

**U.S. Department of Justice
Office of Justice Programs**
810 Seventh Street, NW
Washington, DC 20531

Eric H. Holder, Jr.
Attorney General

Laurie O. Robinson
Assistant Attorney General

Joye E. Frost
Acting Director, Office for Victims of Crime

**Office of Justice Programs
World Wide Web Home Page**
www.ojp.usdoj.gov

For grant and funding information contact:
Department of Justice Response Center
1-800-421-6770

OVC Resource Center
1-800-851-3420
(TTY: 1-877-712-9279)
www.ncjrs.gov

OVC Training and Technical Assistance Center
1-866-682-8822
(TTY: 1-866-682-8880)
www.ovcttac.gov

The Office of Justice Programs (OJP), headed by Assistant Attorney General Laurie O. Robinson, provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP has seven components: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; the Office for Victims of Crime; the Community Capacity Development Office, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. More information about OJP can be found at www.ojp.gov.

Office for Victims of Crime

The Office for Victims of Crime (OVC) was created by the U.S. Department of Justice in 1983 and formally established by Congress in 1988 through an amendment to the Victims of Crime Act of 1984. OVC's mission is to enhance the Nation's capacity to assist victims of crime and to provide leadership in changing attitudes, policies, and practices to promote justice and healing for all victims of crime.

OVC accomplishes its mission by:

- Administering the Crime Victims Fund.
- Supporting direct services.
- Providing training programs.
- Sponsoring demonstration and evaluation projects with national and international impact.
- Publishing and disseminating materials that highlight promising practices that can be replicated worldwide.
- Sponsoring fellowships and clinical internships.

Office for Victims of Crime Resource Center

The Office for Victims of Crime Resource Center (OVCRC) is your information clearinghouse for emerging victim issues.

As a component of the National Criminal Justice Reference Service—a federally funded resource offering justice and substance abuse information to support research, policy, and program development worldwide—OVCRC offers access to a vast criminal justice resource library and top information specialists to answer your questions. Staff can offer statistics and referrals, discuss publications, compile information packages, and search for additional resources using OVCRC's extensive network of victim advocates and organizations.

OVCRC also offers easy access to OVC and other victim-related publications through an online ordering system and an electronic newsletter. To learn more about OVCRC and its products and online services, visit www.ovc.gov/ovcres/welcome.html or call 1-800-851-3420 (TTY 1-877-712-9279).

Office for Victims of Crime Training and Technical Assistance Center

For victim service providers, the Office for Victims of Crime Training and Technical Assistance Center (OVC TTAC) is the portal to a broad range of resources. OVC TTAC extends training and technical assistance to victim service providers, allied professionals, volunteers, advocates, and victim/witness coordinators. The training and technical assistance are designed to enhance participants' skills and improve the quality and efficiency of the services they deliver.

OVC TTAC also provides a broad range of comprehensive resources for victim service providers. These resources include needs assessment, resource development and delivery, education and outreach, and evaluation. OVC TTAC is committed to helping the Nation's victim service community build its capacity to respond to the increasingly complex needs of victims of crime.

Office for Victims of Crime Training and Technical Assistance Center

9300 Lee Highway
Fairfax VA 22031-6050

Phone: 1-866-OVC TTAC (1-866-682-8822)

TTY: 1-866-682-8880

Fax: (703) 225-2338

Web site: www.ovcttac.gov

Acknowledgments

The U.S. Department of Justice, Office for Victims of Crime wishes to thank the NVAA Work Group for helping to realize its vision and commitment to providing quality education and skill-based classroom trainings for those who assist victims and survivors of crime.

The Work Group is composed of nationally known scholars and practitioners, formed to work closely with OVC to contribute their insight, expertise, and knowledge of victims' issues to the development of the material that comprises the NVAA.

The NVAA Work Group is chaired by:

Mario Gaboury, Ph.D.
Chair, School of Public Safety and Professional Studies,
University of New Haven

NVAA Work Group Members include:

Jeannette Adkins
(formerly) National Organization for Victim Assistance

Dana DeHart, Ph.D.
Center for Child and Family Studies
University of South Carolina

Steve Derene
National Association of VOCA Assistance Administrators

Christine Edmunds
Independent Consultant

Carroll Ann Ellis
Fairfax County Police Department, Fairfax, VA

Nancy Lewis
Colorado Organization for Victim Assistance (COVA)

Janice Harris Lord
Independent Consultant

Ada Pecos Melton
American Indian Development Associates

Brenda Muhammad
Atlanta Victim Witness Assistance, Inc.

