

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



APPROVED

Date: May 10, 2011

Committee: *Task Force on Victims' Rights Enforcement*

Attendees: Brad Berry, Debra Bridges, Doug Hanson, Kim Larson, Tim Loewen, Chanpone Sinlapasai-Okamura, John Stein, Cynthia Stinson, Shawn Wiley

Teleconference Attendees: Karen Cellarius, Meg Garvin, Christine Herrman, Rod Underhill

Staff Attendees: Shirley Didier, Kara Bachand

Note Taker(s): Kara Bachand

Introductions and Updates

Debra Bridges asked what happened with the "Taste of Justice" event idea planned for Crime Victims' Rights Week. Shirley Didier explained that while CVSD was still excited about the concept, the logistics for the event could not be pulled together in time for the event to take place during Crime Victims' Rights Week (April 10-16, 2011). CVSD would be looking into putting on this event for 2012 Crime Victims' Rights Week which was recently announced as April 22-28, 2012. Brad Berry mentioned that the legislature may not be in session during that time which would remove the largest intended audience.

Review minutes from October 18, 2010/January 31, 2011 - Shirley Didier

- October minutes were approved with no changes.
- In the January minutes, Diane Sykes surname is spelled incorrectly. CVSD staff will make the correction.

Task Force Report to the Legislature - Shirley Didier

Section 20 of 2009 SB 233 created the Task Force on Victims' Rights Enforcement and also states that a report be submitted by the Task Force on January 1, 2011. A draft report was provided in November and again in January. The attached version is the final report approved by the attorney general and deputy attorney general. The report highlights what's lacking in victims' rights in Oregon, the continued and urgent need for restitution reform, and secure and stable funding for county district attorney's and victim assistance programs. The report also mentions the launch of the Post-Conviction Victim Advocacy Program and the development of a judicial and non-judicial process which allows victims to make formal complaints about violations of victims' rights.

There was discussion about adding additional codes to OJIN in order to mark cases with crime victims' rights violations. Brad Berry indicated no changes to OJIN would be allowed because of, and until, the new E-Court is in place.

Shirley Didier asked Rod Underhill if and how Multnomah is managing to document crime victims rights complaints? He would talk with Helen O'Brien to see if they were keeping data on those complaints.

Legislation Update – Cynthia Stinson

- Restitution Bill – HB 3066 (SB 39)
 - This bill would allow CVSD to run a grant program for a restitution "pilot" project. Cynthia pointed out that a victim's right to restitution is consistently not honored throughout the state. The grant would provide funds for five pilot programs in specified areas of Oregon. These five programs would be

required to hire a restitution clerk at a minimum .5 FTE. The restitution clerk would provide the follow-up to obtain restitution information and documentation from victims and research the ability of defendant to pay, not for presentation before the court, but so the prosecution is more informed about the defendant's ability to pay. Eventually, Cynthia would like to see the development of courts and court staff, dedicated to the specialty of restitution. In addition, the Department of Justice will hire five collection agents for the five areas. By collecting more locally, it's believed larger and timely payments can be obtained thereby ensuring that the program will pay for itself. CVSD will front the cost and get repaid through the collection process, but the legislature is unsure if CVSD will get repaid and how well the collection agents will be able to perform. Cynthia points out that statistics from only two revenue agents at CVSD are collecting approximately 1.2 million per biennium with a narrow group of victims of person crimes who have applied for compensation. Given the figures of this centralized unit, Cynthia is confident of the success local agents will have. All types of criminal cases would be represented in the pilot programs, not just person crimes.

