

CRIME VICTIMS' SERVICES DIVISION \* CRIME VICTIMS' RIGHTS SECTION  
TASK FORCE ON VICTIMS' RIGHTS ENFORCEMENT  
MEETING MINUTES



APPROVED

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Date: January 23, 2012

Committee: **Task Force on Victims' Rights Enforcement**

Attendees: Kim Larson, Doug Hanson, Thomas Hunt, Dan Brown, John Stein, Chanpone Sinlapasai, Seantel Heisel, Debra Bridges, Rosemary Brewer, Mark Cadotte, Cynthia Stinson, Aaron Felton, Rod Underhill, Christine Herrman, Steve Doell, Tim Loewen, Fred Boss

Teleconference Attendees: Kimberly Dailey, Shawn Wiley, Scott Taylor, Mary Claire Buckley, Eric Davenport

Staff Attendees: Shirley Didier, Ronelle Shankle, Rozlyn Finrock (*note taker*)

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### Introductions and Updates – Cynthia Stinson

- New Representatives:
  - OCVLC – Rosemary Brewer, executive director
  - Portland Police Bureau – Lt. Thomas Hunt
- Recognition of Task Force member Gloria Wiggins from Catholic Charities who passed away on December 1, 2011. The Task Force supports a resolution to honor Gloria's work and her contributions to protection and advocacy for victims.
- **Review of minutes from October 24, 2011**
- Clarifications asked regarding information collected by PSU as they invited input for the new needs assessment (page 2 of the October minutes). Maybe ask Debi Elliot for additional information.
- Will be approved by email once clarification is made.

### Law Enforcement – DVD – Notification of Victims' Rights – Chief Dan Brown, Shirley Didier

The Task Force previewed the new Law Enforcement "roll call" DVD on victims' rights notification. CVSD has been working with Portland Police Bureau on the production of the DVD to inform/remind law enforcement agencies about the victims' rights notification pocket cards and availability through CVSD. John Kroger narrates the 1 minute/25 second DVD. Distribution plan is to roll out to DA/VAPs, first line of contact with their law enforcement agencies. The DVD will be presented at the quarterly teleconference with VAPs in February and then will be on website for anyone to view. Question was asked if VAPs do the distribution will we have good coverage? Depends on relationships with LE, some DA/VAPs may feel they don't have the authority to make the presentation and may have to have conversation with the DA. Will send link to website to LE agencies where connections with VAPs may not be as strong – perhaps through the law enforcement associations.

- For next meeting CVSD can pull numbers of pocket cards distributed to each agency.

### Immigrant Crime Victims' Rights Subcommittee – Chanpone Sinlapasai

- Update and next steps: Thank you for approving the workgroup to be a permanent sub-committee. The next meeting is this Thursday, January 26 in Portland (at NCVLI).
- Primary goal is to create a mission statement, the focus of the subcommittee is to make sure every immigrant victims' rights are covered and protected at the state level.
- No funding changes at Catholic Charities at this time. (As noted in the last meeting, federal funds were not renewed for the trafficking social and legal services program). Current budget will only last for part of this year. This is a time where more victims of Human Trafficking are coming forward.

### Victims' Rights Request Form (VRRF or VRN) – Shirley Didier, Aaron Felton

- Review early draft of new form – background, use of citations, using legal language, adding rights. In looking at various county forms, found that in some VRRFs, rights had been added or deleted. Some of

the rights that needed to be requested were actually not on the form and some counties have mixed rights with services. Cannot just waive rights, a victim always has the right to come back and request rights again. When VAPs report rights requested by victims (under UA grant reporting), there were counties reporting on rights not listed on their forms.

- All victims should be notified of the same rights regardless of which county the crime occurs in.
- Discussion about intent of original form

It was developed as a tool for education and guidance – a part of best practices. It was a way to make it easier for programs so they didn't have to reinvent the form. There was no mandate to use the form. Like the restraining order form – developed as guidance, some would adopt as written and some would change.

To be actionable under the statute needs to have showing that a victim had requested the right. If victim verbally asked for right, DA would grant that right – but a year later memory fades. From a legal stand point do we need a box checked? How does a prosecutor protect themselves without having it in writing?

Documentation seems best but being required to do so – worry more about the changing of the mind (of the victim). How can recent cases have been avoided where case had to be set aside? Ideal of an in-person intake with victim to review and sign form sounds great but VAP offices are not staffed for that. All VAP offices are sending out the VRRF they just don't have all of the rights on the form. Do we want to go back to the intent?

- Other discussion at the victim awareness subcommittee felt the form needs to be more legal in language on the front, more user friendly on the back. The current version was written with the intent of being “user friendly.”
- There are 4-5 rights that have not appeared on the form before, should these be included?
- Discussion of “requested” rights

\*That your address and telephone number be withheld from the defendant (ORS 135.970) – what does this Statue mean and where did it come from? (Legislative History?)

