. §§ 18.67.01 to 18.67.18 (1974 and Supp. 1979)
CALIFORNIA	Cal. Gov't. Code §§ 13959 to 13969.1 (West Supp. 1979)
CONNECTICUT	Conn. Gen. Stat. Ann. §§ 54-201 to 215 (West Supp. 1980)
DELAWARE	Del. Code Ann. tit. 11, §§ 9001 to 9017 (1974)
FLORIDA	Fla. Stat. Ann. §§ 960.01 to .25 (West Supp. 1980)
GEORGIA	Ga. Code Ann. §§ 47-518 to 526 (1979)
HAWAII	Haw. Rev. Stat. §§ 351-1 to 70 (1976 and Supp. 1979)
ILLINOIS	Ill. Ann. Stat. ch. 70, §§ 71 to 90, §§ 401 to 410 (Smith-Hurd Supp. 1980)
INDIANA	Ind. Stat. Ann. §§ 16-7-3.6-1 to 3.6-20 (Burns Supp. 1980)
KANSAS	Kan. Stat. Ann. §§ 74-7301 to 7318 (Supp. 1979)
KENTUCKY	Ky. Rev. Stat. Ann. §§ 346.01 to .19 (Baldwin 1977 and Supp. 1980)
MARYLAND	Md. Ann. Code art. 26A, §§ 1 to 17 (1973 and Supp. 1979)
MASSACHUSETTS	Mass. Gen. Laws Ann. ch. 258A, §§ 1 to 8, ch. 218 § 43D, ch. 231, § 108 (West Supp. 1980)
MICHIGAN	Mich. Comp. Laws Ann. §§ 18.351 to .368 (Supp. 1980)
MINNESOTA	Minn. Stat. Ann. §§ 299B.01 to .17 (West Supp. 1980)
MONTANA	Mont. Rev. Codes Ann. §§ 53-9-101 to 133 (1979)
NEVADA	Nev. Rev. Stat. §§ 217.01 to .27 (1979)

NEW JERSEY N.J. Stat. Ann. §§ 52:4B-1 to 4B-21 (West Supp. 1980)

NEW YORK N.Y. Exec. Law §§ 620 to 635 (McKinney 1972 and Supp. 1979)

NORTH DAKOTA N.D. Cent. Code §§ 65-13-01 to 65-13-20 (Supp. 1979)

OHIO Ohio Rev. Code Ann. §§ 2743.43 to .72 (Baldwin 1978 and Supp. 1979)

OREGON Or. Rev. Stat. §§ 147.005 to .365 (1979)

PENNSYLVANIA Pa. Stat. Ann. tit. 71, §§ 180-7 to 7.17 (Supp. 1980)

RHODE ISLAND R.I. Gen. Laws §§ 12-25-1 to 14 (Supp. 1979)

TENNESSEE Tenn. Code Ann. §§ 23-35-101 to 208, § 40-3207 (Supp. 1979 and 1980)

TEXAS Tex. Rev. Civ. Stat. Ann. art. 8309, §§ 1 to 18 (Vernon Supp. 1980)

VIRGINIA Va. Code §§ 19.2-368.1 to 368.18 (Supp. 1980)

WASHINGTON Wash. Rev. Code Ann. §§ 7.68.010 to .910 (West Supp. 1980)

WISCONSIN Wis. Stat. Ann. §§ 949.01 to .18 (West Supp. 1979)

PART TWO:
VICTIM STUDY

I. INTRODUCTION

I. INTRODUCTION

The current trend has been focusing on victims of crime and their interactions with the criminal justice system. It became the Hawaii Crime Commission's position to follow this trend and conduct research on victims. The Commission recognized that many victims will not participate in court proceedings if they were traumatized by their interactions with the offender and the justice system, and that if they were physically protected and given emotional support, they were more willing to press charges and present evidence.

The purpose of this study is to uncover the problems victims encounter when they are victimized and through their participation in the criminal justice system. Through a series of interviews and public meetings, victims were able to communicate to the Commission their experiences with criminal justice agencies.

II. METHODOLOGY

II. METHODOLOGY

In order to determine what factors influence the experience of a victim participating with the criminal justice system, the investigative division of the Hawaii Crime Commission devised an interview schedule concerning the central agencies victims would have contact with: the police, the prosecutor's office, and the judiciary. The focus of the questionnaire was the perceived treatment of the victim by these agencies and to what extent the victim was kept informed of proceedings and given explanations of the criminal justice process. Also, some socio-economic data was collected to determine if extraneous factors (e.g., race or age) affected the victim's perception. (See Appendix A for a copy of the interview schedule.)

With the cooperation of the various county police departments, the investigators were able to secure lists of persons who had been victims of felonies in the state of Hawaii in the past five years. Most of the subjects selected for interviews had been victimized in 1978 and 1979. It was desirable to have had at least one year lapse between the time of the incident and the Hawaii Crime Commission interview (to allow time for action to be taken in the case), but not more than three years so that the victim's memory would be as accurate as possible.

A total of 235 victim names were received and a concerted

effort was made in each case to contact the victim. Interviews were completed in 83 cases, or 35.3 percent of the beginning population. The great majority of cases not completed (approximately 75 percent of the 152 remaining) was because the victim could not be located or had moved to the mainland. It was not surprising that so many victims had moved on--past victim studies indicate that typical victims of crime, especially violent crime, are young adults who are at a transitory time in their lives.

