

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



APPROVED

Date: January 31, 2011
Committee: *Task Force on Victims' Rights Enforcement*
Attendees: Brad Berry, Chief Dan Brown, Mark Cadotte, Karen Cellarius, Lt. Eric Davenport, Meg Garvin, Seantel Heisel, Kim Larson, Tim Loewen, Chanpone Sinlapasai-Okamura, John Stein, Cynthia Stinson, Rod Underhill
Teleconference Attendees: Mary Claire Buckley, John Connors, Kimberly Dailey, Gloria Wiggins, Shawn Wiley
Staff Attendees: Shirley Didier, Ronelle Shankle, Kara Bachand
Note Taker(s): Kara Bachand

Welcome, Introductions and Review of minutes from October 18, 2010 / July 26, 2010

Minutes from the July 26, 2010 were approved pending final edits electronically from Meg Garvin and Doug Hanson (who was not in attendance).

Minutes from October 18, 2010 were held over until next meeting.

2011 Crime Victims' Rights Week – Cynthia Stinson and Shirley Didier

Shirley Didier and Cynthia Stinson spoke about the upcoming Crime Victims' Rights Week (CVRW) which will be held April 10th-16th, 2011. Shirley invited all to join the Commemoration Ceremony at Willamette University's Montag Center from 12:00 – 1:00 on Wednesday, April 13th. Ronelle Shankle and Janine Robben were asked if they had any victims they thought might want to speak about their experience at the ceremony. Both had ideas, but no one is confirmed at this time.

The theme for CVRW is Reshaping the Future, Honoring the Past. Those recognized will represent this theme. Guest speakers will include Attorney General John Kroger and Marion County District Attorney, Walt Beglau.

Additionally, Cynthia spoke about a new idea, the "Taste of Justice" concept which would mirror a similar YWCA event held in Portland this past fall. Oregon based coffee, tea, and food "tastes" would be offered to the public for a nominal per person fee (\$5) at the Capitol Mall. Proceeds would pay for the event and any extra would be donated to statewide, non-profit victim services organizations representing crime victims' rights, sexual assault awareness, and child abuse prevention. John Stein suggested making special contacts/invites to new and incumbent legislators that are favorable to victims' rights.

The CVRW marketing materials were introduced which include a lapel sticker (worn prior to and during NCVRW), Custom Post-It Notes (year-round usage), and reusable bags (also for year-round usage). Other events happening the same week. NCVLI will present a CLE on victims' rights, topic and date yet to be finalized.

PREA update (OYA) – Seantel Heisel

Seantel Heisel from OYA spoke about inroads they're making with PREA and SART at OYA. The Prison Rape Elimination Act (PREA) of 2003 is a Federal law established to address the elimination and prevention of sexual assault and rape in correctional systems. PREA applies to all federal, state, and local prisons, jails, police lock-ups, private facilities, and community settings such as residential facilities. Currently OYA is working with DOJ to make sure they are in compliance with PREA. Implementing SART teams within youth correctional facilities is being considered. To this end, some potential SART coordinators have already been identified. The coordinators would train staff within facilities and community housing to identify precursors of violence, how to address those issues and the overall response to victims.

With regard to interstate compact of juveniles nationally, victims' rights are surfacing quickly. Historically, victims were not considered when juveniles move from state to state. Currently, victims are only notified when the youth is released from a youth correctional facility. Continued work on victim notification policies is still needed to incorporate notification to victims of youth offenders in community facilities. Additionally, there is no policy regarding victim involvement other than infrequent, case by case communication between a probation officer and a victim. The intent is to close the loop and make services available for all victims. John Stein asked how many youths are transferred state to state, on average, and do the victims have rights regarding the state to state moves? The number of state to state transfers is unknown, and generally, there is no victim involvement unless the youth offender and victim will be in the same state where they previously were not.

Sub-committees and Workgroups – What's new!

a. Research & Evaluation – Karen Cellarius

Preliminary analysis of crime victims' rights web survey responses

Karen Cellarius took us through the first quarterly report/results of the web survey. There were a total of 56 completed responses through 12/31/10, equaling an approximate 7% return from surveys sent via USPS mail and e-mail. In order to increase the percentage of return, the group discussed the idea of follow-up calls which some of the VAP offices do to meet their requirements. Karen pointed out however, that the percentage of return for the amount of work involved may not be worth it. Cynthia Stinson thought maybe the CVSD database could accommodate a field where, if a claim is over 6 months old, the compensation section assistants would see it, and could ask the victim if they'd like to fill out the survey during their contacts. Karen asked if VAPs would want, or use a computer within the VAP office where victims could complete the survey while there. Brad Berry wondered if this would pose a lack-of-privacy issue and /or unintentionally force responses with repeated contact with advocates or on-site aid.