\*To redact protected personal info from document existing in case file (UTCR) – limited in what would be protected; SSN, bank info, similar to protection of personal identifiers protected from the defendant by the defense but not limited to the defense. Need to make sure victims know the options about right to refuse to speak to a defense attorney - right to speak with, can include DA or can include own attorney. Right to refuse to talk to the defense attorney will be included in informational piece but not on form to be requested.

- The lead in paragraph of the proposed VRRF has a notation about rights that automatically go into effect - need to make reference to the victims' rights guide for more information. Right to be consulted in a violent felony case – Constitutional right; Not speak to release hearing – Constitutional right?
- Feedback:
  - Yes, Task Force wants all rights on one form.
  - Can we translate the form into the 6 languages that we have the cards translated into? Thoughts about the new form was it may be too confusing for the victim – one of the reasons this was used as best practice was that ideally the advocate is talking to every victim.
  - Something cross-referenced on the backside to explain terms.
  - If the paperwork is too user friendly and vague, maybe too hard to prosecute.
  - Perhaps numbering the rights and legal language with explanation below and question - Do you want to be notified? – yes or no.
  - Form needs more white space.
  - Why can't I just opt in to all my rights? If just reduced to one sentence, prosecutor has not done just explaining rights to the victim.

- Subcommittee will work on ideas, will be talking with VAPs as well and bring back

### **Guilty Except for Insanity – update – Ronelle Shankle**

- Tier 1/Tier 2 hearings

- New process for GEI is that PSRB will hear Tier 1 and SHRP (State Hospital Review Process) will hear Tier 2 based on SB 420. Basic statute did not change, decision making entity changed. See handout. Person crime with a higher level is still a Tier 1.
- Tier 1 will continue under the jurisdiction of the PSRB until release. Tier 2 patients will be under the jurisdiction of the SHRP/OHA while hospitalized and under conditional release when they are under jurisdiction of the PSRB again.
- OHA modeled SHRP exactly after PSRB but composition of OHA panel is not required by statute.
- Support staff and attorneys representing the patients at this time will be the same so it should look and feel the same for the victims.
- New contact for State Hospital Review Panel listed on page 4 of handout

#### **Restitution Project – update – Cynthia Stinson**

- Passed legislation in last session to make grants to counties for restitution clerks and DOJ would hire collection agents. Ended up with 5 counties, Jackson, Lane, Multnomah & Jefferson/Crook. Each of the counties looks different with the makeup of clerks, paying for part of a probation officer, half of an attorney, etc. Still have to hire 2 of the DOJ collection agents. Each county has a Leadership team that includes the County, Judicial & Corrections.
- Example: Multnomah used some previous funds dedicated to a restitution clerk and a .5 lawyer in July 2010. Wrote grant to enhance what they had. Seeking, obtaining and hoping to enforce restitution. Will be hiring additional .5 lawyer and 2 more clerks with grant. Plans to have hiring complete in the next couple of weeks. Felt they have made process with the 1.5 positions since July so looking forward to seeing what is accomplished with the Pilot.
- Have we looked into collecting/paying restitution for immigrant victims'
  - Having resources to research assets of offender at the front end of the case
  - Restitution Workgroup Subcommittee starting up again to address some of these issues

#### **Convening a Legislative Workgroup for 2013-15 session – Cynthia Stinson**

- If interested in workgroup for bringing forward legislative topic involving victims' rights to bring to the Task Force, please contact Cynthia. Wanting to catch any proposed legislation so there are not any surprises.
- Looking to convene the group in March after the special session.

#### **NCVRW 2012 – Cynthia Stinson, Shirley Didier**

- National Crime Victims' Rights Week is April 22-28<sup>th</sup>
- The Commemoration is April 25<sup>th</sup> at Willamette.
- NCVLI received the Community Awareness grant. Have a meeting this week to discuss restrictions that come with the grant such as buying refreshments and "trinkets" (public awareness materials) with Federal money.

#### **Other - Punitive Damages**

- Phillip Morris discussion - \$102 million "received" by DOJ. Not sure how much is going to be available. Philip Morris argues that they have a set off on their April payment. Money could be put into a disputed payment account and appealed for 2-3 years. The Appellate judgment was issued today (1/23/12) and the decision regarding the set off decision has been sent back to the Trial Court level.
- Discussion regarding how programs/advocates could have been consulted regarding the decisions made in assignment of the punitive damage award .

Meeting adjourned at 4:15 p.m.

Next meeting, Monday April 30, 2012 from 1:30 to 4:30 p.m.