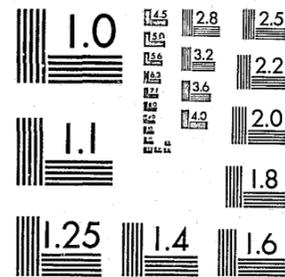


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National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

8/10/83

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A NEW INITIATIVE FOR THE OLD DOMINION
Victim-Witness Assistance Programs in Virginia

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March 26, 1982

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VICTIM-WITNESS ASSISTANCE PROGRAMS

INTRODUCTION

In recent years the emphasis of the criminal justice system has been upon ensuring the protection of the rights of individuals accused of crime. Unfortunately, the criminal justice system, in its legitimate efforts to protect the rights of accused individuals, has forgotten, or worse ignored, the legitimate rights of victims of crime and witnesses to crime. The criminal justice system is only now beginning to recognize these legitimate rights and concerns and respond to them.

In Virginia there are nine programs which focus upon assisting victims and/or witnesses. Five were begun with LEAA/DJCP funds and located in Commonwealth's Attorney's Offices (Virginia Beach, Portsmouth, Richmond, Loudoun County/City of Leesburg, and Rockbridge County/City of Lexington); two programs, begun with local funds and initiatives, are also located in the Commonwealth's Attorney's Office of the jurisdiction (City of Alexandria and Arlington County); two programs, focusing on elderly victims of crime only, have been established in the Sheriff's Department for the City of Chesapeake and in the Sheriff's Department for Henrico County.

What is intended here is to examine the scope of victim and/or witness services currently available in the Commonwealth and make recommendations for meeting the legitimate needs of victims of and witnesses to crime in Virginia.

SECTION I -- Analysis

A. Crime Victim Compensation

Virginia began a program of compensation for victims of crime four years ago. Although its funds are appropriated by the General Assembly, the monies for the Crime Victims Compensation Program come from fees assessed against certain defendants upon conviction and administered by the Division of Crime Victims Compensation of the Virginia Industrial Commission. Thus, the burden of paying for a victim's compensation is placed directly upon an offender. On July 1, 1981, the amount of fees which can be assessed against an offender was increased.

Eligibility for receipt of Crime Victims Compensation occurs if:

1. Victimization occurred in Virginia;
2. Individual was injured while attempting to prevent a crime or apprehend a criminal following commission of a crime (Good Samaritan Clause). Law enforcement officers are not eligible as they're covered by other plans;
3. If the victimization results in death, the victim's surviving spouse or other legal dependents may file a claim;
4. Victim must be a resident of Virginia or, effective 1 July 81, must come from a state that has a reciprocal agreement with Virginia on victim compensation (i.e., a Virginia resident, visiting that state, could file a claim in the reciprocating state because that is location of victimization);
5. Victim must file a report within 48 hours of the victimization with the proper authorities and must fully cooperate in the

investigation and prosecution of the case;

6. Victim can show that an undue financial hardship will be incurred prohibiting said victim from maintaining his/her customary standard of living.

Awards, in Virginia, are granted for:

1. Loss of income because of physical incapacitation;
2. Unreimbursed medical expenses;
3. Expenses related to pregnancy due to forcible rape;
4. Expenses for abortions, during the first trimester, resulting from forcible rape;
5. Expenses for psychiatric treatment due to forcible rape (requires medical record substantiation);
6. Expenses for prosthetic devices which were destroyed or damaged during a victimization or may be needed as a direct result of the victimization.

There is a maximum award of ten thousand dollars; except for victims over 65, all claims are subject to a deductible amount of one hundred dollars.

Additionally, an emergency award of up to one-thousand dollars may be given.

B. Witness System

Currently, the responsibility for the handling and treatment of witnesses rests with the Commonwealth's Attorney's Office. Thus, each Commonwealth's Attorney's Office is responsible for making any necessary referrals to any social or medical provider on behalf of the victim or the witness. Given the existing case loads and staffing levels some prosecutors' offices may have difficulty in dealing with witness needs such as program referral, information on the case, and the like.

In Virginia, prosecutors are encouraged to keep witnesses fully informed about the case in which the witness is involved, but no statutory provision exists which requires specific actions on behalf of the witness by the prosecutor's office.