John Stein asked how much is ordered vs. how much is collected in Colorado, where a good restitution program is in place. Cynthia was unable to provide specific knowledge about Colorado, but did indicate that Benton County hired, lost, and re-hired a restitution clerk which may provide some good statistics. Cynthia also indicated that we are only collecting a small fraction of the total restitution owed to victims. Brad Berry from Yamhill added that in their first year, they were able to collect 125k pre-judgment dollars. Also in Yamhill, juveniles with unpaid restitution will not be released from supervision until their debt is paid. The county may waive some court or late fees if they can obtain a lump sum payment. John suggests being cautious of those debts that are easy to collect on because that stream will not be sustained. While all agreed, Brad adds if the restitution process can be reformed, the easier targets should be few and far between anyway.

Chanpone Sinlapasai-Okamura asked if restitution for survivors whose offender is in federal custody can be obtained before they are transferred from state to federal custody. Her concern being that once released from custody, the offender will go back into society and never pay their state owed restitution. Brad indicated this was currently not done.

Doug Hanson asked if the restitution program would be modeled after support enforcement cases whereby wages are garnished, etc. Cynthia stated they had not worked through those details yet, but will convene a small group to get feedback about how to proceed with the restitution program should it make it through legislature.

- Compensation Bill – HB 3021 (SB 38)
 - As of 5/10/2011, this bill still needs to be heard by the senate, but has passed the house. Once passed by the senate the bill will go to governor for signature. The bill extends the time for a victim to file a compensation claim from six months to one year. The bill also added much needed language for post-conviction and PSRB.

Sexual Assault Task Force – SB 557 and HB 2942 – *Christine Herrman*

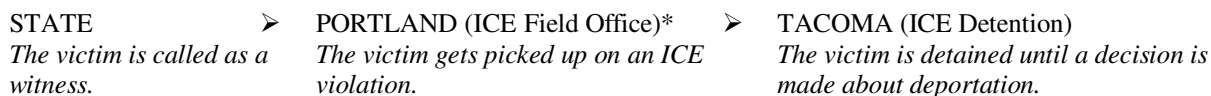
- SB 557 (SART teams in each Oregon county) has passed out of the Senate and has been referred to House Judiciary for a hearing.
- HB 2942 (Sexual Assault Protective Orders) passed unanimously out of House Judiciary and was referred to Ways & Means, where it awaits a hearing. Christine would like interested parties to contact the leadership of Ways & Means and the Public Safety subcommittee requesting that the bill be set for a hearing. The fiscal is small – a one time cost of between \$42-58,000 for OJD and a biennial cost of between \$30-60,000 – but will need a push to get it to a hearing to keep it alive.

- Other Legislation - *Shirley Didier provided copies on behalf of Steve Doell*
 - HB 2663 will expand the time a victim can file a motion with the court to file a victims rights complaint from 7-30 days. The bill also states if the victim is not present the prosecuting attorney shall inform the court whether the victim was informed of the judicial settlement conference or hearing and, if the victim requests, the prosecuting attorney shall make reasonable efforts to consult the victim regarding plea discussions before making a plea offer and before entering into a plea agreement.

Subcommittee and Workgroup Reports

- Immigrant Crime Victims’ Rights Workgroup – *Chanpone Sinlapasai-Okamura & Sherilyn Waxler*
 Chanpone and Sherilyn presented information on the work of the group and a brief “training” on U-Visas. Included was a discussion of different types of immigrants to the US and status. At the law enforcement first contact level, there seems to be lack of information about the purpose of U-Visas and the responsibility an immigrant victim of crime has to be cooperative with investigations. A U – Visa can be taken away if there is not cooperation. Because not all crimes are referred to the DA, (lengthy investigation, lack of suspect, suspect not located, etc.), law enforcement is the only source of crime victims’ rights information for many.

Chanpone provided a chart to explain the ICE process:



*Elizabeth Godfrey is the Assistant Field Office Director in Portland and a solid point of contact for VAP’s and DDA’s to get a victim released from an ICE hold.

If an undocumented person is swept up in a group, taken to the police station, but still not charged, they can still be sent to ICE. In either case, if a district attorney or VAP calls ICE within 48 hours of being picked up, the victim will be released in Portland and won’t be transported to detention in Tacoma. Once in Tacoma, it’s nearly impossible to get them released. The Vermont Service Center is the only ICE division that can adjudicate U-Visas.