Kevin O'Brien, Ed.D.
National Center for Victims of Crime

Anne Seymour
Justice Solutions, Inc.

Eidell Wasserman, Ph.D.
Independent Consultant

Table of Organization

Module 1	Introduction
Module 2	History of the Crime Victims' Rights Movement in the United States
Module 3	Victims' Rights Laws in the United States
Module 4	Impact of Crime on Victims
Module 5	Navigating the Justice System
Module 6	Communication With Victims and Survivors
Module 7	Direct Services
Module 8	Cultural and Spiritual Competence
Module 9	Ethics in Victim Services
Module 10	Developing Resilience

CHAPTER 1

INTRODUCTION

The National Victim Assistance Academy (NVAA) was established in 1995 by the Office for Victims of Crime (OVC) to offer an academic-based curriculum that emphasized foundation-level education in victimology and victims' rights and services. The original NVAA was coordinated by the Victims' Assistance Legal Organization (VALOR) in cooperation with four universities and was offered at as many as five sites simultaneously. Following a 2003 formal evaluation, OVC decided to formulate a new NVAA model, to revise and update the text and structure, and to standardize the curriculum. The NVAA was redesigned to include three instructional tracks, to better meet the training needs of those in the victim services field.

Track 1, Foundation-Level Training, is skill-based training that provides professionals and volunteers who assist victims and survivors of crime with a broad understanding of the victim services field and lays the groundwork for building a career in the victim services field.

As a result of this training, you will learn about the history of the victim services field. You will also learn how to help victims attain their basic rights, navigate the criminal justice system, communicate effectively with victims, effectively provide direct services to victims while recognizing cultural and spiritual issues that impact service, make ethical decisions, and increase your resilience.

Organization of Text

The training is organized into modules and supported by these corresponding chapters of the Participant Text:

Chapter 1. Introduction

Chapter 2. History of the Crime Victims' Rights Movement in the United States

Chapter 3. Basic Victims' Rights

Chapter 4. Impact of Crime on Victims

Chapter 5. Navigating the Justice Systems

Chapter 6. Communication with Victims and Survivors

Chapter 7. Direct Services

Chapter 8. Cultural and Spiritual Competence

Chapter 9. Ethics in Victim Services

Chapter 10. Developing Resilience

CHAPTER 2

HISTORY OF THE CRIME VICTIMS' RIGHTS MOVEMENT IN THE UNITED STATES

Steven Derene, Steve Walker, Ph.D., and John Stein, J.D.*

This chapter reviews the influence of ancient legal and social codes on today's victims' movement and provides an overview of movements that were precursors of the crime victims' movement. The six stages of the movement are then delineated. Finally, the major milestones at both the federal and state level are summarized.

Today's view of violent crime and victimization is quite different than in the 1970s. The nation's emotional and legal reaction to criminals has changed dramatically. Why have personal and political responses changed during this period? This chapter will first summarize the early legal codes from which today's victims' rights evolved; then it will focus on the historical development of the crime victims' movement and the reasons for the public's more recently altered perceptions of crime and the treatment of crime victims.

In the last three decades, the crime victims' movement has emerged as a powerful source of social, legal, and political change. Many early pioneers of the crime victims' movement were influenced by the cultural environment created by the civil rights and antiwar movements. Meanwhile, the women's movement, as well as the law and order movement, led more directly to the emergence of a clearly defined crime victims' movement. The history of the movement can be divided into six stages, each denoting new developments in victim involvement and services, changes in service providers' attitudes, new theoretical concepts, and ongoing legal changes. This description is, by necessity, not inclusive of all historical facts; rather, its purpose is to acquaint the reader with the *zeitgeist*, or spirit, of each stage of the crime victims' movement.

