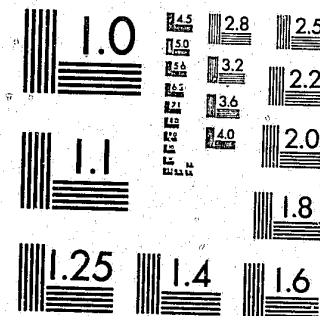


National Criminal Justice Reference Service

ncjrs

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

11/2/84

**STATEMENT
OF
RECOMMENDED
JUDICIAL
PRACTICES**

Adopted by the
**al Conference of the Judiciary
on
Rights of Victims of Crime**

93208

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
Public Domain/NIJ
U.S. Department of Justice

to the National Criminal Justice Reference Service (NCJRS).

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

"The courtroom is the focal point of the entire criminal justice system. The judge who presides over a court becomes not only the final arbiter of each evidentiary and procedural issue, but he also establishes the tone, the pace, and the very nature of the proceedings. Particularly for the victim, the judge is the personification of justice."

President's Task Force Report on Victims of Crime
December 1983, p. 73

held at

The National Judicial College
University of Nevada-Reno
November 29-December 2, 1983

sponsored by

The National Conference of Special Court Judges
American Bar Association
Judicial Administration Division

National Institute of Justice
U.S. Department of Justice

The National Judicial College
American Bar Association

NCJRS

Vol. 4 1984

PREFACE ACQUISITIONS

This document has far-reaching implications for our criminal justice system, springing as it does from a meeting that history may well recognize as a turning point in American jurisprudence.

Recognizing the need for change, judges have accepted their necessary leadership role in meeting the crucial needs of the victims of crime. Participants in the National Conference of the Judiciary on the Rights of Victims of Crime not only have established these precepts for ensuring those rights, they are setting an example in their own courtrooms by testing these recommendations and encouraging their colleagues to do the same.

The National Institute of Justice is proud to have co-sponsored this historic conference and pledges its continuing effort to promote and help refine the conference recommendations. We already are planning a followup conference this year to help the judges make certain that the victims of crime no longer will be the forgotten men and women of the justice system.

James K. Stewart
Director
National Institute of Justice

FOREWORD

The long-standing concern of the judiciary for all persons involved in the judicial process led 102 judges to assemble at the National Judicial College in Reno, Nevada, from November 29 to December 2, 1983. Their objectives were to discuss issues and problems related to the treatment of victims of crime by our criminal justice system and to consider methods that might be employed to minimize the burdens and trauma victims experience when they participate in the adjudication process.

This milestone conference, titled the National Conference of the Judiciary on the Rights of Victims of Crime, was jointly sponsored by the National Conference of Special Court Judges, the National Judicial College, and the National Institute of Justice. It was funded by the National Institute of Justice and the American Bar Association. Although all of these organizations were needed to make the conference a success, it should be noted that the impetus for the meeting came from the judiciary itself. Specifically, members of the National Conference of Special Court Judges of the American Bar Association's Judicial Administration Division worked for more than 2 years to make this conference a reality.

The participants were selected from courts of general jurisdiction and special jurisdiction in all 50 States, the District of Columbia, and Puerto Rico. They were chosen from among the judicial leaders in their State,

Preceding page blank

in the hope that they could spearhead the promulgation of State plans to improve the treatment of victims of crime by our court systems.

After 3½ days of lectures, discussion groups, and, most importantly, conversations with, and presentations by, persons who had been victims of crime, the judge participants voted to adopt the set of Recommended Practices contained in this document.

The judges at the National Conference forthrightly acknowledged the importance of the rights of defendants that are carefully defined in American law. Without intending to reduce these rights in any way, the National Conference of the Judiciary on the Rights of Victims of Crime sought to ensure that the courts reflect more sensitive treatment of victims of crime. Practical experimentation with the Recommended Practices in a variety of courts will be used to refine and improve upon these recommendations. The sponsors and participants hope that the recommended practices adopted by the conference and presented in this pamphlet will focus both judicial and public attention on the way victims of crime are treated by the court system and, ultimately, lead toward an improved system of justice for all our citizens.

Ernest S. Hayeck

Central District Court, Worcester, Massachusetts

Chairman

*National Conference of Special Court Judges
American Bar Association*

Vice Chairman

*Board of Directors
National Judicial College*

INTRODUCTION

Victims of crime often receive serious physical, psychological and financial injuries as a result of their victimization. Victims of and witnesses to crime frequently must take time off from work and make other personal sacrifices, possibly subjecting themselves to risk of intimidation and injury, in the performance of their civic duty. The criminal justice system depends on the willing cooperation of victims and witnesses in order to perform its primary function of protecting all citizens in this country.