C. Auxiliary Services to Victims

Many communities in Virginia may not have formal "victim-witness assistance programs", yet most communities have programs which provide assistance to victims of rape, victims of child abuse and family violence, victims of drug and substance abuse, and, perhaps, elderly victims of crime. Other available community, social and/or health services may provide, unknowingly, services to crime victims and/or witnesses without realizing the client is, indeed, a victim of and/or witness to a crime. Yet, because the recipient of the service is not formally identified as a "victim" or a "witness" the community is identified as not providing services to victims and/or witnesses.

In the communities in Virginia which have victim-witness assistance programs the victim-witness coordinator is basically responsible for the brokering of the necessary services for victims or witnesses to existing social and medical services already in the communities. Additionally, there is coordination of community efforts to provide necessary services to victims and witnesses, thus reducing the potential for competition among service providers.

D. Existing Programs

As noted earlier, nine communities in Virginia have either a victim-witness assistance program or a victim assistance program. The basic thrust of these programs is to humanize the adjudicatory process for the victim and the witness by keeping them fully informed of what the stages of a prosecution

are, keeping them fully informed as to the latest information about the case, to keep victims and/or witnesses informed about programs for which they might be eligible in order to aid the victim or witness in "coping" with the criminal justice system, and to reduce the number of unnecessary trips a victim or witness may have to make to court; in short, to humanize the adjudicatory process.

The seven programs located in Commonwealth's Attorneys' Offices focus upon witness management, case information/progress for victims-witnesses, referral to needed social and/or medical services within the community, providing "companions" to victims or witnesses who need such service, and whatever other necessary services on behalf of victims and witness that may be needed.

The two programs located in sheriffs' departments focus upon elderly victims of crime, as also noted earlier. They assist elderly victims who, because of the victimization, may face unique or special problems such as obtaining money for rent, groceries, utilities, or other necessary expenses, or in obtaining necessary medical attention. While the scope of these two programs is limited to elderly victims of crime the needs of such individuals may be more acute and traumatic than the victimization of non-elderly persons.

E. Problems and Gaps

There are two major problems involving victim-witness assistance programs: first, there is a great lack of publicity about victim-witness assistance programs and what services they can offer to victims and witnesses; and, second, there is lack of coordination between victim-witness assistance programs and many of the communities' existing social and medical service providers. Thus, potential "clients" may be lost to a victim-witness assistance program because the public may not be fully informed of the

program's existence or "clients" may be lost because of competition among various community social and medical service providers.

A third problem, or perhaps, a concern, is funding a victim-witness program. In the current "tight" economic situation many communities are now experiencing, it is difficult, at best, to advocate the creation of a new program. Absent federal or state funds, many communities will not be as interested in considering victim-witness assistance programs. However, implementation of a victim-witness assistance program does not necessarily require additional funds, simply a reallocation of current financial and personnel resources to meet the needs of victims and witnesses. Additionally, data gathered so far in Virginia suggest that any additional costs involved in implementing a victim-witness assistance program can be offset by reducing the demand for overtime pay for police officers/law enforcement officers who are scheduled for court appearances on their "days off". Other man-hour savings can be obtained by reducing the amount of time a police/law enforcement officer is required to wait to testify in court. Victim-witness assistance programs are, in addition to providing a needed service to victims and witnesses, effective management tools to enable a prosecutor to more fully utilize his/her resources.

A fourth concern is that many communities may have social and/or medical services that are, in fact, providing services to victims and/or witnesses without ever having been identified as "victim-witness" service programs/agencies. Examples of such programs might be rape/sexual assault centers, child abuse/spouse abuse/family violence programs, drug, substance, and alcohol abuse programs, and programs providing services to elderly persons. A victim-witness program coordinates all service/medical providers within a community and make appropriate referrals on behalf of the victim or witness.

Such coordination, where it exists, reduces the possibility of duplication of existing efforts and possible competition among service providers for the same or similar clients.

Many victims and witnesses simply do not report crimes because they lack confidence in the ability of the authorities to significantly impact the problem. Implementation of a victim-witness assistance program is very clear evidence that the prosecution team (including investigating police officers) have the legitimate interests of the victim and any potential witnesses very much in mind during the prosecution of a criminal case and that this prosecution team will do whatever it can to represent the interests of the victim or the witness during the trial or as a result of the trial/prosecution of the case. Such actions will hopefully reduce the feeling of "malaise" in the general public and assist in rebuilding the confidence of the public in the criminal justice process.

