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Outside the Victims System:
Crimes "Not Cleared by Arrest" or "Downgraded".

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Abstract

The most under served victims of crime are individuals who are the subject of crimes not cleared by arrest or those victims whose cases are downgraded from felonies to misdemeanors and remanded to the municipal courts. The former group (approximately one-half of all violent crime victims) is given perfunctory aid by the police at the time of the criminal occurrence, and if injured, they are referred to other short-term service providers such as hospital emergency room personnel for treatment. This survey will show that in New Jersey this group does not benefit from the more in-depth assistance afforded by prosecutor based victim/witness assistance programs (VWAP's) because no offenders are being prosecuted for the crimes (New Jersey seems to be typical of most other states that use the traditional VWAP organization). The latter group of victims of downgraded crimes are similarly prevented from receiving VWAP services since they are largely missing at the municipal court level.

Outside the Victims System:
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The history of contemporary victim assistance in the United States can be characterized by its tendency toward exclusiveness. Miers points out that the first legislated crime victim compensation program in the country (California, 1965) excluded violent crime victims who were not in dire economic need, "One of the schemes preconditions for compensation was that the applicant demonstrate financial need after the same fashion as in the California welfare program" (Miers, p 49). Compensation plans enacted in almost all of the remaining states over the ensuing years have had clauses which exclude many categories of victims for a variety of reasons. Much of this is the result of what Elias

refers to as the "symbolic nature" of government sponsored crime victim programs in the United States. According to Elias, they suffer from a lack of serious commitment on the part of legislators which results in little tangible or substantive assistance. He suggests that compensation programs may amount to 'political placebos' (Elias, 239).

In a previous article this author pointed out that a paucity of funds in almost all state compensation programs limits the numbers and amounts of compensation awards:

In an effort to provide compensation to some victims, almost all VCCB's have established eligibility requirements. Most require that the victim report the crime to the police within a specified period after it occurs, and agree to assist in the prosecution of the offender. This requirement eliminates many domestic violence, child abuse, and sexual assault victims, who either are afraid to report or decide not to prosecute for other pragmatic reasons. Thirty-nine of the 42 states that have compensation programs include a 'family exclusion' clause, which makes many victims living in the same household as the offender ineligible. Crime victims must also be 'innocent' victims (those to whom no contributory fault can be ascribed); in some cases, this requirement leads to rejections of claims by the boards. In most states, serious injury as a result of a criminal act must have occurred, and victims must have incurred significant out-of-pocket expenses in order to

be considered for compensation.... These requirements result in the exclusion of many crime victims and in competition among the remaining victims as to the amounts of their awards.

(Mc Cormack, p.339)".

Many other crime victims are excluded from victim services especially those provided by local prosecutor's offices throughout the nation. These programs, Victim/Witness Assistance Programs (VWAP's), have perhaps the best potential for providing the most requisite and comprehensive services to crime victims. Some of the reasons for exclusion result from the same lack of financial commitment that haunts VCCB's. More customarily, however, they stem from the practical but insensitive policies of prosecutors who view victims mainly as facilitators in the prosecution process. Certain categories of crime victims are not functional in this sense, i.e., (1) victims whose crimes are not cleared by arrest, and (2) victims whose crimes are "downgraded" and remanded to Municipal Courts.

The remainder of this paper focuses on these two categories of "under served victims" in a survey conducted by the New Jersey Law Enforcement Planning Agency (SLEPA) in 1990. The survey indicates that little attention is paid or service provided to individuals in these groups by VWAP's.

Defining the Under Served Victims Class

In January of 1990, the State of New Jersey, with the cooperation of the State Law Enforcement Planning Agency, undertook a survey of the twenty-one county-wide victim/witness assistance coordinators to determine the level of services being provided to what seemed to be two groups of underserved violent crime victims (1). These groups included (1) victims of violent crime whose cases were not cleared by arrest, and (2) victims of violent crime whose cases were originally reported as felonies and later "downgraded" and remanded to municipal courts (county-level victim/witness services are not readily available to victims in either of these groups). As indicated below, the two categories comprise well in excess of one-half of the violent crime victims in the State in any given year.