Doug indicated that a U-Visa is discoverable, so what if the defense calls ICE and relays the victims’ location. Chanpone recommended, as soon as you know you want to hold this person as a witness, initiate a phone call to Elizabeth Godfrey at ICE in Portland to let them know what’s going on. Individuals in ICE custody are not asked if they were a victim of crime. However, once the DA or VAP has initiated a call to ICE, they will be very attentive. A victim may be required to wear an ankle bracelet, but they will not be sent to Tacoma.

The three countries with the largest number of immigrants are China, India and Mexico. Immigrants who have applied for citizenship have a 20 year wait for their application to be reviewed and they can still be deported even if an application is submitted and are deportable until they are formally a US citizen.

When one spouse is placed on an ICE hold, children will automatically go to other parent. That parent can then remove the child by fleeing the country. In many countries, women and children are still considered property and easily feel threatened by law enforcement, so there is little recourse. Abandoned, abused or neglected children are generally handled differently as it’s a specialized area. The juvenile court system gets involved in dependency issues such as custody/guardianship.

The overall goal of the workgroup is to have training for law enforcement. The strategy is to propose a smaller training session to agency heads in hopes of creating support for the issue before reaching law enforcement officers.

The U-Visa has only been available since 2007. Most DA offices have a point of contact or certified official, but only four police departments throughout Oregon. Chanpone would like to see a state list comprised of VAP and law enforcement contacts certified by Vermont to handle, or advise on ICE cases as Vermont is the only entity that can recognize someone as a specialist. When a U-Visa is certified, deportation is deferred for four years. At the three and one half year mark, they can re-certify or re-apply.

- Crime Victims' Rights in the Juvenile Justice System Workgroup
 - The new Juvenile Justice Workgroup of the Task Force on Victims' Rights Enforcement met on 3/2/2011 and 4/28/2011. A two hour training was provided as a foundation for the group. Additional counties participated by iLinc training and conference call. The members have agreed to continue to meet monthly given the amount of work to be done. Each county present shared the services they provide to victims of juvenile crime and the challenges. The group is very involved and enthusiastic. The workgroup has identified several specific goals
 - A Victims' Rights Request Form (VRRF) specific to juvenile justice.
 - A Victims' Rights tri-fold guide specific to the juvenile system
 - Best Practice recommendations
- Training Subcommittee
 - DPSST update - Conversations have continued between DPSST and DOJ attorneys. It appears that DPSST has agreed that providing the law enforcement pocket card to victims meets the statutory language around both compensation and notifying victims of their rights. The cards will be made available to new trainees. Cynthia would like to schedule a meeting with the DPSST director to discuss this further.
- Research & Evaluation Subcommittee
 - Two changes were made to web survey based on feedback from victims and Research and Evaluation Sub-committee one of which was the creation of a general satisfaction question.

The most current response rate is 7%, but this does not include the 1st quarter of 2011. There were a total of 110 surveys completed since 10/15/2010, but only 29 were completed in the 1st quarter of 2011. This is somewhat concerning, but the 2nd quarter of 2011 has already surpassed that number. The low response rate may be due to some delays in distributing the surveys in March and April. Also since 10/15/2011, only 10 surveys were started without being completed. Nearly half of the respondents were victims and one quarter were parents of the victim. A full 89% of respondents completed the survey without assistance.

Task Force membership – Review Current Membership and Vacancies

The Task Force has two law enforcement vacancies with the retirement of Comm. John Eckhart of the Portland Police Bureau and a need for representation from the Oregon State Sheriff's Association. Members were asked to identify individuals who would be interested in filling these vacancies.

Meeting was adjourned at 4:33 p.m.

Next meeting: Monday July 25, 2011