When contact was made, the investigators would interview the victim at the victim's convenience. With the permission of the victim, the interview was also taped to assure that as much information as possible was gleaned from the interview. The interview data was then transcribed into computer codes and computer data analysis was conducted with the use of the Statistical Package for the Social Sciences. The findings are discussed in section III, subsection A.

To gather more information on the victim's perspective and experiences in the criminal justice system, public forums were held on the islands of Kauai, Maui, and Hawaii and public hearings were held on Oahu. It was felt that these forums and hearings would present an opportunity for those victims who were not interviewed by the investigative section and those who did not report their crimes to the police to air their grievances. Some of the more illustrative testimonies are summarized in section III, subsection B.

III. FINDINGS AND DISCUSSION

III. FINDINGS AND DISCUSSION

A. INTERVIEWS: DATA ANALYSIS.*

As stated above, the purpose of interviewing victims of criminal acts was to determine, from a victim's vantage, what were the strong and weak points of the criminal justice system vis-a-vis the victim. With the results studied, concrete recommendations can be made that will enhance the criminal justice experience, thus encouraging more victims to participate with criminal justice agencies.

The most important variables to be reviewed are the ratings of the three major prosecutorial agencies: the police, the prosecutors, and the courts. These ratings will be cross-tabulated with the independent socio-economic factors and other variables pertaining to the perceived efficiency, courteousness, and functions of each agency. For the purpose of analysis, the type of crime involved was often used as a criterion variable based on the hypothesis that victims of violent crimes may find their participation with the system more traumatic due to the violence involved in the incident itself and having to relive it at each major step. Also, the eventual outcome of the case was seen as

*Although there were 83 successful interviews, only 79 were completed in time to be included in the data set upon which this analysis is based. The remaining four cases will be added as soon as possible.

an important factor, for a "satisfied customer" would probably rate the agencies higher than those who feel the offender "got off" and justice was not served.

Crime type was divided into three categories: violent, which are those crimes where the victim was directly confronted by the offender, i.e., assault and robbery; sexual offenses, such as rape and sodomy; and property crimes. The majority of the respondent population were victims of property offenses:

TABLE 1*

<u>CRIME TYPE</u>	<u>FREQUENCY</u>	<u>PERCENTAGE</u>
Violent	29	36.7%
Sex	2	2.5%
Property	<u>48</u>	<u>60.8%</u>
TOTAL	79	100.0%

* Totals may not add up to 100 percent due to rounding.

Some of the social characteristics of the respondents were significant when cross-tabulated with crime type. Younger people and urban residents were more likely to be victims of a violent crime than were middle-aged people and those who lived in less populated areas (see Tables 2 and 3). There is a slight trend for the occurrence of violence to rise once the respondent is over forty, indicating the vulnerability of older people as prey for offenders.

TABLE 2*

<u>AGE</u>	<u>VIOLENT CRIME VICTIMS</u>	<u>SEX CRIME VICTIMS</u>	<u>PROPERTY CRIME VICTIMS</u>
under 18			1 (2.1%)
18-24	7 (24.1%)		1 (2.1%)
25-29	4 (13.8%)		9 (18.8%)
30-34	2 (6.9%)		5 (10.4%)
35-39	1 (3.4%)		6 (12.5%)
40-49	4 (13.8%)		9 (18.8%)
50-59	6 (20.7%)		7 (14.6%)
60 and over	4 (13.8%)	1 (50.0%)	8 (16.7%)
unknown	1 (3.4%)	1 (50.0%)	2 (4.2%)
TOTAL	29 (100.0%)	2 (100.0%)	48 (100.0%)

* Totals may not add up to 100 percent due to rounding.

TABLE 3*

<u>LOCATION</u>	<u>VIOLENT CRIME VICTIMS</u>	<u>SEX CRIME VICTIMS</u>	<u>PROPERTY CRIME VICTIMS</u>
Urban Oahu	16 (55.2%)	2 (100.0%)	10 (20.8%)
Suburban Oahu	7 (24.1%)		5 (10.4%)
Rural Oahu	1 (3.4%)		3 (6.3%)
Kauai	1 (3.4%)		3 (6.3%)
Maui	3 (10.3%)		15 (31.3%)
Hawaii	1 (3.4%)		12 (25.0%)
TOTAL	29 (100.0%)	2 (100.0%)	48 (100.0%)

* Totals may not add up to 100 percent due to rounding.

Other variables reveal that of the two major ethnic groups questioned, Caucasians and Japanese, Caucasians were victims of violent and sex crimes almost twice as often as Japanese.

TABLE 4*

<u>ETHNICITY</u>	<u>VIOLENT CRIME VICTIMS</u>	<u>SEX CRIME VICTIMS</u>	<u>PROPERTY CRIME VICTIMS</u>	<u>TOTAL</u>
Caucasian	6 (37.5%)	2 (12.5%)	8 (50.0%)	16 (100.0%)
Japanese	9 (27.3%)		24 (72.7%)	33 (100.0%)

* Totals may not add up to 100 percent due to rounding.

It was surprising to note that the female respondents had a slightly higher occurrence of violent and sex crimes than the males did, but this is not to imply that this is reflective of the general population of the state. (A synthesis of national victim surveys show that on the average men are the victims of violent crimes twice as often as women.)

