

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



APPROVED

Date: July 23, 2012

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

Attendees: Rosemary Brewer, Debra Bridges, Eric Davenport, Seantel Heisel, Ernie Lannet (for Shawn Wiley), Kim Larson, Tim Loewen, Truls Neal (for Scott Taylor), Jay Scroggins (for BOPPP), Chanpone Sinlapasai, Shannon Sivell, John Stein, Terry Thompson

Teleconference Attendees: Kimberly Dailey, Meg Garvin, Rod Underhill

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

Introductions and Updates – Shannon Sivell

- Welcome and self-introduction by Shannon. Self-introduction by Task Force members.

Review of meeting minutes and Task Force Report

- Minutes from January 23, 2012 meeting were reviewed. Ronelle made minor technical changes to the GEI portion and gave to Roz for correction. Task Force approved with Ronelle's changes.
- No Task Force meeting was held in April but a report was written. Report was reviewed, no changes made and report was approved by Task Force.

2013-15 Legislative Report – Shannon Sivell

- See attachment for Legislative ideas.
- ORS 147.500 to 147.550 require the Task Force to prepare reports to the Legislature due January 2011 and 2013.
- The report for 2011 covered implementation, rights violation complaints, recommendations for legislation, achievements and trainings.
- For 2013 Shannon would like to focus to be educating the Legislature on funding gaps, where we currently stand with projects, what we would be asking for as far as proposed legislation changes and what progress to expect in the future.
- Noncompliance issues could also be documented.
- AG Rosenblum is very interested in the Victims' Rights arena and in what the Task Force would like to include in the report.
- Small discussion about length of time for Supreme Court to issue a final decision on an appeal (21 days). Kimberly does not believe that issue is being raised by the courts. Question was asked as to what kind of training is being done for judges. Kimberly will check and get back to Shirley.
- Shannon had spoken with the Chief Justice regarding training for judges and was asked to get in touch with Molly in OJD's training division. Shannon will touch base with Molly and loop in Kimberly.

Legislative Committee/Legislation Discussion – Shannon Sivell

- Establishing a Legislative Committee has been approved by AG Rosenblum and Deputy AG Williams. Creating this committee will help the Task Force be aware of what other parties are putting forth to prevent duplication and to show support.
- Task Force members interested were asked to participate on the committee or recommend staff members/constituent group members to be available to review legislative bills for this session as well as begin the overview of current statute starting in January through next session.
 - Rod volunteered Jeff Howes from Multnomah County DA's Office.

- DOJ's Assistant Attorney General (AAG) Greg Rios may sit in on this committee. Greg has helped with the review of some of the Task Force documents.
- The Task Force itself was created by legislative action and sunsets in 2013 so the Task Force may want to look at legislation to continue. Possibly ask Representative Barker.
- DOJ will send out an email in the next couple of days with a description of what to expect of committee members, when the committee would start, etc.

Oregon Crime Victims Law Center – Rosemary Brewer

- Since January, OCVLC has taken on 50 cases. Most common case is fighting a subpoena.
- Victims' rights before the Parole Board
 - How the Parole Board defines victim.
 - Gilmore case – had to pass hurdles to get two victims he was not convicted on to be able to testify. They were not able to testify as victims, only as relevant witnesses. Request for an extended deferral for 10 years on hearings in this case was denied. The board can choose between two and 10 years. OCVLC had asked for 10 years but the decision has to be unanimous to grant the deferral and was not in Gilmore case.
 - A victim can testify as relevant witnesses under a Parole Board administrative rule which defines the roles of victims and witnesses. The board has the ability to consider relevant information at a hearing. Victims can be designated as relevant witnesses in certain cases when the victims don't meet the BPPPS definition of victim in the convicted offense but were victims of the offender for the same or similar crime. OCVLC is going to be looking at Legislative options.
- Interpreters for victims at trial – Right to a meaningful presence. Cannot have a meaningful presence if you can't understand what is being said.
 - Marion Co – denied, believe it came down to cost.
 - Yamhill Co - did appoint interpreters for trial.
- Modification of release without the victim being present
 - Two separate counties. Victim had requested to be present in both cases. Judge moved forward with the case without the victim being present, OCVLC filed violation of rights. Judges reheard the case in both counties.
- Two more attorneys have agreed to serve as pro bono attorneys so they are able to do more cases.
- Working on increasing awareness through social media with Facebook page and Twitter. Past clients want to help and are writing articles for the newsletter.
- Currently funded through December 2012. Waiting to hear on 2 federal grants that they have applied for – should hear back in Aug or Sept.