We, as trial judges from the United States, the District of Columbia and the Commonwealth of Puerto Rico, have concluded that a number of steps can be taken to help victims of crime and strengthen the protection from harm for all persons in our society. Because the criminal justice system is composed of separate independent agencies, including the police, prosecutors, practicing defense bar, courts and parole boards, all must work together to accomplish this goal. Moreover, some of our recommendations would require new legislation. We have concluded that it is our responsibility as trial judges not only to make improvements within the judicial system, but to take the initiative in coordinating the various elements of the criminal justice system and take the leadership role that is consistent with the doctrine of separation of powers.

We are confident that our recommendations will greatly help victims of and witnesses to crime by im-

proving the necessary information and services provided, afford them additional protection from harm, and create increased respect for the judicial process by improving their participation in the criminal justice system.

We believe that all of this can be accomplished without impairing the constitutional and statutory safeguards appropriately afforded all persons charged with crime. Our goal is not to reduce the rights guaranteed defendants but rather to assure the rights of victims and witnesses.

RECOMMENDATIONS

I. Fair Treatment of Victims and Witnesses

Judges should play a leadership role in ensuring that victims and witnesses are treated with courtesy, respect and fairness.

A. Information About Court Procedures and Facilities

All victims and witnesses in criminal cases should be provided essential information about court procedures and courthouse facilities. Judges should encourage the following practices:

1. That victims and witnesses be provided with information regarding the rights and privileges available to victims and witnesses, and about the physical layout of the courthouse, parking areas, public transportation routes, witness fees, state compensation funds, and other available financial assistance;
2. That court administrators establish reception areas and provide victims and witnesses information about public and community services;

3. That prosecutors explain to victims the criminal justice system insofar as it relates to the victims' cases and what is expected of the victims in the prosecution of the cases.

B. Notice to Victims and Witnesses

Victims and witnesses should be fully informed about the criminal justice proceedings in their cases. Judges should encourage:

1. That the victims should be able to obtain from appropriate court personnel information concerning the status of their cases;
2. That, if requested, prosecutors inform victims of serious crimes that they may obtain, if possible, timely notice of all bail, pre-trial, trial and post-trial hearings, if the victims provide a current address or telephone number;
3. That, if requested, appropriate officials, if possible, give timely notice to victims of serious crimes about the release of the defendant from custody, pre-trial and post-trial, if they provide a current address and phone number;
4. That victims be informed by prosecutors of the disposition of their cases.

C. Special Services

Judges should recognize that victims and witnesses may require special services and support, both material and psychological.

Judges should encourage the following practices:

1. Separate waiting areas for defense and prosecution witnesses;
2. Interpreter and translator services for victims and witnesses while they are in the courthouse;
3. An "on call" system to minimize unnecessary trips to court;
4. The expeditious return of evidence;
5. The availability of special transportation and protection to and from the courthouse when witnesses' safety is a consideration;
6. Informing the public generally of the importance of supporting the witnesses' participation in court proceedings and encouraging the adoption of legislation to accord witnesses the same protection from adverse actions by employers as are customarily given jurors and members of the National Guard;
7. Child care services for witnesses;
8. Crisis intervention, counseling and other support services for victims;
9. Ensuring the victim is not charged for rape examinations or other costs of collecting and preserving evidence;
10. Establishing fair and appropriate witness fees.

D. Restitution

Judges should order restitution in all cases unless there is an articulated reason for not doing so, whether the offender is incarcerated or placed on probation.

II. Victim Participation

Victims shall be allowed to participate and, where appropriate, to give input through the prosecutor or to testify in all stages of judicial proceedings.

A. Participation may include but is not limited to the following:

1. Pre-trial release or bail hearings;
2. The propriety and conditions of diversion;
3. The scheduling of court proceedings;
4. Continuances or delays; judges should state on the record the reason for granting a continuance;
5. Plea and sentence negotiations;
6. Sentencing;
7. Victim-offender mediation in non-violent cases, when appropriate.

B. To assist victim participation:

1. A victim's advisor should be permitted to remain in the courtroom with the victim, but not participate in the judicial proceedings;
2. Victim impact statements prior to sentencing should be encouraged and considered;

3. The victim or the victim's family should be allowed to remain in the courtroom when permitted by law and when it will not interfere with the right of the defendant to a fair trial.

