

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



APPROVED

Date: January 28, 2013

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

Attendees: Brad Berry, Rosemary Brewer, Debra Bridges, Meg Garvin, Seantel Heisel, Jeff Howes, Kim Larson, Tim Loewen, Truls Neal, Ellen Rosenblum, Chanpone Sinlapasai, Shannon Sivell, John Stein, Cynthia Stinson, Terry Thompson, Rod Underhill, Shawn Wiley, Kristin Wings-Yanez

Teleconference Attendees: MaryClaire Buckley, Kimberly Dailey, Tom Hunt

Staff Attendees: Shirley Didier, Aaron Knott, Joe McCarty, Ronelle Shankle, Rebecca Shaw, Rozlyn Finfrock (*note taker*)

Introductions – Task Force members gave self-introductions including their title and agency at AG Rosenblum's request before she addressed the Task Force.

Welcome – Shannon welcomed Task Force members and introduced Attorney General Ellen Rosenblum who addressed members. She informed the members that the work the Task Force is doing is as important to her as it was to AG Myers who worked to create the Task Force and while statute names her chair of the Task Force, she feels more of a guest and not the chair. She does want to be involved in the work of the group and get to know each member of the Task Force. Her vision is to work together and make things better than they already are. The time now is for her to take the lead and find resources to work better and faster because victims don't have the time.

AG Rosenblum was pleased that the report from the Governor-sponsored roundtables highlighted gaps in victim services. Out of the top ten priorities to improve victim services, at least four start with "increase funding for." To the extent that she can help, AG Rosenblum really wants to do that. She is excited to work with Shannon and the Task Force and to provide victim services with funds as she can. She believes that the Legislature will be paying attention to the work the Task Force is doing.

- Increase funding for ODSVS (Oregon Domestic and Sexual Violence Services grants) which is supported with general funds
- Increase funding for system based programs to assure rights at every point of service
- Increase funding for CAMI – (the Child Abuse Multidisciplinary Intervention grants program) that supports Child Abuse Intervention Centers.

Brad Berry wanted AG Rosenblum to be aware when speaking to Legislators that District Attorney Offices across the state have taken cuts over the years as well as competed for monies that are general fund dollars all while taking on sanctions for community supervised offenders that will increase the work of the VAPs. The DA Offices cannot continue to do both each session and still do an adequate job.

AG Rosenblum responded that she has been trying to attend as many of the ODAA meetings as she can to learn as much as possible. She does realize that the DA Offices cannot continue to be asked to do more with fewer resources.

AG Rosenblum introduced Aaron Knott who is her Legislative Liaison and gave a brief history of his job resume including being Assistant Counsel to the Judiciary Committee and working in the Multnomah Co DA's Office. He addressed the members later on in the agenda regarding legislation that DOJ will be putting forward.

Updates – Rod Underhill addressed AG Rosenblum and the members regarding his Task Force appointment and attendance at Task Force meetings. Since being elected Multnomah County DA, Rod has shifted some of his duties such as supervision of the VAP to Jeff Howes as Sr DDA and would like to shift representation on the Task Force to SDDA Howes as well. Shannon welcomed Rod's attendance when possible or sending Jeff as Rod's representative instead.

Review of minutes – Minutes of the October 22, 2012 meeting were reviewed and no corrections were suggested. Terry moved to accept the minutes and Meg seconded the motion. Minutes were approved without changes.

Legislative Review – Aaron Knott reported that DOJ had not yet dropped the Legislative Concepts that he will be sharing with the Task Force but AG Rosenblum has agreed for them to move forward with the concepts.