When measuring rates based on subjective experience, it is important to look at what variables may influence the respondent's rating. For example, a police officer may do a first rate job in investigating a case but is unable to apprehend a suspect. The victim is aware the officer put the effort in, but since no arrest is made will rate the police lower on that basis alone. Therefore, the final outcome of each case was tabulated to be used in comparative analysis of agency ratings. The frequency distribution for outcome is as follows:

TABLE 5*

<u>RESULTS</u>	<u>FREQUENCY</u>	<u>PERCENTAGE</u>
Conviction	34	43.0%
No Conviction	6	7.6%
Conviction--Other**	3	3.8%
Juvenile Involved***	7	8.9%
Other****	29	36.7%
TOTAL	79	100.0%

* Totals may not add up to 100 percent due to rounding.

** Includes plea bargaining across cases.

*** Outcome unknown.

**** Includes those still under investigation, pending in the courts, etc.

When outcome is cross-tabulated with type of crime involved, it is shown that convictions were gained in property crimes 10 percent more often than violent crimes. (See Table 6.) Also, 12.5 percent of property crimes were known to involve juvenile offenders, whereas they were known to be involved in only 3.4 percent of the violent crimes. Both these patterns are found in victimization surveys of the general population, but to a larger extent.

TABLE 6*

<u>RESULTS</u>	<u>VIOLENT CRIME VICTIMS</u>	<u>SEX CRIME VICTIMS</u>	<u>PROPERTY CRIME VICTIMS</u>
Conviction	11 (37.9%)	1 (50.0%)	22 (45.8%)
No Conviction	3 (10.3%)		3 (6.3%)
Conviction--Other	1 (3.4%)		2 (4.2%)
Juvenile Involved	1 (3.4%)		6 (12.5%)
Other	13 (44.8%)	1 (50.0%)	15 (31.3%)
TOTAL	29 (100.0%)	2 (100.0%)	48 (100.0%)

* Totals may not add up to 100 percent due to rounding.

For discussion purposes, the ratings of the criminal justice agencies will be presented in the order that the victim would have interactions with them. The police, of course, will be first as the reporting agency, followed by the prosecutors, and

finally the courts. There will be an attrition of the number of respondents at each level since not all cases resulted in an arrest and, if one was made, the case was not always accepted for prosecution.

1. Police.

The law enforcement agency that the state population has the majority of contact with is the police department. It is the entrance point to the criminal justice system for both the victim and the offender. As such, public opinion of the police is of the utmost importance, especially the opinion of victims. The respondents in the Crime Commission survey indicate a strong feeling that the police overall are doing a "good" or "excellent" job.

TABLE 7*

<u>RATINGS</u>	<u>FREQUENCY</u>	<u>PERCENTAGE</u>
Excellent	19	25.1%
Good	46	58.2%
Fair	7	8.9%
Poor	4	5.1%
No Answer	3	3.8%
TOTAL	79	100.0%

* Totals may not add up to 100 percent due to rounding.

Questions pertaining to the treatment the victim received from the police further indicates that these victims were overwhelmingly

pleased with police performance. Over 95 percent of the respondents who answered specific questions about police attitude and service feel their experience with this department was a positive one.

TABLE 8*

	<u>POLICE COURTEOUS?</u>	<u>POLICE INTERESTED?</u>	<u>GOOD JOB BY POLICE?</u>
Yes	70 (95.9%)	72 (97.3%)	70 (94.6%)
No	3 (4.1%)	2 (2.7%)	4 (5.4%)
TOTAL	73 (100.0%)	74 (100.0%)	74 (100.0%)

* Totals may not add up to 100 percent due to rounding.

In more than half the cases, the police arrived at the scene within five minutes of the call for assistance, with a total of 77.2 percent arriving within 15 minutes. Promptness on the part of the police was a factor that was often stated in the Crime Commission's public hearings as one that concerns the victim and the display of promptness was appreciated by the victims interviewed.

Detectives were assigned in 88 percent of the cases, and those victims who did deal with detectives continued to rate them as high as the police officers. The one area where detectives lost a few points was in keeping the victim informed of progress made in the case.

TABLE 9*

<u>DETECTIVE KEEP VICTIM INFORMED?</u>	<u>FREQUENCY</u>	<u>PERCENTAGE</u>
Yes	50	78.1%
No	14	21.9%
TOTAL	64	100.0%

* Totals may not add up to 100 percent due to rounding.

In 82 percent of the cases, an arrest was made and nine times out of ten the arrestee was formally charged with the criminal act.

By cross-tabulating the rating of the police with the type of crime committed, it was discovered that overall the victims of violent crime rated them slightly lower, but not enough to be statistically significant. Therefore, crime type seems to have minimal impact on respondents' feelings towards police performance.

TABLE 10*

<u>RATINGS</u>	<u>VIOLENT CRIME VICTIMS</u>	<u>SEX CRIME VICTIMS</u>	<u>PROPERTY CRIME VICTIMS</u>
Excellent	8 (28.6%)	1 (50.0%)	10 (21.7%)
Good	15 (53.5%)		31 (67.4%)
Fair	2 (7.1%)		5 (10.9%)
Poor	3 (10.7%)	1 (50.0%)	
TOTAL	28 (100.0%)	2 (100.0%)	46 (100.0%)

* Totals may not add up to 100 percent due to rounding.

By comparing final outcome of the case with rating of police, a correlation appears between these two variables. When a conviction was gained, the police were rated high, with no conviction, lower. An interesting note is that of the victims who did rate the police as poor, two-thirds gained a conviction in their case.