Scope of the Problem

Violent crime in the State of New Jersey consists of the index offenses of murder, rape, robbery and aggravated assault. There were 47,050 violent crimes reported in the State in 1989 of which 20,702 (44%) were cleared by arrest. The survey indicates that the vast majority of the 26,000 remaining victims (group #1, above), received little, if any, services from the Victim/Witness Assistance Programs (VWAP's) in the county prosecutors offices throughout the state. The survey did not contain data on the number of cases remanded to municipal court (group #2) by the twenty-one prosecutors

offices. They would normally include a significant number of the 20,000 or so cases cleared by the police, since downgrading of charges for a range of violent crimes such as robbery and felonious assault (including many domestic dispute and child abuse cases) are customary. The survey indicates that their exclusion from services provided by VWAP coordinators represents a major defect in the crime victim assistance system, and is an area in which significant support services are required (Schrager, 1990:3).

Survey Methodology

The survey was conducted in the Spring of 1990 as part of an Internship in the Department of Law and Justice at Trenton State College in New Jersey. The researcher, with the assistance of Acting Director of SLEPA developed a questionnaire that was sent to each of the Coordinators of the twenty-one county offices of the State Office of Victim/Witness Advocacy. A cover letter from SLEPA informed each victim/witness coordinator that they would be contacted over the ensuing weeks, and that their responses to the questions on the questionnaire would be taken over the phone. Because of the nature of the inquiry, i.e., telephone conversation versus a pencil and paper process, the responses were wide-ranging and covered areas much broader in scope than the original set of questions intended. The following are the questions sent to respondents:

- (1) How does your office come in contact with victims

of crime in cases where the offenders are not arrested by the police?

- (2) Is there a process that provides information to victim/witness coordinators regarding all crimes committed in their respective jurisdictions whether the offender is apprehended or not?
- (3) How many individuals in this class (victims of crime whose cases are not cleared by arrest) do you provide services to each month?
- (4) What more can be done to assure that victims whose cases are not cleared by arrest are assisted more frequently?
- (5) What level of services are provided to victims whose cases are "downgraded" and remanded to municipal courts?
- (6) What more should be done for victims whose cases are remanded to municipal courts?

Survey Results

Each of the 21 victim/witness assistance coordinators was contacted by phone during March and April of 1990. As indicated previously, some respondents gave multiple answers to the questions posed in the follow-up telephone conversations, and some coordinators were not responsive to all of the questions asked. The following is a compilation of those responses:

- (1) How does your office come in contact with victims

of crime in cases where the offenders are not arrested by the police?

It was clear from the responses to this question that the police are potentially the best source of referral for this category of underserved victims of crime. Sixteen coordinators reported that their primary source of information about this group was the police. Ten indicated that referrals also came from social service agencies, hospitals, the State Division of Youth and Family Services, women's shelters, domestic violence hotlines, rape crisis centers, etc.. Eight claimed referrals from self-help groups or word-of-mouth, and four county coordinators indicated that they obtained their contacts through reading crime reports in the newspapers on a daily basis. The researcher concluded that despite these sources, the informal and ad hoc nature of the references resulted in, "a large population of victims who are not receiving services, who are being overlooked, and who are not being cared for properly" (Schrager, 1990:7).

(2) Is there a process that provides information to victim/witness coordinators regarding all crimes committed in their respective jurisdictions whether the offender is apprehended or not?