Would VAP's want to have computer available for victims to complete survey through website or via the advocate right there in the office. The current survey, and method of delivery, allows for more anonymity. Can the system automatically and anonymously send "reminder" emails to those that have yet to respond to survey. Karen indicated it probably could and will discuss this idea with sub-committee.

Brad suggested the estimated 10 minutes to complete the survey may keep people from taking the time to complete it. Shirley enters the surveys that come back through USPS mail into the database which takes about 3 minutes. After discussion, it was decided to say the time to take survey would be 5 to 10 minutes.

b. Training – Chief Dan Brown

Update on interpretation of Law Enforcement Duty to notify victims of their rights

DPSST still does not believe statute mandates law enforcement is required to hand out victims' rights pocket notification cards. A good idea and best practice, but not a requirement. Rod Underhill attempted to meet with the DPSST legal advisor, Lorraine Anglemeier, but DPSST did not want to re-visit the issue. However, the DPSST director did mail a response to Shirley Didier. Shirley indicates they are only looking at one part of the statute (notification of rights only – and not the compensation notification statute). We approached our legal counsel about a legal position/interpretation. Contact was also made with DPSST's AAG which is who they should be using to interpret statute not internal counsel. The DPSST training coordinator is open to adding this to training new recruits.

- ♦ Dan Brown suggests the training is geared toward the black and white so officers aren't placed in a situation of interpretation and providing invalid information.
- ♦ Brad Berry asked if law enforcement acknowledges they have an obligation to tell victims about compensation. In Yamhill, Brad went to all the agencies and told them give out the card, mark it in the report and you'll never be questioned about not providing rights notification.

With a new training DVD (currently on hold with PPB) and the backing of DPSST, it was hoped those counties that remain far out of compliance would jump on board. DPSST does acknowledge that providing the notification card to every victim is a best practice, but will not go as far to say it's a requirement.

Finalization of the DVD depends on the outcome of the determination by legal counsel. Rod Underhill further stated that the official interpretation and position of Multnomah County is that it's required.

Portland Police Bureau Tips and Techniques

PPB is informing its officers with a Tips and Techniques sheet about notification. Additionally they have added the oregoncrimevictimsrights.org website information to all business cards and victim informational sheet.

c. Immigrant Crime Victims' Rights Workgroup – Chanpone Sinlapasai-Okamura Report on progress of group and planning – next direction from Task Force

The Immigrant Crime Victims' Rights Workgroup held a second meeting in December. The workgroup includes immigration attorneys Chanpone Sinlapasai-Okamura and Sherilyn Waxler; DOJ Civil Rights attorney Diane Sykes; Yamhill County victim advocate Cecilia Martinez; DA/VAP Helen O'Brien from Multnomah County; Terry Campos and Meg Garvin from NCVLI. Chanpone indicated the consensus from AILA (American Immigration Lawyers Association) was that immigrant victims may not be identified by as victims by local law enforcement and more specifically, law enforcement doesn't always have a designated person to sign off on U-Visas. If a case doesn't move forward to the DA and VAP, immigrant victims may not be recognized and provided the U-Visa certification. So the question is what would be the best way to reach out to law enforcement about immigrant rights with the two major categories being U-visas and human trafficking. Unfortunately, there's only a small handful of attorney's that do victim certifications.

The United States Citizenship and Immigration Services (USCIS) Vermont Service Center is the only agency that can *approve* u-visas. The Vermont Service Center is willing to provide non-mandatory training to aid state and local governments, including DA's and VAP's, to create a uniform protocol for the state with cross-training for law enforcement. Everyone in contact with victims should be privy to this information and be able to attend this training.

Rod Underhill and Helen O'Brien have been working with the Portland Police Bureau, Gresham Police Department and Multnomah County Sheriff to obtain feedback from these agencies about the possible workload involved and how to do it right. In addition, AILA is working nationally to deal with burdensome flurry of paperwork for agencies.