Subcommittee and Workgroup Reports

- **Immigrant Crime Victims' Rights – Chanpone Sinlapasai**
 - The Immigrant Crime Victim's subcommittee has been very busy connecting with both state and federal agencies that work with and handle immigrant victims of crime. Both state and federal agencies have presented to the sub-committee and explained what they are working on.
 - Assistant Field Office Director (AFOD) Elizabeth Godfrey and Rita Soraghan from Immigration Enforcement Agent & Victim Witness Coordinator present.
 - We had Assistant U.S. Attorney Hannah Horsley present to us about the Oregon Human Trafficking Task Force and the direction of Homeland Security Enforcement and Immigration Customs Enforcement. She gave us the contact point person for both the Sex Trafficking point person as well as U Visa point

person. Leah Bolstad is the Sex Trafficking point of contact and Scott Kerin for the Anti-gang effort.

- Additionally, we have had Joshua Finely and his team from Homeland Security Investigation come out to talk to us about their work in investigating and assisting victims of crime in the state of Oregon.
- Catholic Charities Immigration Legal Services has completely lost their funding for the Human Trafficking Program.
- We had a meeting with FBI scheduled however due to a scheduling conflict we had to reschedule. We are working with Portland FBI to schedule a date to meet and discuss services. That will be happening before the end the year.
- The committee continues to do outreach and present throughout the state to educate and train on immigration victim's rights and services available to them in both the state and federal level. The next training will be in September with the OJJDA, September 19, 2012 in Bend, Oregon. Members of the sub-committee will be presenting there.
- A new policy has been put in place by the current administration regarding: Deferred Action for Childhood Arrival (DACA). Not every child will qualify for this benefit, they must meet the below requirements:
 1. Were under the age of 31 as of June 15, 2012;
 2. Came to the United States before reaching your 16th birthday;
 3. Have continuously resided in the United States since June 15, 2007, up to the present time;
 4. Were physically present in the United States on June 15, 2012, and at the time of making your request for consideration of deferred action with USCIS;
 5. Entered without inspection before June 15, 2012, or your lawful immigration status expired as of June 15, 2012;
 6. Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
 7. Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.
- There is an estimate that at least 16,000 youth from the state of Oregon will apply for this benefit. The number came from the Immigrant Legal Resource Center (ILRC).
- UVisa protocol approach for law enforcement – The committee is looking at ways to improve the UVisa protocol procedure that is in place by the various law enforcement agencies. Three members have been working very hard and diligently to gather all the information from VAP, DAs, and LEA. We are gathering names and information and hope to have it up on the DOJ website to have it accessible to everyone.
- Shannon asked if the Immigration Subcommittee would work on a portion of the Legislative Report.
- **Juvenile Justice – Shirley Didier**
 - Meets on Wednesday and will be discussing rolling out training regarding the changes of the requested/automatic rights. Changes have been made to JJIS screens for the updated requested rights. Some DA offices do not have access to JJIS, if victim services are provided by the DA/VAP, the juvenile department would have to enter the JJIS information.
- Victims' Rights Request Form (VRRF or VRN)
Juvenile Form

- While juvenile statutes differ from adult statutes in some areas, the workgroup found that all counties had been using the adult form for juveniles. In some cases information was added as directed by their county.
- A separate form for juveniles has now been created. Requested rights for juvenile system were reviewed and differences between the adult form were discussed.