TABLE 11*

<u>RATINGS</u>	<u>CONVICTION</u>	<u>NO CONVICTION</u>	<u>CONVICTION --OTHER</u>	<u>JUVENILE INVOLVED</u>
Excellent	9 (26.5%)	1 (20.0%)		2 (28.6%)
Good	23 (67.6%)	1 (20.0%)	3 (100.0%)	4 (57.1%)
Fair		2 (40.0%)		1 (14.3%)
Poor	2 (5.9%)	1 (20.0%)		
TOTAL	34 (100.0%)	5 (100.0%)	3 (100.0%)	7 (100.0%)

* Totals may not add up to 100 percent due to rounding.

Between the categories of crime type, violent crime victims consistently rated the police high, regardless of the ultimate case outcome. Among property crime victims there were no poor ratings for police, with 85 percent rating them "good" or "excellent" overall, 100 percent doing so in cases where a conviction was gained. Two variables in particular were found to have an impact on the respondents' rating of police. The first is whether the detective kept the victim informed of case status, with those not informed rating the police overall lower than the informed victims.

TABLE 12*

	<u>EXCELLENT</u>	<u>GOOD</u>	<u>FAIR</u>	<u>POOR</u>	<u>TOTAL</u>
Yes	12 (24.5%)	33 (67.3%)	3 (6.1%)	1 (2.0%)	49 (100.0%)
No	1 (7.1%)	7 (50.0%)	3 (21.4%)	3 (21.4%)	14 (100.0%)

* Totals may not add up to 100 percent due to rounding.

The second factor to affect the ratings was in the case when an arrest was made, whether the suspect was charged or not. Where the arrestee was released, victims placed their ratings in the good to poor categories with no excellent ratings.

TABLE 13*

	<u>EXCELLENT</u>	<u>GOOD</u>	<u>FAIR</u>	<u>POOR</u>	<u>TOTAL</u>
Yes	14 (23.7%)	38 (64.4%)	5 (8.5%)	2 (3.4%)	59 (100.0%)
No		6 (75.0%)	1 (12.5%)	1 (12.5%)	8 (100.0%)

* Totals may not add up to 100 percent due to rounding.

Generally, the police fared well in the ratings showing the respondent population views them as an effective part of the criminal justice system.

2. Prosecutors.

After an arrest has been made in a case, it is reviewed by the police and prosecutor to determine if there is sufficient evidence and information to proceed. If so, the case then goes

to the prosecutor's office to be prepared for court hearing or trial. Approximately 60 percent of the respondents in the survey did meet with a prosecutor at least once and were asked to rate this agency based on their experience (Table 14):

TABLE 14*

<u>RATINGS</u>	<u>FREQUENCY</u>	<u>PERCENTAGE</u>
Excellent	8	17.4%
Good	24	52.2%
Fair	13	28.2%
Poor	1	2.2%
TOTAL	46	100.0%

* Totals may not add up to 100 percent due to rounding.

The above table reflects that respondents were not as pleased with the overall performance of the prosecutor as they were with the police, with police getting 16 percent more "good" or "excellent" ratings.

Comparing crime type with how the prosecutors were rated shows that victims of violent crimes rated prosecutors slightly higher than victims of property crimes. This could be explained by the more extensive contact violent crime victims have with the prosecutor therefore giving them a closer look at the overall performance of this agency (Table 15).

TABLE 15*
RATE PROSECUTORS BY CRIME TYPE

RATINGS	VIOLENT CRIME VICTIMS	SEX CRIME VICTIMS	PROPERTY CRIME VICTIMS
Excellent	4 (26.6%)	1 (100.0%)	3 (10.0%)
Good	7 (46.6%)		17 (56.7%)
Fair	3 (20.0%)		10 (33.3%)
Poor	1 (6.6%)		
TOTAL	15 (100.0%)	1 (100.0%)	30 (100.0%)

* Totals may not add up to 100 percent due to rounding.

When ratings were cross-tabulated with the final outcome of the case, the results were as expected--those who gained convictions gave the prosecutors higher ratings than those who did not.

TABLE 16*
RATE PROSECUTORS BY OUTCOME**

RATINGS	CONVICTION	NO CONVICTION	CONVICTION --OTHER	JUVENILE INVOLVED
Excellent	16 (20.0%)			
Good	17 (56.7%)	1 (33.3%)	2 (100.0%)	
Fair	7 (23.3%)	1 (33.3%)		1 (100.0%)
Poor		1 (33.3%)		
TOTAL	30 (100.0%)	3 (100.0%)	2 (100.0%)	1 (100.0%)

* Totals may not add up to 100 percent due to rounding.

** Eight of the respondents who rated the prosecutors were not included in this analysis because their cases are still pending, therefore no final outcome had been reached.

A more indepth analysis, using tri-varient cross-tabulation, reveals that the outcome of each case has a greater impact on the respondents' rating of prosecutors than does the type of crime involved. Table 15 shows violent crime victims were more pleased with prosecutors' performance, but by examining this variable in conjunction with final case outcome, property crime victims paint a more favorable picture (Tables 17 and 18).

TABLE 17*
RATE PROSECUTORS BY RESULTS FOR VIOLENT VICTIMS

RATINGS	CONVICTION	NO CONVICTION	CONVICTION --OTHER	JUVENILE INVOLVED
Excellent	3 (33.3%)			1 (33.3%)
Good	3 (33.3%)	1 (50.0%)	1 (100.0%)	2 (66.6%)
Fair	3 (33.3%)			
Poor		1 (50.0%)		
TOTAL	9 (100.0%)	2 (100.0%)	1 (100.0%)	3 (100.0%)

* Totals may not add up to 100 percent due to rounding.