The respondents indicated that there was no specific procedure for daily review of all crimes committed in the counties. One coordinator reported that a pilot program was in effect that required a review of all police reports to determine if the victims of crime appeared to need special

assistance. Another reported screening all police reports on a routine basis. Five indicated that they usually received victim referrals regardless of whether the case was currently being prosecuted. Thirteen coordinators stated that they only reviewed prosecutorial screening memos or grand jury review forms, and that it would be unusual for them to be provided with information concerning victims whose cases were not currently being handled by the prosecutors office. After reviewing these data the researcher concluded that many victims whose cases were not cleared by arrest were not being contacted by victim/witness coordinators, and that they may not have been aware of the services available to them. The recommendation was made that "VWAP coordinators review relevant police reports filled out in each municipality, whether or not the cases reach the prosecutors office" (Schrager, 1990:7).

(3) How many individuals in this class (victims of crimes whose cases are not cleared by arrest) do you provide services to each month?

Because official data relative to this victim class is not routinely kept by the victim/witness advocacy offices, the responses in Table #1, below, represent estimates of the frequency of this type of intervention.

Table #1 about here

Table #1

<u>Number of Counties</u>	<u>Monthly Number of "Uncleared" Victim Cases</u>
1	40
1	17
1	14
4	10
1	8
1	6
3	3
2	2
1	1
6	unk
<hr/>	
21	101

When these figures are compared with the New Jersey data on victims of violent crime reported previously, they clearly indicate that much needs to be done to reach this underserved group.

- (4) What more can be done to assure that victims whose cases are not cleared by arrest are assisted on a more regular basis?

Despite the coordinators responses to question #1 above, there was widespread belief among them that police officers, generally, were unaware of the services available to victims through the VWAP's and, as a result, they were not making an appropriate level of referrals. There were strong recommendations that more emphasis be placed on victim assistance in police training academies. The coordinators also felt that among the public there was a similar low level of awareness concerning available victim services, and recommended that current public service advertising be expanded and that a broader approach to information dissemination be developed. Also, because their cases are diverted out of the adult criminal justice system, many coordinators were concerned that juvenile victims were not receiving an adequate level of services. Finally, they stressed the need for more funding and staffing if any improvement in the scope or quality of services was to be expected.

- (5) What level of services are provided to victims whose cases are "downgraded" and remanded to

municipal courts?

The data indicates that once a case is filed with the county prosecutor's office, some follow-up procedure generally takes effect even when the charges are downgraded and the case is remanded to a municipal court. This does not necessarily mean, however, that follow-up services are provided. Fourteen coordinators reported that "they would send a notification letter to the victim [about the downgrading], and would still provide services to the victim if requested, but the case would not be defined as a priority any more" (Schrager, 1990:10). Two of the VWAP coordinators reported providing assistance to the victim in challenging the prosecutors decision to downgrade the offense; four provided notifications to the victim regarding the downgrading either by letter or through local police, and two of the four would make referrals but not provide services any longer if a case were remanded to municipal court.

(6) What more should be done for victims whose cases are remanded to municipal courts?

Once again a majority of coordinators (twelve of them in this case) felt that having advocates in the municipal courts would be highly beneficial. Some of them indicated that additional staffing and funds would be needed to broaden the scope of their services in this area. Five felt that having a victims advocate at the police level (or a police officer specifically assigned to assess victim needs) would help assure that adequate services were provided. Three others

repeated previous suggestions that the police be more thoroughly trained concerning the importance of victims in attaining the goals of the criminal justice system (Schrager, 1990:11).

Discussion

It appears from the data collected in this survey that despite the well intentioned efforts of victim/witness coordinators in the State and the informal infrastructure of private victim assistance professionals and volunteers, many of the violent crime victims are not receiving adequate victim services. The reasons are complex and include a lack of serious concern for victims of crime at the national level as reflected by the current level of funding for the Office for Victims of Crime. These funds, plus state generated tax and penalty assessment revenues support all of the crime victim assistance efforts at the national and state levels, and are inadequate to meet existing needs. It has been pointed out that, "The plans [victim programs] often seem to represent symbolic policies with little tangible or substantive assistance.... The public lauds its politicians for their concern, hoping it will never need assistance, yet, if it ever should, it will effectively find little or no hope forthcoming" (Elias, 1986:239).