III. Protection

Judges should use their judicial authority to protect victims and witnesses from harassment, threats, intimidation, and harm.

A. This should include:

1. Encouraging that separate waiting rooms be provided for defense and prosecution witnesses;
2. Requiring that bail be conditioned on the defendants' having no access to victims or prosecution witnesses;
3. On showing of good cause, limiting access to the addresses of victims and witnesses;
4. Encouraging that victims and witnesses be advised that if they agree to be interviewed prior to trial by opposing counsel or investigators, they may insist that the interviews be conducted at neutral locations;
5. Encouraging legislation or rules which would require parole boards to advise the judge, the prosecutor, the public and the victim where appropriate, prior to any hearing on the release of an offender of a serious crime.

B. Judges in protecting sensitive victims (minors, victims of sexual abuse, families of homicide victims, the elderly, and the handicapped) may consider the following:

1. Expediting trials of cases involving sensitive victims;
2. Encouraging specially designed or equipped courtrooms to protect sensitive victims, provided that the right of confrontation is not abridged;
3. Permitting the use of videotaped depositions in cases involving sensitive victims, provided that the right of confrontation is not abridged;
4. Allowing sensitive victims to have an individual of their choice accompany them in closed juvenile proceedings, closed criminal proceedings, and in camera proceedings.

IV. Judicial Education

Judges at the trial and appellate levels should be encouraged to participate in training programs dealing with the needs, comforts and legal interests of crime victims.

State, regional and national programs and conferences for judges and non-judges should be held on methods to improve the treatment of victims and witnesses and to develop solutions to the problems suggested.

V. All These Recommended Judicial Practices Are Subject to Existing Rules of Court, Statutes and Constitutional Provisions.

Conclusion

Judges have a role in improving the treatment of victims and witnesses by reason of their position in the American judicial system and their positions in their communities.

Judges believe that fair treatment of victims and witnesses can, consistent with constitutional limitations, be brought about by changes in the law, rules of procedure and legislation. Judges believe that they can influence the actions of others, including officers of the court and public officials, in the treatment of witnesses and victims. Judges also can encourage community support for change in the treatment of witnesses and victims. By their attitude and the attitude of their staff, judges can set examples in the treatment of witnesses and victims.

We urge that our fellow judges exercise their leadership role in improving the treatment of victims and witnesses. Victims of crime should not be victims of the criminal justice system.

Adopted at the Plenary Session of the National Conference of the Judiciary on the Rights of Victims of Crime at The National Judicial College, Reno, Nevada, December 2, 1983.

CONFERENCE PARTICIPANTS

National Conference of the Judiciary
on the Rights of Victims of Crime
Roster of Participant Judges