NVAA Module 2 Learning Objectives

- Identify the major social/political movements that contributed to the rise of the victims' rights movement.
- Describe three major federal victims' rights laws.
- Describe and be able to access the OVC Oral History Project.
- Describe at least three landmarks in the history of the victim assistance field.

Early Legal Codes

* Authors of this chapter are Steven Derene, Executive Director, National Association of VOCA Assistance Administrators, Madison, WI; Steve Walker, Ph.D., California State University, Fresno, CA; and John Stein, J.D., International Organization for Victim Assistance, Newberg, OR.

Modern legislative codes primarily have evolved from earlier legal codes as an attempt to define and deal with deviant behavior. The focus has predominantly been on the criminal and his or her motivation, not on the victim and his or her needs. Max Weber stated that the primary purpose of the law was to regulate the flow of human interaction in order to make the behavior of others predictable (as cited in Rheinstein, 1954). Historically, laws also serve other purposes: banishing private retribution, reflecting public opinion, deterring criminal acts, punishing offenders, and providing socioeconomic control (Siegel, 1989). These various purposes almost exclusively focus on altering the criminal's behavior.

The question is how other systems have made room for the victim in this discussion of the purpose of the law. Roscoe Pound, a great modern legal scholar, believed that the law was malleable and a tool of social engineering (Pound, 1968). Pound believed that the law should change with societal changes and the advent of new ideas. He espoused a series of *jural postulates* that reflected the shared needs of society. In this context, the needs and rights of crime victims are appropriate aspects of any legal code, especially today, as victim issues have emerged since the 1970s. The following sections will detail how several ancient and modern societies have attempted to protect crime victims' rights.

Code of Hammurabi

King Hammurabi ruled Babylon around 2000 B.C.E. (Before the Common Era) for about 55 years. He was the sixth king of the First Dynasty of Babylon, which was the commercial center of the known civilized world. Babylon's strength and the length of Hammurabi's reign created a time of great stability. To enhance this stability of both social and commercial life, Hammurabi created a code that established rules for all aspects of his subjects' lives (Gordon, 1957).

This code was intended to replace clan blood feuds with a system of laws sanctioned and administered by the state. The code contained five sections (Gordon, 1957):

1. A code of basic laws.
2. A manual of instruction for judges, police officers, and witnesses.
3. A handbook of rights and duties of husbands, wives, and children.
4. A set of regulations establishing wages and prices.
5. A code of ethics for merchants, doctors, and officials (Masters and Roberson, 1985).

In essence, the Code of Hammurabi was a set of laws, an administrative manual, a set of Old Testament-type commandments, a collection of commercial regulations, and a statement of professional ethics. Western society has all of these, but they are often found in separate volumes under the jurisdiction of separate administrative entities. This code was indeed a broad undertaking to provide order and stability in its time.

The code established three major changes in society's view of the law that directly affected the stability of society and the treatment of crime victims. Again, these changes were directed at terminating the clan rule by the blood feud, which often was perpetuated for generations and affected the basic continued existence of an entire society (Wallace, 1998). The three major changes were:

1. **An assertion of the power of the crown or state.** This was the beginning of state-administered punishment. Blood feuds between private citizens were banned under the code.
2. **Protection of the weaker from the stronger.** Widows were to be protected from those who might exploit them; elderly parents were protected from sons who would disown them; and lesser officials were protected from harassment by higher officials.
3. **Restoration of equity between the offender and the victim.** The victim was to be made as whole as possible, and, in turn, he or she was required to forgo vengeance and forgive the offender.

Of significance for the later victims' movement was that this was one of the first victims' rights statutes in history. Punishment of the offender and restitution to the victim were equally important in Babylonian society. Two other ancient societies also attempted to deal with victims' rights. Both of these influenced English and American law.

Roman Law

The next major attempt to codify the law to avoid personal disputes and blood feuds was Roman law. During the period known as the *Pax Romana*, Roman law affected most of the civilized world, including England. These laws were derived from the Twelve Tables, which were written in about 450 B.C.E. As with the Code of Hammurabi, these tables delineated a set of basic rules pertaining to family life, religious practices, and economic endeavors. For the first time in Roman life, written laws now applied to all classes of society (Wallace, 1998).