Finally, by emphasizing services to victims and witnesses a community and/or a prosecutor is recognizing the central role victims and witnesses play in the adjudicatory process. By acknowledging and advocating the legitimate interests and concerns of victims of and witnesses to crime, victim/witness assistance programs help restore the victim's sense of decency and integrity and help the witness feel that his/her efforts have been appreciated. Such humanizing of the adjudicatory process by the prosecutors' offices can only improve the quality of justice.

F. Existing Legislation

The only existing legislation referring to services to victims and/or witnesses (aside from setting of witness fees) concerning Crime Victims and/or Compensation are found in the Code of Virginia, Section 19.2-368.

SECTION II -- Benefits of Victim-Witness Assistance Programs

As noted in Section I, many crimes are not reported because the victims of those crimes and/or the witnesses to those crimes do not have confidence in the ability of the criminal justice authorities to have significant impact upon the problem of crime. By implementing a victim and/or witness assistance program, a prosecutor (or the implementing agent) is providing very clear evidence to the citizens he or she serves that the criminal justice system does care about the legitimate interests and rights of the victim and/or witness, and should be viewed as an advocate of these rights.

Additionally, placing emphasis upon services to victims of crime and witnesses to crime, a community (and the prosecutor or other implementing agent) is recognizing the central role victims and witnesses play in the adjudicatory process. By acknowledging and advocating these legitimate rights, interests, and concerns of victims and witnesses, victim and/or witness assistance programs can assist in restoring the victim's sense of decency and integrity and dignity while helping the witness feel that his/her efforts in bringing an offender to justice have been greatly appreciated. In short, such efforts humanize the adjudicatory process and can significantly reduce the hesitancy on the part of victims and/or witnesses to crime to fully cooperate with authorities in the reporting, investigating, and prosecuting of criminal offenses within a community.

The basic benefits to the components of the criminal justice system are listed below. Some, of course, are shared.

Police Benefits

1. Providing police officers with small, business-size cards with information and the phone number of the victim-witness assistance program, which police officers distribute at a crime scene at their discretion, will reduce the "lag time" between a criminal incident and the first contact a victim-witness assistance program makes with the victim and/or witness.
2. Turning the names of victims and witnesses over to a victim-witness assistance program enables police officers to devote more time to other police-related activities as the responsibility for tracking and maintaining contact with victims and witnesses is with the victim-witness assistance program.
3. Coordination of trial dates and availability of police witnesses would reduce the financial demand for overtime pay for police witnesses called to court on their scheduled "day off." While such problems could not be eliminated, it could be significantly reduced in most localities.
4. Coordination of an "on-call" system for police witnesses through the victim-witness assistance program would reduce the time police witnesses would have to wait in court before and after testifying in a case. This system would enable such witnesses to return to their scheduled police duties/responsibilities much more quickly.
5. By reducing the "in court" waiting time for police officers and thus allowing them to return to their assigned duties more quickly, the locality may realize a reduced manpower need in order to keep a

minimum number of officers available for duty assignments. This may result in money saving for the implementing locality.

Prosecution Benefits

1. A victim-witness assistance program enables authorities to quickly establish and maintain a contact with a victim and/or witness. This reduces the chance of a key witness being "lost" thus inhibiting future prosecution.
2. A victim-witness assistance program provides the victim of a crime and/or a witness to a crime with feeling of being more actively involved in the case's progress through the criminal justice system and of having his/her interests represented.
3. A victim-witness assistance program encourages citizen participation in and support of the criminal justice system because such programs recognize the legitimate rights and needs of victims of and/or witnesses to crime.
4. Victim-witness assistance programs promote a better understanding of the criminal justice system, not only on the part of citizens who are helped by the program, but also on the part of other key actors in the criminal justice system. These programs recognize the importance of the victim and/or witness to the adjudicatory process.
5. Victim-witness assistance programs return to the victim, especially, and to the witness an element of dignity which their involuntary participation in the criminal justice system may have removed from them. Additionally, it helps the victim and/or witness retain an element of "control" over the events of his/her life.