Another concern is the myth surrounding interviews of victims that may put them at risk. For instance if a victim comes forward about the u-visa piece and are then reported to immigration, what is everyone's responsibility? Chanpone was referred a case involving a child by ICE. The child went into the interview and was re-victimized by being forced to confront her attacker without parental knowledge. This is a common occurrence, but because of the immigrant community and specific circumstances, there were questions raised with regard to this particular victim.

The recommendation of the workgroup is to offer a one day training session with break-out sections for specific interests. Due to the inevitability of further fiscal cuts, it was suggested that a web-based training be made available for law enforcement agencies throughout Oregon, particularly rural Oregon. The Task Force agreed there should be more time spent on this area of concern. The workgroup will present a more definitive plan at the next Task Force Meeting slated for April 25th, 2011.

d. Crime Victims' Rights in the Juvenile Justice System Workgroup – Shirley Didier

As a result of the Juvenile Justice Symposium and the training Shirley and Meg did for OJDDA in the fall, a number juvenile victim advocates and juvenile probation officers are interested in participating. Going forward, how do we manage questions or concerns for victims of juvenile offenders? Thus far, there is interest in having a separate Victims' Rights Guide and a best practices guide with information specific to the juvenile justice system. The new Juvenile Justice Workgroup will meet March 2nd from 10-3 in the CVSD training room. The agenda will include a 2 hour training on victims' rights in the juvenile justice system – also available by iLinc to counties not a part of the workgroup, followed by a discussion of county practices, procedures, challenges and goal setting.

Legislation effecting victims in the 2011-2013 session

Department of Justice – *Cynthia Stinson*

SB 38 - Compensation

The major premise is to extend the current filing time for victims from 6 months to 1 year and to clarify the limit for counseling benefits for all victims to \$20k. Currently, the maximum is \$47k which allows for potential legal argument up to that amount as in a current case already brought before the court. Neglecting to set a well defined cap would allow more of these legal challenges to benefits which will reduce the amount of overall services and benefits CVSD can provide. Also, when the council looked at the 7 page statute they noticed the original was really choppy, so they reorganized and/or re-worded the bill.

Secondly, until the program was in place, there was no way to anticipate the unique nature of PCP (Post-Conviction Program) cases. In regular comp cases, some applications are filed immediately after the crime, so the information is much more current. PCP cases could be active anywhere up to 20 yrs after crime, a time frame where changes in critical information are inevitable. Victims could be deceased, incapacitated, or victims may not feel they can be emotionally present and would like someone to attend in their place. SB 38 modifies the statute language to accommodate these anomalies.

SB 39 - Restitution

Requires DOJ to establish a restitution collection pilot program in geographically dispersed counties or regions. Grants would be made available to participating counties to hire one Restitution clerk. CVSD would hire revenue staff to accompany restitution clerks in recouping monies from the offender. As a side note, it is unclear on whether or not restitution clerks would be able to handle both adult and juvenile offenders. This pilot program will enable CVSD to go back to legislature with the data and ask for funding to proceed with similar programs throughout the state, as there's a large emphasis on the use of other funding streams than that of the general fund. Fixing the existing system would take four times the money from the legislature than is currently being asked.

An example of the impact of these new, local revenue agents is evidenced by the two revenue agents currently working at CVSD who've been able to collect \$1.2m per biennium on person crimes with claims submitted directly to CVSD.

- ♦ There's a judge in Clackamas County that denies expunction of records for juveniles, even in contested hearing, until restitution is taken care of.
- ♦ Clarification of funding in the bill: \$800,000 is allocated for five restitution clerks across the state. There's an additional \$1,000,000 for a program manager and five revenue agents. There were concerns this would not be enough to cover Oregon, but the short and long term assumption is that smaller counties will group together and share a revenue agent and/or other related staff.

Sexual Assault Task Force – *Ronelle Shankle for Christine Herrman*

SB 557 Statewide SARTS

- ♦ This bill was worked broadly by Sen. Edwards and the Attorney General's Sexual Assault Task Force.
- ♦ Two main actions of the bill are:
 - Requires every county District Attorney to have a SART so there is a cohesive protocol in each county and there is open ongoing communication among the players. The bill does not dictate how this should look, how many staff, meetings, etc. as that is left to the discretion of what works for each county team within their local culture.
 - Making sure medical providers have a SANE nurse on staff or one on contract.

HB 2942 - Sexual Assault Protective Orders (SAPO's)

- ♦ Sponsored at request of SATF. Time frames and processes are similar to existing FAPA orders. This would close the loophole for those victims who are not family or household members. Amendments pending.