TABLE 18*
RATE PROSECUTORS BY RESULTS FOR PROPERTY VICTIMS

RATINGS	CONVICTION	NO CONVICTION	CONVICTION --OTHER	JUVENILE INVOLVED
Excellent	2 (10.0%)			
Good	14 (70.0%)		1 (100.0%)	
Fair	4 (20.0%)	1 (100.0%)		1 (100.0%)
Poor				
TOTAL	20 (100.0%)	1 (100.0%)	1 (100.0%)	1 (100.0%)

* Totals may not add up to 100 percent due to rounding.

3. Courts.

If a victim is able to participate with the criminal justice system to the fullest extent (i.e., to trial), he or she will be involved with the courts at two levels--the preliminary hearing and the trial. Since less than 20 percent of the Crime Commission's surveyed victims ended up with a trial, when asked to rate courts the preliminary hearing experience was included as a basis to assess general feelings toward the courts. If the responses had been divided, the raw numbers would be too low to come to any significant conclusion.

Of the respondents who rated the courts, the majority did give them "good" or "excellent" scores, but to a lesser extent than the ratings the police and prosecutors received (Table 19).

TABLE 19*
RATING OF ALL AGENCIES

RATINGS	POLICE	PROSECUTORS	COURTS
Excellent	19 (25.0%)	8 (17.4%)	1 (2.9%)
Good	46 (60.5%)	24 (52.2%)	20 (58.8%)
Fair	7 (9.2%)	13 (28.2%)	10 (29.4%)
Poor	4 (5.3%)	1 (2.2%)	3 (8.8%)
TOTAL	76 (100.0%)	46 (100.0%)	34 (100.0%)

* Totals may not add up to 100 percent due to rounding.

When questioned about the treatment the victim received from District and Circuit Court staff and judges, respondents overwhelmingly found these people to be courteous and interested in their cases. Therefore, the tip towards lower ratings than other agencies must be based on other factors.

Table 20 shows that there is not much difference in court ratings based on crime type.

TABLE 20*
RATING OF COURTS BY CRIME TYPE

<u>RATINGS</u>	<u>VIOLENT CRIME VICTIMS</u>	<u>SEX CRIME VICTIMS</u>	<u>PROPERTY CRIME VICTIMS</u>
Excellent			1 (3.8%)
Good	5 (71.4%)		15 (57.7%)
Fair	2 (28.6%)		8 (30.8%)
Poor		1 (100.0%)	2 (7.7%)
TOTAL	7 (100.0%)	1 (100.0%)	26 (100.0%)

* Totals may not add up to 100 percent due to rounding.

Of the 26 cases that had some type of final disposition, not one respondent rated the courts as "excellent," and all those who rated the courts as "poor" had their case end "successfully" with a conviction (Table 21).

TABLE 21*
RATING OF COURTS BY FINAL OUTCOME

<u>RATINGS</u>	<u>CONVICTION</u>	<u>NO CONVICTION</u>	<u>CONVICTION --OTHER</u>	<u>JUVENILE INVOLVED</u>
Excellent				
Good	13 (59.1%)	1 (50.0%)	1 (50.0%)	
Fair	6 (27.3%)	1 (50.0%)	1 (50.0%)	
Poor	3 (13.6%)			
TOTAL	22 (100.0%)	2 (100.0%)	2 (100.0%)	

* Totals may not add up to 100 percent due to rounding.

The three who did rate the courts "poor" had three different reasons for doing so. The first was a rape victim who felt the victim does not have enough say in the courtroom, especially when qualifying answers. The next respondent felt that the whole court system was too complicated, a waste of taxpayers' money. He wants to know why there are so many steps involved (preliminary hearing, grand jury, and trial) and why they couldn't be consolidated into one. Lastly, one victim who lost almost \$20,000 worth of merchandise in a burglary (none was recovered) wanted the convicted offender to pay restitution. When the judge was told the total amount lost, which the victim wanted back, his reply was the figure was not "realistic" and wanted the victim to re-evaluate it. The victim was annoyed by the judge's state-

ment since it was the actual amount he lost and what he wanted back. Restitution was apparently not made part of the sentence, the offender receiving six months jail and five years probation. Again, the victim did not feel the sentence fit the crime.

By reviewing the questions pertaining to court personnel specifically, a pattern emerges of respondents viewing each segment of the judicial process favorably, but when asked to include into their rankings all parts of the judicial system (e.g., waiting time to testify, sentencing, etc.), public opinion is more negative. Therefore, any suggestions to improve the court system in the eyes of the victim must come from a systematic approach to the problem, addressing the whole and not just its parts.

B. PUBLIC FORUMS AND HEARINGS.

The public forums and hearings presented victims' views and experiences with the criminal justice system, which confirmed the Commission's research of the problems one encounters when victimized by crime and by going through the criminal justice system.

The examples of testimony received at these forums and hearings are as follows:

A female jogger testified that as she was jogging one evening she was stopped by a man in a car who asked for the time and later ordered her to get in the car and threatened to kill her if she didn't. She managed to run to a nearby yard where a man was trimming his hedge. The man in the car then drove away.

The jogger did get a description of the car and the license number and notified the police. The suspect was arrested and the matter was taken to court. The jogger indicated that she participated in the trial process, but was never notified of the outcome of her case. She has no idea if the man is out on the street or locked up. She has since moved from the area for fear of meeting the suspect again.