- **Restitution Pilot Project** - Some of the Task Force members worked directly on the restitution pilot project which was self-funded by the CVSD budget. On the front end, victims of crime often don't know the financial extent of their crime. On the backend, the collection agents are holding the defendant accountable for their restitution. Data from other states with similar programs and the 8 months of data from our pilot shows that employing agents who can speak with defendants increases the percentage of restitution paid – just by talking with them about ways they can adjust their budget to pay restitution. This bill has clarifying language, remove the sunset and sustain the program. It will not expand the pilot at this time. The current data does show that restitution collection is growing but DOJ would like to have at least 2 years of data before going back to the Legislature to request funding for an expansion of the program statewide.
- **Ninety day deadline of restitution** – State v McLaughlin – Prior to the McLaughlin decision if defendant wanted to plea, the state could postpone sentencing for 90 days to gather restitution information from the victim. McLaughlin decided that a case could not be set over for 90 days unless there was good cause and the state had to have restitution

orders presented prior to sentencing. This bill will move the time back out to 90 days or longer.

- **Inclusion of defense attorney agents in ORS 135.970** – Johnson v DPSST – clean up in loop hole, prevents defense investigators from approaching victims without disclosing who they are. Hoping to discern if 30 days of finding is from oral decision or written decision. Bill would add “agent of the defense” to the ORS. Decision from Johnson v DPSST was that ORS only applied to defense attorney.
- **Timeline of appeals by victims of crimes** – Came out of State v Bray – has to do with releasing history of Internet searches such as Google. The bill no longer has prosecuting attorney language but clarifies issues around appeal. Timelines start with issuing of written order.
- **Post-Conviction Relief Cases** – Currently post-conviction cases are handled by rules of civil procedure. The bill would remove post-conviction and habeas corpus claims from civil proceedings and file them as a criminal proceeding.
- **Sexual Assault Protection Orders (SAPO)** – this is one of Representative Gelser’s priorities- this is the 4th session that the bill has been submitted. Sexual assault victims who are not in a relationship with the assailant do not qualify for restraining orders through FAPA (Family Abuse Prevention Act) but would qualify for the SAPO
- **Crime Victims’ Rights Task Force** – there will be a bill submitted by Representative Barker to continue the Task Force since it is scheduled to sunset this year.
- **BOPPPS** – Kristin reported that there is a bill regarding a sex offender tier system. The BOPPPS is neutral.
- **Juvenile Directors** have a meeting in the next couple of weeks to comb through the list of bills they have compiled to review. Tim can report back on bills they will focus on.
- **Governor’s Commission on Public Safety** – Aaron spoke about the Justice Reinvestment Savings in Public Safety and the interest of AG Rosenblum to have all of those savings be reinvested back into Public Safety. The Governor has been clear that his intent is to have the savings go toward Education. Aaron urged public partners to talk with those Legislators who will have decision making power regarding this issue. Shannon suggested and the decision was made by the Task Force to draft a letter for AG Rosenblum’s signature as chair of the Task Force to accompany the Legislative Report. Task Force members are welcome to sign onto the letter and should get electronic signatures to Shannon

Legislative Report - There was discussion on what the report is supposed to do and what it can do. The justice reinvestment savings will probably take a role in the report so the

introduction will be revisited. Members were asked to look at report for areas that needed expansion and explanation.

Shawn asked if there was mention of DIVOS. It had been overlooked but something will be added. Members were asked to review the Legislative Report in the next 3-4 days. If there are substantial edits members asked to please reply all to an email. In the two weeks CVSD will float a final to the AG's Office.

PSU Needs Assessment Report – Overview

Debi Elliott and Karen Cellarius walked through a PowerPoint presentation summarizing some of the findings gathered over the last 19 months through letters, web surveys and phone interviews. Some of the victims may have experienced more than one crime so the totals will add up to more than the number of participants. The questions on the survey were almost the same as from the 2002 survey; there were 3 questions taken off and 1 question added.

A handout of the major events that grantees have seen over the last 10 years was distributed.

- Awareness has increased
- New funding – ODSVS & SAVE
- Crime Victims' being elevated to a division
- Combined funding application
- Reduced funding – most likely due to recession

Prompt restitution is still the top right, as it was 10 years ago, and is the most difficult for crime victims to have enforced. The largest percentage of rights identified by survey participants were are not by law not identified as a victim right.