Later, Emperor Justinian I codified these tables into a set of writings. The Justinian Code distinguished two types of laws:

- **Public laws.** These dealt with the organization and administration of the Republic.
- **Private laws.** These addressed issues such as contracts; possession and other property rights; injuries to citizens; and the legal status of various persons, such as slaves, husbands, and wives.

This code contained elements reflected later in both English and American civil and criminal law. From 100 B.C.E. to about 400 C.E. (Common Era), Roman law and

customs were forced on the English people and influenced the development of English legal practices into the Middle Ages.

Jewish Law

The oral tradition of the Mosaic Code probably began several centuries B.C.E., and it was written for the first time in the fifth book of the Hebrew Bible, Deuteronomy, around 100 B.C.E. This covenant or contract between Yahweh and the 12 tribes of Israel has had a long-lasting effect on all Judeo-Christian societies, especially England and America. The Ten Commandments' prohibition against murder, perjury, and theft became the basis for the laws in these two societies (Wallace, 1998).

Of equal influence was Deuteronomy's prescription for the punishment of these and other crimes: "an eye for an eye, tooth for tooth, hand for hand, foot for foot" (Deuteronomy 19:21 TNIV). This early pronouncement of basic justice owed to victims was not meant to be taken literally, according to rabbinic tradition. Rather, it was interpreted to mean that the victim of a crime should receive from the criminal the value of an eye, a tooth, a hand, a foot, and so forth. This was the first formalized proposal of victim restitution since the Code of Hammurabi.

English Law

From the Middle Ages until the Norman conquest in 1066 C.E., England was a decentralized country with multiple kings and nobles holding power over their individual lands. There was little written law, and crimes during this period were viewed as personal wrongs, not the concern of the state as in the Code of Hammurabi. Restitution for the offense (known as *wergeld*) was paid directly to the victim or the victim's family. If the offender failed to make payment, revenge was exacted, and often a blood feud ensued. The victim's right to equity was preeminent, but the stability of society was very tenuous.

However, with the advent of William the Conqueror's rule in 1066, royal administrators rode the circuit and rendered justice. To make this new system more palatable, these administrators combined Roman law with local custom and rules of conduct to guide their judgments. This system of standing "by the decided law" would have a direct effect on the later development of English common law (Wallace, 1998).

Common law was recognized before William's rule. This traditional body of unwritten legal precedents created by court decisions (as distinguished from written statutory law) was used by the royal judges as they started their deliberations. They would review past decisions that were similar to their current case and apply them when possible. Then, in the 11th century, King Edward the Confessor (1042–1066) proclaimed that common law was the law of the land, and court decisions were then recorded that could be used by lawyers in pleading their cases. Common law was the melding of existing legal practices

known as Dane law and Mercian law with West Saxon legal practice. The concept of common law greatly influenced the development of American law and its early emphasis on restitution and victims' rights.

The final step in the codification of laws in England was the signing of the Magna Carta in 1215. This was a written statement of the basic liberties granted to English noblemen and the people. The U.S. Constitution and its unique statement of individual rights and liberties, and American legal practices in general, were greatly affected by the way this document evolved as a claim of everyone's rights against the state.

United States Law

This focus on the development of law builds upon an almost 4,000-year history of some attention to victims' rights. American law combined common law, written statutes enacted by a legislative body, and the foundation of the Constitution. From the time of the earliest settlers in this country in the 16th century until early in the 19th century, victims served as police officers and prosecutors (or hired them) and prosecuted crimes done to them in much the same way that they might seek redress in civil courts. The main form of punishment imposed was an order of restitution, just as in common law. The victim often arranged for a posse to capture the thief, paid an attorney to prosecute the case, and may have even paid the expenses for a circuit judge to come to that jurisdiction.

The most significant development in the treatment of crime victims was the establishment of public prosecutors. "The office was first established by statute in Connecticut in 1704, whose example was soon followed by the other colonies. However, it was not until shortly after the Revolution that this office emerged as the predominant method of prosecution" (McDonald, 1976, p. 660). According to one scholar, the "monopoly of criminal prosecution by the district attorney is more the result of a misunderstanding of history than of explicit legislative direction" (Goldstein, 1982, pp. 518-9), in that most statutes at the time authorized the district attorney to prosecute criminal cases but did not explicitly preclude victims or anyone else from prosecuting on their own. Nevertheless, courts subsequently interpreted—or misinterpreted—English precedents, eventually leading to the standard that only district attorneys could conduct criminal prosecutions (Goldstein, 1982).