Alabama

Inge P. Johnson
Circuit Court
Tuscumbia

John M. Karrh
Circuit Court
Tuscaloosa

Alaska

S.J. Buckalew Jr.
Superior Court
Anchorage

John Bosshard III
District Court
Valdez

Arizona

Patricia A. Lamson
Justice Court
Phoenix

William E. Druke
Superior Court
Tucson

Arkansas

Lindsey J. Fairley
Municipal Court
West Memphis

H.A. Taylor
Circuit Court
Pine Bluff

California

LaDoris H. Cordell
Municipal Court
San Jose

James M. Ideman
Superior Court
Los Angeles

Colorado

William F. Dressel
District Court
Fort Collins

William E. Smoke
County Court
Fort Collins

Preceding page blank

Connecticut

John D. Brennan
Superior Court
East Hartford

Frank J. Kinney Jr.
Superior Court
New Haven

Delaware

Vincent A. Bifferato
Superior Court
Wilmington

Robert C. O'Hara
Superior Court
Wilmington

District of Columbia

Jean Dwyer
Federal Magistrate
Washington

Fred B. Ugast
Superior Court
Washington

Florida

Harvey Baxter
County Court
Miami

C. Welborn Daniel
Circuit Court
Tavares

Georgia

Clarence Cooper
Superior Court
Atlanta

James Wesley Head
State Court
Savannah

Hawaii

Robert Won Bae Chang
Circuit Court
Honolulu

Robert G. Klein
District Court
Honolulu

Idaho

A. Marvin Cherin
Magistrate Court
Caldwell

Robert M. Rowett
District Court
Mountain Home

Illinois

Emanuel A. Rissman
Circuit Court
Chicago

Harold W. Sullivan
Circuit Court
Skokie

Indiana

John L. Kellam
Circuit Court
New Castle

James J. Richards
Superior Court
Hammond

Iowa

Margaret S. Brilles
District Court
Davenport

Glenn C. Sedgwick
District Court
Nevada

Kansas

Robert G. Jones
District Court
Olathe

Charles E. Heilman
Municipal Court
El Dorado

Kentucky

J. David Francis
Circuit Court
Bowling Green

W.L. Schmaedecke
District Court
Covington

Louisiana

Salvadore T. Mul'e
Juvenile Court
New Orleans

Thomas C. Wicker, Jr.
District Court
Gretna

Maine

Harriet P. Henry
District Court
North Windham

Ian MacInnes
Superior Court
Bangor

Maryland

Raymond G. Thieme Jr.
Circuit Court
Annapolis

Diane G. Schulte
District Court
Ellicott City

Massachusetts

Francis A. George
District Court
Worcester

Charles R. Albeti
Superior Court
Williamstown

Michigan

Hilda R. Gage
Circuit Court
Pontiac

Fredric A. Grimm Jr.
District Court
Muskegon

Minnesota

Doris Ohlsen Huspeni
District Court
Minneapolis

Stephen L. Maxwell
District Court
St. Paul

Mississippi

Emily V. Baker
County Court
Pascagoula

Michael Sullivan
Chancery Court
Hattiesburg

Missouri

Brendan Ryan
Circuit Court
St. Louis

Richard De. Coster
Circuit Court
Monticello

Montana

Arnold Olsen
District Court
Butte

Janet L. Stevens
County Court
Missoula

Nebraska

Ronald E. Reagan
District Court
Papillion

Janice L. Gradwohl
Municipal Court
Lincoln

Nevada

Seymore Brown
Municipal Court
Las Vegas

Michael E. Fondi
District Court
Carson City

New Hampshire

Richard P. Dunfey
Superior Court
Laconia

Urvile J. Beaumont
District Court
Salem

New Jersey

Lawrence Bilder
Superior Court
Jersey City

Frederick C. Schneider III
Municipal Court
East Brunswick

New Mexico

Stanley F. Frost
District Court
Tucumcari

A. Joseph Alarid
District Court
Albuquerque

New York

Milton Mollen
Supreme Court
Brooklyn

Raymond Harrington
County Court
Mineola

North Carolina

William Z. Wood
Superior Court
Winston-Salem

Hallett S. Ward
District Court
Washington

North Dakota

Gary A. Holum
County Court
Minot

James O'Keefe II
District Court
Grafton

Ohio

C. Ellen Connally
Municipal Court
Cleveland

Joseph E. Cirigliano
Court of Common Pleas
Elyria

Oklahoma

David E. Winslow
District Court
Tulsa

Edward C. Cunningham
County Court
El Reno

Oregon

Joseph N. Cenicerros
District Court
Portland

Phillip J. Roth
Circuit Court
Portland

Pennsylvania

Joseph F. O'Kicki
Court of Common Pleas
Ebensburg

James E. Russo
District Court
Leetsdale

Puerto Rico

Rafael Hernandez-Carrion
Superior Court
Humacao

Antonio Negroni-Cintrón
District Court
Arecibo

Rhode Island

Paul P. Pederzani
District Court
Providence

Joseph F. Rodgers Jr.
Superior Court
Providence

South Carolina

Rodney A. Peebles
Circuit Court
Barnwell

Judy Cone Bridges
Family Court
Charleston

South Dakota

Mary Dell Cody
Magistrate Court
Yankton

Merton B. Tice Jr.
Circuit Court
Rapid City

Tennessee

Robert M. Summitt
Circuit Court
Chattanooga

Ann Pugh
General Sessions Court
Memphis

Texas

B.B. Schraub
District Court
Seguin

Carolyn H. Spears
District Court
San Antonio

Utah

David Sam
District Court
Provo

Arthur G. Christean
Circuit Court
Salt Lake City

Vermont

Robert Grussing III
District Court
Brattleboro

Virginia

William R. Shelton
District Court
Chesterfield

William H. Hodges
Circuit Court
Chesapeake

Washington

George H. Mullins
District Court
Yakima

Liem E. Tuai
Superior Court
Seattle

West Virginia

Jack Kindir
Magistrate Court
Charleston

Callie Tsapis
Circuit Court
New Cumberland

Wisconsin

Fred A. Fink
Circuit Court
Wisconsin Rapids

Andrew L. Somers
Municipal Court
Madison

Wyoming

Alan B. Johnson
District Court
Cheyenne

END