A woman testified that her house was burglarized by a leader and four followers. The police weren't able to collect enough evidence to make any charges, however, the leader of the group was later caught in a sting operation. The leader pleaded guilty and was given probation. The woman's major complaint was that the offender was never sentenced to community service, made to pay for restitution, or never received any punishment for the offense.

A Maui man, owner of a tow company and gas station, testified that he was a victim of burglary. The bucket seats of a car which he had towed and stored at his lot were stolen. The owner of the car held the tow company responsible. There was an out-of-court settlement in which the judge ordered the tow company to pay \$700 for the bucket seats. The victim's major complaint was that he was held responsible for the stolen bucket seats while the car was stored on his lot, moreover, that he was ordered to pay for the loss, and the perpetrator got away free. He commented that maybe "crime does pay."

A Hilo woman testified to her dissatisfaction of criminal justice professionals. She was assaulted by her neighbor and filed a complaint with the police. Several days later she checked with the police department on the developments of her case. She learned that there was no such report and her complaint was never filed. She became very frustrated and went to the prosecutors office, however, since the case was not recorded, there was nothing the prosecutor could do.

A woman testified that she was a victim of strangulation. Her assailant was apprehended and placed in jail. The matter was taken to the grand jury, and everything was set for trial. The defendant's family raised a motion to reduce bail, bail was reduced, and the defendant was let out. The defendant had fled the islands three weeks before the trial date and was never found. The woman is very frustrated that her case was dismissed in such a manner.

An elderly widow testified that a yardman formerly in her employ burned down the servant's quarters because he was fired for not doing a good job. The woman suffered \$20,000 damage to the servant's quarters and the matter was taken to court. The defendant was sentenced to five years probation and ordered to make restitution of \$100 a month. The woman was very upset because she did not want the defendant to be free. However, while on probation, the defendant continued working in the woman's neighborhood and lived in the area. A social worker called upon the woman and explained that the \$100 a month restitution was creating a hardship upon the defendant. The woman explained to the social worker that she wasn't interested in the restitution, which would not cover the total loss of her property anyway, and that she was more interested in keeping the defendant away from her home.

Nine months later the defendant returned to the woman's home and stabbed her seven times. He also tried to commit suicide by slashing his throat. When the ambulance arrived, the defendant was considered in more serious condition than the woman, and he was rushed off to the hospital leaving the woman unattended. The fact that the ambulance rushed off the assailant before the victim upset the woman because she had suffered injuries to her nose, mouth, and chest which left her with one usable nostril and no feeling in her lips.

The case went to the prosecutors, and the woman complained that "those boys" were so young and inexperienced that they were no competition for the private, professional criminal lawyers. Moreover, because the case went to many different prosecutors, she had to repeat her story many times--once to each new prosecutor.

After grand jury proceedings and having her case postponed numerous times, it was finally brought to court. The judge sentenced the defendant to ten years in prison.

After serving seven months of that term, the defendant was let out on furlough to go Christmas shopping. The woman found out about the furlough and became fearful. The news disrupted her living habits in that she had to spend the night at a friend's home for fear of her safety. When the defendant had not returned to prison within the required amount of time, the police department were on the lookout and finally picked up the defendant near the woman's home.

The woman's primary complaint is that she was never notified of the defendant's furlough to go

Christmas shopping, and she questions why he would be allowed such furlough to begin with in that she is put in such a frightening situation every time he is.

APPENDICES

APPENDIX A
VICTIM QUESTIONNAIRE

We have been given your name in confidence as we are conducting a survey with victims who have gone through the criminal justice system from police to court.

If you do not wish your name to be used, please say so and we will just use the information you are willing to give us without identifying.

If you have no objections and you are willing to give an interview, we would like to record your story from the time your case happened until the final ending.

We will stop you from time to time to ask specific questions on the area you just covered.

These tapes will be transcribed by our clerical staff and studied by our researchers.

We will be holding a public hearing in the near future and if you are willing to testify, please say so. If you do not want to testify, say so. If because of the type of case you are involved in and you are willing to testify in secret, this may be arranged.

Please understand that we are not here to criticize any one but to try to better our criminal justice system and we can only do this by talking to persons who were personally involved and their families.

Interviewee _____, would
you object if this interview be recorded or .
(Yes) (No)

This interview is being conducted at _____ on
(Time)

_____ at _____.
(Date) (Place)

Present are _____,
(Name)

_____, and _____,
(Name) (Name)

investigators with the Hawaii Crime Commission and

_____ who has voluntarily
(Interviewee)

consented to this interview.

May I have your full name. _____
(First)

_____, of _____
(Middle) (Last)

_____, date of birth:
(Address)

_____, marital status _____,

Social Security No. _____, and place of
employment: _____.