PSU believes there is more work to be done in the area where a crime has occurred but no one has been arrested. Of the responses, 16.7% of participant cases fell in this area. Task Force members responded by saying that typically there is no advocate assigned to the case unless it is a child abuse, sexual assault or domestic violence case.

Victims would like a higher cap on compensation so they don't have to choose between receiving counseling and paying medical bills.

It was difficult to separate funding from staffing issues when reading the short answer questions but the common theme was emergency housing.

Unmet needs (services needed but not received) – appear to be meeting needs better. Members were advised that a list of needs was provided with definitions, these were not needs the victims came up with by themselves. Some members felt that victims' would not come up with some of these needs on their own such as victim/offender mediation.

PSU handed out a grid page titled Biggest Barriers Addressed by Key Informant and CVSD Grantee Solutions. One way to use this document is to choose one unmet need and see how much will be impacted if we can do that one solution. The final report will break down some of the complexities and issues not addressed on the grid.

The Task Force will be able to follow up with PSU after the report is distributed. Contact information for Debi and Karen will be available.

Immigrant CVR Subcommittee

The subcommittee got approval on January 10th to have a meeting with the FBI. Most subcommittee members were able to be present in person or by phone. The group had a discussion of protocol barriers at state and/or federal levels. When children are involved it is important to involve appropriate agencies at the state and/or federal level as well. Connections with VAPs and VACs, talked about foreign born victims. Talked about child human trafficking made a commitment that do not have a name to go forward will go with an alias until the victim is ready to come forward. Discuss the need to have certification for person who is trafficked to stay in the US while LEA pursues trafficker. We now have a contact with ICE/HSI on the Foreign Born Human Trafficking Team. Now will partner with them to do training for LEA and will provide them with what we see on a state level and trafficking side. Will assist the state in identifying victim – kind of a cheat sheet. Brad & Jeff heard legislation that Thoma is bringing forward – Brad stated that trafficking cases primarily in PDX. Is that correct? Trafficking is under reported, have started seeing cases in Yamhill and Marion counties too. Prostitution and labor trafficking is large. Sometimes it is in the small towns. Brad would like to know about cases or topics even if they don't do to prosecution so he would at least know what is going on in his county – not if it is going on in this county but when. Chanpone is concerned about confidentiality but can sign a release to give factual information. Chanpone is being subpoenaed more based on her involvement with more agencies. Brad does not know if it is a violation of confidentiality if they are told there is a 15 year old victim in the county but s/he does not want to come forward to press charges. Shannon suggested discussing what information can be released. Senate released bill about comprehensive reform.

UTCR amendment

The rule deals with sex offense proceedings. Currently at a victims request public access coverage by the media sex offense cases can be denied by the court. There is a proposed amendment to the rule that would only exclude public access coverage when the victim is testifying but would allow during any other part of the proceeding. Public comments are being accepted until Feb 28, 2013 on this proposed change. The next rule review committee meeting is scheduled for March 1, 2013. The committee met in October 2012 and gave it preliminary approval with two voting against the amendment. They were given two months to review and file comments. If the Chief Justice approves the amendments they will go into effect Aug 1, 2013. Comes from OSB media section. Got vetted quite a bit and what is now in front of us is different than was originally suggested.

No practical difference in Multnomah County. Must also be woven into the media shield laws. In Marion County when this right is requested, media is not allowed to use video or audio but they can sit in on the hearing. Does the amendment make it easier to follow the rule. Feels it is more exact by being to victim statements, etc. In Multnomah County for example, if a charging instrument has 30 counts but only 1 is a sex offense does not believe that the whole proceeding should be excluded from public access coverage. What sanctions are there for violations –

possible contempt of court, in the case used as an example, chastised and threatened if reporter did that again.

NCVRW – Commemoration ceremony scheduled for Thursday April 25, 2013 at Willamette University – Montag Den at 12 noon. The theme this year is New Challenges*New Solutions.

Next meeting of the Task Force is Monday April 29, 2013.