Court Benefits

1. Victim-witness assistance programs reduce delay in bringing a case to trial because of the unavailability of witnesses.
2. A victim-witness assistance program provides the victim and/or witness with a feeling of being more actively involved in the case's progress through the criminal justice system and of having his/her interests represented.
3. A victim-witness assistance program encourages citizen participation in and support of the criminal justice system because such programs recognize the legitimate rights and needs of victims of and/or witnesses to crime. This also serves to strengthen existing programs and efforts to deal with crime in a locality by reinforcing a positive attitude toward the courts, in particular, and the criminal justice system, in general. Additionally, more citizens may become less hesitant to "get involved" in the criminal justice system and may result in increasing the reporting of crime, thus increasing the rate of conviction based on the increased reporting of crime.
4. Victim-witness assistance programs provide a better understanding of the criminal justice system, not only on the part of citizenry who are helped by the program, but also on the part of other key actors in the criminal justice

system. The importance of the victim and/or witness to the adjudicatory process is recognized.

5. Victim-witness assistance programs return to the victim, especially, and to the witness, an element of dignity which their involuntary involvement in the criminal justice system may have removed from them. Additionally, it helps the victim and/or the witness retain or regain an element of "control" over the events of his/her life.

Social Benefits

1. Victim-witness assistance programs provide citizens with a better understanding of the criminal justice system and the relationship each of its component parts has to the total adjudicatory process. Also, these programs assist citizens in understanding their individual relationships to the criminal justice system and process.
2. Victim-witness programs recognize the legitimate rights and needs of victims of and witnesses to crime; it humanizes the criminal justice process for those involuntarily caught in it, the victim and the witness.
3. Victim-witness assistance programs aid in promoting cooperation and understanding among the key elements in the criminal justice system-- the police, the courts, the prosecution, and corrections.
4. Victim-witness assistance programs encourage citizen involvement with the criminal justice system, thereby strengthening existing programs and efforts to deal with crime in a locality. Increased citizen

involvement also means less hesitation to "get involved" in the criminal justice system and may result in increasing reports of crime and convictions based on these increased reports.

The above areas basically summarize the benefits to the criminal justice system from implementing and maintaining a victim and/or witness assistance program. In these days of significantly reduced resources, a locality can ill afford to waste or ignore its most valuable resources in bringing criminals to justice -- the victim and the witness. By humanizing the adjudicatory process for these individuals who, as noted earlier, are involuntarily caught in the criminal justice system, the fear and the hesitation to "get involved," to report crime and testify against an individual in court can be significantly reduced. It is, indeed, a very worthwhile investment.

SECTION III - PROGRAM DESIGN

The major activities of victim assistance programs, witness assistance projects, or victim-witness assistance projects can be summarized in the following generic areas:

1. Provide or refer to emergency services;
2. Provide or refer to counseling services;
3. Provide police-related services;
4. Provide court-related services;
5. Provide other direct services.

These generic headings are based on a National Institute of Justice, National Evaluation Program Phase I Report entitled, "Assessment of Victim/Witness Assistance Projects", a publication of the Department of Justice.

In Virginia, the five initial programs, begun with LEAA/DJCP funds, focused attention upon the needs of victims and witnesses. Additionally, these programs were located in Commonwealth's Attorneys' Offices. The job of the victim/witness coordinator is to broker services, or make referrals on behalf of victims and/or witnesses, to existing community social and/or medical service providers. In order to perform this task, the victim/witness coordinator has to be knowledgeable of the kinds of services available in the community and who the providers of these services are. This takes extensive coordination with the existing social and medical service providers, both in the public sector and in the private sector. The two additional victim-witness programs which have begun in Commonwealth's Attorneys' Offices in Arlington County and in the City of Alexandria are following the model of the initial five programs -- concentrating on victims and witnesses. The two programs located in sheriffs' departments (Henrico County and the City of Chesapeake) focus upon victim assistance, only, to elderly victims.