A. Police

1. How long did it take from the time you called police till the first officer arrived? Estimate time _____
2. Was he courteous? Y__ N__
3. Was he interested in your case? Y__ N__
4. Do you believe he did a good job? Y__ N__
5. Did a senior officer, sergeant or above, come to the scene? Y__ N__
6. Was he efficient and courteous? Y__ N__
7. Was your case ever assigned to a detective? Y__ N__
8. How soon after the first report did the detective contact you?;
(Explain)
9. Were you satisfied with the work the detective did on your case? Y__ N__
10. Did he keep you informed of developments? Y__ N__
11. Was your case always handled by the same detective? Y__ N__
12. Did the police arrest anyone in your case? Y__ N__
13. Was he charged? Y__ N__

Prosecutor

1. Did you ever have any contact with anyone in the Prosecutor's office? Y__ N__
2. From the time your case was first handled by a prosecutor until it was finished, how many prosecutors did you see? Number: _____
3. Were you satisfied with the way the prosecutor handled your case? Y__ N__
4. Was your case taken into preliminary hearing? Y__ N__
5. Was your case taken to grand jury? Y__ N__
6. Was it taken to court? Y__ N__
7. Was there a plea bargain? Y__ N__
8. Were you consulted? Y__ N__
9. If there was a plea bargain, how did you learn about the results? (Explain)
10. Do you feel that a plea bargain is a good thing? (Explain) Y__ N__
11. Any comments on the way the public prosecutor handled your case?

C. Courts

1. If you had a preliminary hearing, did you receive a courteous treatment from the judge? Y__ N__
2. If it is No, explain.
3. How about the District Court staff? Y__ N__
4. If you testified before the grand jury, were you well treated? Y__ N__
5. Were you treated well by the court staff? Y__ N__
6. Any comments on grand jury procedures?

D. Trial

1. Did you receive courteous treatment from the court staff? Y__ N__
2. How many days were you in trial? NO. _____
3. Did you receive fair treatment by the judge? Y__ N__
4. Have you any comments about the judge's action? (Explain)
5. Was your case before a jury? Y__ N__
6. Do you feel that the trial was fair to all persons? Y__ N__

7. Were you satisfied with the results? Y__ N__

8. If No, explain.

9. Do you believe that the sentence was fair? Y__ N__

10. Any comments on the court procedures? (Explain)

11. If you had the same thing happened to you again, would you report it and go through the same process? Y__ N__

12. If No, explain.

13. Do you believe that our criminal justice system takes care of the victim as well as the defendant? Y__ N__

14. Were you informed that you can apply to the State Criminal Injuries Compensation Commission? Y__ N__

15. Were you compensated? Y__ N__

E. Conclusions

1. Did the police recover your property if any were stolen? Y__ N__

2. Have you gotten it back? Y__ N__

3. From the date of the occurrence to the final return of your property, how long was it? (Explain)

4. From the day of the first report to the police until the case finally cleared the courts, how long did this take? (Explain)

5. Do you believe from a victim's standpoint that our criminal justice system should be improved? (Explain) Y__ N__

6. Do you believe that the victim should have the same rights to a speedy trial as a defendant? Y__ N__

7. Were you or any member of your family threatened? Y__ N__

8. Did you report the threat to the police if it happened? Y__ N__

9. If the answer is yes, were you given protection by the police? Y__ N__

10. Do you believe that the state should have a witness and victim protection plan? Y__ N__

11. From your experience in the criminal justice system as a victim, how would you rate the following persons:

	Excellent	Good	Fair	Poor
Police				
Prosecutor				
Courts				

12. Would you testify at a public hearing publicly or would you rather that it be in a private hearing? Public__ Private__

F. Additional Questions with a victim who was a rape victim:

1. Was there ever a woman investigator assigned to your case? Y__ N__
2. Would it have been better in your opinion if you were interviewed by a woman investigator rather than a man? Y__ N__
3. Were you satisfied with all of the agencies that have been set up to help rape victims? If not, explain. Y__ N__
4. As a victim to a rape and a witness who testified through the criminal justice system, are there any suggestions you would like to make that might help better the present system? (Explain)

APPENDIX B

TOTAL POPULATION BY ETHNICITY AND TYPE OF CRIME*

ETHNICITY	TOTAL POP.	VIOLENT CRIME VICTIMS	SEX CRIME VICTIMS	PROPERTY CRIME VICTIMS
Caucasian	16 (20.3%)	6 (20.7%)	2 (100.0%)	8 (16.7%)
Japanese	33 (41.8%)	9 (31.0%)		24 (50.0%)
Chinese	7 (8.9%)	1 (3.4%)		6 (12.5%)
Filipino	3 (3.8%)	3 (10.3%)		
Hawaiian	1 (1.3%)			1 (2.1%)
Korean	3 (3.8%)	2 (6.9%)		1 (2.1%)
Polynesian	1 (1.3%)			1 (2.1%)
Cosmopolitan/ Part-Hawaiian	5 (6.3%)	2 (6.9%)		3 (6.3%)
Other	1 (1.3%)			1 (2.1%)
Unknown	9 (11.4%)	6 (20.7%)		3 (6.3%)
TOTAL	79 (100.0%)	29 (100.0%)	2 (100.0%)	48 (100.0%)

* Totals may not add up to 100 percent due to rounding.

APPENDIX C

TOTAL POPULATION BY AGE AND TYPE OF CRIME*

AGE	TOTAL POP.	VIOLENT CRIME VICTIMS	SEX CRIME VICTIMS	PROPERTY CRIME VICTIMS
under 18	1 (1.3%)			1 (2.1%)
18-24	8 (10.2%)	7 (24.1%)		1 (2.1%)
25-29	13 (16.4%)	4 (13.8%)		9 (18.8%)
30-34	7 (8.9%)	2 (6.9%)		5 (10.4%)
35-39	7 (8.9%)	1 (3.4%)		6 (12.5%)
40-49	13 (16.4%)	4 (13.8%)		9 (18.8%)
50-59	13 (16.4%)	6 (20.7%)		7 (14.6%)
60 and over	13 (16.4%)	4 (13.8%)	1 (50.0%)	8 (16.7%)
unknown	4 (5.1%)	1 (3.4%)	1 (50.0%)	2 (4.2%)
TOTAL	79 (100.0%)	29 (100.0%)	2 (100.0%)	48 (100.0%)

* Totals may not add up to 100 percent due to rounding.