Between 1850 and the early 1970s, the victim's central role faded and then was lost. It is difficult to clearly distinguish why this radical change occurred. As with most social processes, it must have been a slow, gradual process. Before the 1850s in America, two major changes may have influenced this decrease in attention to victims' rights. Government began turning law enforcement and prosecution over to new public servants, in part because the system of private prosecution favored those with means. The general welfare of the community became the focus, breathing new life into the traditional English theory that crime was primarily a wrong against the public and only secondarily against the individual. The fact that the newly created public prosecutors were elected reinforced their self-image as serving the greater good.

In this changeover, restitution was seen as being owed to society, not to the victim, in the form of fines, a principal form of punishment in the years predating the widespread use of prisons. This led to the second major change. In the same period, the mid-19th century Philadelphia Quakers constructed a special kind of jail where convicts were expected to do penance for their wrongs (hence “penitentiaries”). This was the advent of building more and larger penitentiaries as the primary mode of punishing or correcting offenders. If a debt (time more than money) was owed to society, more places were required to pay this debt. Restitution to the victim became an afterthought that was now seen as the purview of the civil court. With fewer stringent guidelines and even fewer resources, victims’ rights languished within the civil court system for almost 125 years.

Starting in the 1970s, the societal view of criminals’ and victims’ rights began changing dramatically and not always on parallel tracks, given the differing kinds of reforms that advocates sought for victims. In 1972, an assistant district attorney in Milwaukee County, Wisconsin, published an article in the *Notre Dame Law Review* that described the “pattern of blindness and neglect” with which witnesses were treated (Ash, 1972, p. 399). The article drew attention to the critical role of crime victims in the criminal justice system and encouraged the development of what was then referred to as “witness appearance-control projects” (Ash, 1972, pp. 411-12).

Victim issues gradually moved back into the mainstream of the criminal justice system and led to the creation of entirely new kinds of social services. The following sections delineate the reasons for these changes and describe the movements that helped precipitate this return to the victims’ rights of the late 1700s and early 1800s.

Emerging Social Movements

It was not until the 1800s that women like Susan B. Anthony began to rebel against male domination and abuse. Most known for her zeal in promoting the right for women to vote, Anthony was also creating the first women’s movement in this country by addressing domestic violence, the victimization of prostitutes, and the battle for equal pay for women. She published a newspaper edited by and for women, cautioning workers about sexual harassment while railing against substance abuse and pointing out that women beaten by their intoxicated husbands were its most common victims (Sherr, 1995).

Friends, when we come before you to advocate the Cause popularly termed “Women’s Rights,” we simply ask that woman not be wronged. We ask for her justice and equality—not favor and superiority—the rights and privileges her humanity charters to her equally with man, not arbitrary power and selfish domination. (Sherr, 1995, p. 50)

In 1866, the American Society for the Prevention of Cruelty to Animals was formed, followed by the Society for the Prevention of Cruelty to Children in 1975, both predating

any formal organization to prevent cruelty to women in the United States. In spite of the noble efforts of Susan B. Anthony and Elizabeth Cady Stanton, and, one generation later, Jane Addams, who founded Hull House in Chicago, not much changed for women in the United States until the first protective shelters for battered women were established 100 years later.

Beginning in the early 1960s and preceding renewed focus on crime victims, four social/political movements set the stage for the crime victims' movement as it exists today. The first two—the civil rights movement and the antiwar movement—created a cultural environment that, along with the inspiration of President John F. Kennedy's "New Frontier" idealism, greatly influenced the philosophical, legal, and tactical background of many pioneers of the crime victims' movement. Two other movements—the women's movement and the law and order movement—had more direct bearing on the evolution of the crime victims' movement.