A model for service to victims and witnesses would have the following concerns:

I. Victim-Witness Assistance Program Model

- A. Identify existing social service providers within the community and clients
 - 1. Public sector providers
 - 2. Private sector providers
- B. Identify existing medical service providers within the community and clients
 - 1. Public sector providers
 - 2. Private sector providers
- C. Identify unmet service needs and potential service providers
 - 1. Public sector providers
 - 2. Private sector providers
- D. Identify clientele
- E. Implement services to clients
 - 1. Emergency Services (services brokered)
 - a. Medical
 - b. Shelter/food
 - c. Financial assistance
 - d. Security repair (if applicable)
 - 2. Counseling (services brokered)
 - a. Crises intervention
 - b. Follow-up counseling
 - 3. Police-related services
 - a. Keep victim-witness posted on status of investigation

- b. Assist in return of property
- c. Escort/companion services to police station
- d. Keeping current list of names, addresses and telephone numbers of victims/witnesses
- e. Encourage cooperation with authorities
- 4. Court-related activities
 - a. Witness reception area
 - b. Orientation to court procedures
 - c. Preparation for testimony
 - d. Notification of court schedule
 - e. Employer intervention
 - f. Witness alert
 - g. Transportation to court
 - h. Notification of case disposition
 - i. Escort/companion services to court
 - j. Victim and/or witness protection
 - k. Paralegal/legal counseling
 - l. Child care
- 5. Other direct services
 - a. Assist with victim compensation
 - b. Assist with insurance claims
 - c. Assist with restitution
 - d. Assist in obtaining witness fees

II. The Witness Assistance Program Model

- A. Identification of existing social service providers within community and clients
 - 1. Public sector providers
 - 2. Private sector providers

- B. Identify existing medical service providers within the community and clients
 - 1. Public sector providers
 - 2. Private sector providers
- C. Identify unmet service needs and potential service providers
 - 1. Public sector providers
 - 2. Private sector providers
- D. Identify clients
- E. Implement witness assistance program
 - 1. Court-related services
 - a. Witness reception area
 - b. Witness orientation to court
 - c. Preparation for testimony
 - d. Notification of court schedule
 - e. Witness alert system
 - f. Employer intervention, as needed
 - g. Notification of case disposition
 - h. Transportation to court
 - i. Escort/companion services to court
 - j. Witness protection
 - k. Child care
 - 1. Paralegal/legal counseling
 - 2. Other direct services
 - a. Assistance with insurance claims
 - b. Assistance with restitution (where ordered)
 - c. Assist in obtaining witness fees

- 3. Police-related services
 - a. Check status of investigation
 - b. Escort/companion service to police station
 - c. Tracking of witnesses, keeping current lists of names, addresses, and phone numbers
- 4. Emergency services (services brokered)
 - a. Medical care
 - b. Shelter/food
 - c. Security repair
 - d. Financial assistance
- 5. Counseling (services brokered)
 - a. Crises intervention
 - b. Follow-up counseling

III. The Victim Assistance Program Model

- A. Identification of existing social service providers within the community and clients
 - 1. Public sector providers
 - 2. Private sector providers
- B. Identification of existing medical service providers within the community and clients
 - 1. Public sector providers
 - 2. Private sector providers
- C. Identify service needs which remain unmet and potential service providers
 - 1. Public sector providers
 - 2. Private sector providers
- D. Identify clients

- E. Implement victim assistance program
1. Emergency services
 - a. Medical care
 - b. Shelter/food
 - c. Financial assistance
 - d. Security repair
 2. Counseling
 - a. Crises intervention
 - b. Follow-up counseling
 3. Police-related services
 - a. Check status of investigation
 - b. Ensure prompt property return
 - c. Escort/companion service to police station
 - d. Keep current lists of victims names, addresses, and phone numbers
 - e. Encourage cooperation with authorities
 4. Other direct services
 - a. Assist with insurance claims
 - b. Assist with claims for victims' compensation
 - c. Assist with restitution (where ordered)
 5. Court-related services
 - a. Escort/companion service to court
 - b. Orientation to court procedures
 - c. Preparation for testimony
 - d. Employer intervention
 - e. Transportation to court
 - f. Legal/paralegal counseling
 - g. Victim protection

- h. Notification of case disposition
- i. Witness alert
- j. Notification of case disposition
- k. Child care
- l. Witness reception area.

Each model offers similar services to the clients they serve; the only difference is the emphasis placed upon the specific service and the priority which the program gives that service. Thus, upon these services, successful victim and/or witness assistance programs can be built.

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