Adult Form

- All rights are now numbered and citation for right is listed.
- Request had been to have definitions underneath the rights but running into problems with spacing in order to keep this to a two page document as requested by the VAPs. Recommendation was made to use shorter form. Expanded definitions can be put on the DOJ website. Typical for advocates to discuss questions with victim while filling out the form. Form is going to be returned to office so victim will not have definitions anyway.
- Discussion of #3 - address & telephone number be withheld from the defendant – was a voter initiative. Responsibility of the court to withhold victim information. Would go into court record that this information not be released. Believe it is limited to court record. Shirley needs to get a copy of the actual voter initiative to see language; she has only been told what it says.
 - Apparently there is a form to complete through the court – Multnomah Co used to have NCR forms in the Grand Jury room, mostly went away when redaction software became useable.
 - Rod believes that it has since become the presumption and not a request. Based on experience, he knows it is a common practice in other counties.
 - Knowing what the process is or having that ahead of time would work better for the VAPs so they can answer questions for the victims.
 - At OJD when information is not to be released from a file, that information is placed in a separate part of the file and if the case is requested, that part of the file is not released.
- Discussion of # 11 – Requesting that the district attorney assert these rights on behalf of the victim – if s/he agrees to do so. When is the victim “represented”? When does the DA have dual standing? Standing has been an issue that has been coming up across the state. Take it off the form for now but a larger discussion about why it is on the UTCR. The victim does need to know that the prosecutor can assert their rights for them. A statement at the top instead of a check box? Can it be a statement that they sign? How has the victim done that up to now if they have not checked a box? Returning the form is how we know they want the right asserted. Will get a redraft of the form in the next week.

Victims’ Rights Guide

- There had been some differences between the automatic and requested rights in the adult and juvenile systems.
- Change made in 9th bullet (juvenile version) under General Rights. Now reads “...about the youth offender (alleged or adjudicated.)” instead of “...about the alleged youth offender or youth offender.” In the mind of the victim they are one in the same.
- The phone number for Immigration Counseling Services (ICS) was added under Victim Services Contact Information.
- Corrections to spelling of OCVLC and phone number for OSP SOR were made.
- A supply of these new brochures will be kept at CVSD for mailing out to agencies and can be requested through Roz.

Recent Victims’ Rights Supreme Court Cases – Kimberly Dailey Supreme Court Cases

- State v Bray: Dismissed based on technicality. Additional legislative attention is necessary. Court would like to see clarification on service of notice to victim. Does 7 days begin from oral order or written order?
 - OJD has not taken the step for legislative action.
 - DOJ had an interest, Shannon will look into if anything has been done and forward to Kimberly
 - Meg has already been working on it for the Bray case so Shannon will coordinate with Meg as well.
 - Rod would like to be involved as well.
- State v. MacBale was discussed – Oregonian article was attached to Task Force materials.
 - Oral argument is on Supreme Court’s website.
 - Decision has not been made at this time.
 - It is not open or closed on rape shield. Oregon is pretty complex versus the rest of the country.

National Crime Victims’ Rights Week 2013 – Shirley Didier

- NCVRW is April 22-26, 2013.
- The commemoration ceremony will be either Tuesday, April 23rd or Thursday, April 25th.
- We have applied for the Federal Community Action Project Grant and should know the outcome in October.

Other

- Truls reported that Multnomah County has finished the hiring process for their Victim Services Coordinator.
- Jay reported that Jeremiah Stromberg has taken a position with DOC and since Aaron Felton was elected as Polk County DA, he most likely will be attending for the Board of Parole until the Board is fully staffed again.
- John Stein asked Shannon if the Task Force could be treated as an advisory board or sounding board on funding issues for the AG. Shannon stated that she believed the group had been underutilized but the name of the group would not guide the work. She believes that when major issues are coming up, the Task Force will hear about them from AG Rosenblum or Shannon.
- Shannon would like to update the website with a one page explanation on how punitive damage money is used, how much there is, etc.
- CVR Program Assignments
 - January – July: post FAQs on website
 - Update practitioner’s guide
 - Noncompliance complaint process
 - Volunteer program for PCP and CVR phone calls
 - Legislative committee work in the Fall – Bray issues

Next Meeting: Monday, October 22, 2012

Adjourn