The manning levels at the offices of victim/witness advocacy reflect the symbolic nature of their role; overwhelmed by the task of assisting victims of potentially indictable offenses, the coordinators are unable to reach out

to the majority of under served violent crime victims whose cases are not cleared or whose cases have been remanded.

Another dimension of the symbolic nature of the VWAP's is reflected in many of the coordinators responses to the current State survey. New Jersey's program, as most victim/witness assistance programs nationally, are utilitarian or "system oriented" and reflect the philosophy that what is good for the system is good for the victim. Elias points out that,

For all their calls for greater victim participation, officials usually do quite well with little victim (save symbolic) involvement at all. Within criminal justice, officials often consider victims as a threat or interference in their activities. And victim programs may be even more threatening, unless tailored to official objectives. Witness management schemes, for example, may promote official goals, but expensive victim assistance programs may drain scarce resources and thus be resisted.... This suggests that only victim advocacy carefully tailored to parallel official goals will be likely to be successful, even if such schemes do not serve victim interests very well or perhaps at all. (Elias, 1986:238).

The predominant system orientation of victim/witness advocacy in the State of New Jersey is currently being reviewed. A pilot project in Union County developed to reach out to all victims of crime in the area by reviewing police crime

reports is a major initiative towards improving victim services, and will be assessed upon completion. Additionally, efforts are being made to give higher priority to the plight of victims of crime whose cases are remanded to municipal courts. Many jurisdictions (Philadelphia, Pa. is a good case in point) have been very successful at developing groups of volunteer victim advocates to work with victims in local courts. This is an area in which additional pilot projects might be appropriate. The Office of Victim/Witness Advocacy should also pursue the institutionalization of the process used in some countries which allow victim input into the prosecutorial decision to downgrading charges (Gloucester and Sussex Counties). This kind of empowerment would provide a sense of control for victims that is sorely needed in the system. Much responsibility for the success or failure of these and other victim oriented initiatives lies with local prosecutors. They will be successful to the degree that he/she views the victim as a client to be served rather than as a resource to be utilized.

Finally, coordination of State victim services in New Jersey is complicated by political and "turf" considerations. Despite the fact that the Attorney General is the highest ranking law enforcement officer in the State, and that the Chief of the Office of Victim/Witness Advocacy directly represents him, county prosecutors and municipal police chiefs are virtually autonomous. The Chief of the Office of Victim/Witness Advocacy appoints the County Victim/Witness

Coordinators and has a mandate, in consultation with the prosecutors, to promulgate victim standards for law enforcement agencies. Coordinating these efforts appears, from the survey data, to be particularly difficult and complex, and should perhaps be reviewed.

Some of the recommendations in the previous paragraph will, if implemented, make the victim/witness services in the prosecutor's offices more responsive to the needs of crime victims, particularly those in the underserved category. The survey indicates that a greater effort must be made with the local police agencies to expand their cooperation in the victims area.

Conclusions

As with almost all victim/witness assistance programs, nationally, the Victim/Witness Advocacy Program in the State replicates the prototypes established by the National District Attorneys Association in 1975. Many have suffered, and continue to suffer, from the same problems. Since the current structure in the State is relatively new, having been established by legislation in 1986, an effort at technology transfer - finding out what is new and innovative, and what works and does not, in other jurisdictions - should be given high priority. State-wide efforts on behalf of violent crime victims since 1986 have been commendable, and the self generated initiatives on the part of the Office of Victim/Witness Advocacy should maintain the States current

position in the vanguard of the victims movement.

End Note

The research project was conducted by Steven Schrager, an Intern in the Department of Law and Justice at Trenton State College under the author's supervision. The title of the project was, "Survey and Discussion with Personnel of the County Offices of Victim/Witness Advocacy Regarding Underserved Victims". The project was completed and submitted to the State Law Enforcement Planning Agency in May, 1990.

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