APPENDIX D

TOTAL POPULATION BY SEX AND TYPE OF CRIME*

SEX	TOTAL POP.	VIOLENT CRIME VICTIMS	SEX CRIME VICTIMS	PROPERTY CRIME VICTIMS
Male	53 (67.1%)	20 (69.0%)		33 (68.8%)
Female	26 (32.9%)	9 (31.0%)	2 (100.0%)	15 (31.3%)
TOTAL	79 (100.0%)	29 (100.0%)	2 (100.0%)	48 (100.0%)

* Totals may not add up to 100 percent due to rounding.

APPENDIX E

TOTAL POPULATION BY EMPLOYMENT STATUS AND TYPE OF CRIME *

<u>EMPLOYMENT STATUS</u>	<u>TOTAL POP.</u>	<u>VIOLENT CRIME VICTIMS</u>	<u>SEX CRIME VICTIMS</u>	<u>PROPERTY CRIME VICTIMS</u>
Employed	61 (77.2%)	23 (79.3%)		38 (79.2%)
Unemployed	1 (1.3%)			1 (2.1%)
Student	2 (2.5%)	1 (3.4%)		1 (2.1%)
Housewife	5 (6.3%)		1 (50.0%)	4 (8.3%)
Retired	5 (6.3%)	3 (10.3%)		2 (4.2%)
Unknown	5 (6.3%)	2 (6.9%)	1 (50.0%)	2 (4.2%)
TOTAL	79 (100.0%)	29 (100.0%)	2 (100.0%)	48 (100.0%)

* Totals may not add up to 100 percent due to rounding.

APPENDIX F

TOTAL POPULATION BY LOCATION AND TYPE OF CRIME *

<u>LOCATION</u>	<u>TOTAL POP.</u>	<u>VIOLENT CRIME VICTIMS</u>	<u>SEX CRIME VICTIMS</u>	<u>PROPERTY CRIME VICTIMS</u>
Urban Oahu	28 (35.4%)	16 (55.2%)	2 (100.0%)	10 (20.8%)
Suburban Oahu	12 (15.2%)	7 (24.1%)		5 (10.4%)
Rural Oahu	4 (5.1%)	1 (3.4%)		3 (6.3%)
Kauai	4 (5.1%)	1 (3.4%)		3 (6.3%)
Maui	18 (22.8%)	3 (10.3%)		15 (31.3%)
Hawaii	13 (16.5%)	1 (3.4%)		12 (25.0%)
TOTAL	79 (100.0%)	29 (100.0%)	2 (100.0%)	48 (100.0%)

* Totals may not add up to 100 percent due to rounding.

BIBLIOGRAPHY

BIBLIOGRAPHY

- American Bar Association. Bar Leadership on Victim Witness Assistance. Washington, D.C. 1980.
- Bard, Morton and Dawn Sangrey. The Crime Victim's Book. New York: Basic Books. 1979.
- Cain, Anthony A. and Marjorie Kravitz. Victim/Witness Assistance: A Selected Bibliography. U.S. Dept. of Justice, LEAA. Washington, D.C. June 1978.
- Cannavale, Frank J., Jr. Improving Witness Cooperation. U.S. Dept. of Justice, LEAA. Washington, D.C. August 1976.
- Carrow, Deborah. Crime Victim Compensation. U.S. Dept. of Justice, LEAA. Washington, D.C. February 1980.
- Evaluation/Policy Research Associates, Ltd. Milwaukee County Project Turnaround--Final Evaluation Report--Executive Summary. U.S. Dept. of Justice, LEAA. 1976.
- Garofalo, James and L. Paul Sutton. Compensating Victims of Violent Crime: Potential Costs and Coverage of a National Program. U.S. Dept. of Justice, LEAA. New York: Criminal Justice Research Center. 1977.
- Hoelzel, William E. "A Survey of 27 Victim Compensation Programs," Judicature, v. 63, n. 10:485-496. May 1980.
- Knudten, Richard D. et al. Victims and Witnesses: Their Experiences with the Criminal Justice System. U.S. Dept. of Justice, LEAA. Washington, D.C. 1977.
- National Center for State Courts, Western Regional Office. A Report to the California Judicial Council on Witness Treatment in Criminal Proceedings. April 1978.
- National District Attorneys Association. The Victim Advocate. U.S. Dept. of Justice, LEAA. Chicago. 1978.
- Newton, Anne. "Aid to the Victim, Part 1--Compensation and Restitution," Crime and Delinquency Literature, v. 8, n. 3:368-390. September 1976.
- . "Aid to the Victim, Part 2--Victim Aid Programs," Crime and Delinquency Literature, v. 8, n. 4:508-528. December 1976.

Nicholson, George, Thomas W. Condit and Stuart Greenbaum (eds.).
Forgotten Victims: An Advocate's Anthology. California
District Attorneys Association. No date.

Rosenblum, Robert H. and Carol Holliday Brew. Victim/Witness
Assistance. U.S. Dept. of Justice, LEAA. July 1979.

Viano, Emilio C. Victim/Witness Services: A Review of the Model.
U.S. Dept. of Justice, LEAA. Washington, D.C.
March 1979.

END