The Civil Rights Movement

Dr. Martin Luther King, Jr., and other leaders of the civil rights movement changed this country's view of civil disobedience, clarifying that all Americans have rights under the U.S. Constitution, and focusing on nonviolent change. Even though this country has had a long history of civil disobedience dating back to the Boston Tea Party and 19th century literary figures like Thoreau and Whitman, this approach diminished as a result of 20th century patriotism engendered by two world wars. Civil disobedience was, therefore, not new in 1963 but reemerged and was applied to a new group: American minorities. The civil rights movement enabled society's disenfranchised minorities to exert power over American governmental and private institutions and demand equal rights and equal access to society's opportunities and institutions. This movement helped establish the principles that constitutional rights should apply to all citizens, and that nonviolent methods of advocacy can be productive in changing American society (Karmen, 2004).

The Antiwar Movement

This movement organized to oppose American participation in the war in Vietnam. It pointed to America's propensity for violence and the influence of the military-industrial complex, as President Dwight D. Eisenhower called it. A key component of this movement was distrust of authority, which continues today. Through its well-orchestrated marches in cities across America, the antiwar movement showed that grassroots politics could influence and even overpower conventional politics. More importantly, the movement raised questions not only about governmental decisionmaking but also about the moral implications of these decisions.

Even more than proponents of the civil rights movement, antiwar proponents used the media, especially television, to publicize their issues and concerns. The women's

movement later used this tool efficiently in publicizing the plight of rape and domestic violence victims. Both of these populist political movements empowered citizens, especially young people, to speak out publicly for what they believed was right. Both served as incubators of grassroots organizations that would awaken groups and organizations concerned with sexual assault, domestic violence, and homicide.

The Women's Movement

A focus on child abuse and neglect led to attention to women as well. This child protection concern initially focused on physicians, social workers, and public-sector personnel. The attention of child advocates and Congress to the work of Dr. C. Henry Kempe, who made his first presentation about the “battered child syndrome” in 1961, led to the creation of the National Center on Child Abuse and Neglect in the Department of Health, Education, and Welfare in 1974.

Attention to women as a group had diminished after they were given the right to vote by the 19th Amendment to the U.S. Constitution. Not until the early 1970s did the women’s movement reexamine American family values and traditional male/female roles by spotlighting sexism in bureaucracy (including, very importantly, the criminal justice system) and economic discrepancies between men and women. This perspective and insight have been considered the most significant precursor (“the mother”) of the crime victims’ movement. “The idea that women should organize to combat rape (and domestic violence) was an invention of the women’s movement” (Burgess, 2004, p. 4). The victimization of women and the bureaucratic facilitation of this violence in all areas of society were clarified and politicized. The long overdue recognition that women were entitled to equal social, political, and economic opportunity and power became a national focus.

Susan Brownmiller’s book *Against Our Will: Men, Women and Rape* gave credence to the sexual assault movement. It broadened the understanding of “rape” from a crime against “sexual morality” to one of “physical assault” and called attention to society’s and, in particular, the criminal justice system’s maltreatment of sexual assault victims (Brownmiller, 1975).

A direct result of this increase in women’s power and attention to women’s issues was the formation of rape crisis centers and domestic violence shelters in the early 1970s (Burgess, 2004). These community-based grassroots programs were started by rape and domestic violence victims in their own living rooms and basements. The common agenda was to right the wrongs for other victims, but the programs met strong resistance. In one community after another, rape crisis counselors faced countless negative encounters with the criminal justice system and other bureaucracies. Meanwhile, they developed descriptions of “crisis counselors,” as they called themselves. “They began with no role models and became role models for themselves and for other crime victims” (Burgess, 2004). This important manifestation of the women’s movement led to some of its earliest,

most publicized political events, such as Take Back the Night and numerous candlelight vigils for women's rights to facilitate consciousness-raising.

The Law and Order Movement

The law and order movement in 1968 slightly predated the beginning of the crime victims' movement (often marked at 1972, when the first three official crime victim service agencies were formed), and its alliance with the women's movement did not develop until 1974. The law and order movement focused on increasing the rights of the common citizen to achieve parity with the rights of the criminal. However, many supporters felt that common citizens could manage their own protection and believed that justice should be accomplished without expanding governmental assistance and monetary support (Karmen, 2004). Law and order supporters believed that criminals should be punished more rigorously; potential victims should be more careful; and victims, once victimized, should be self-sufficient and not dependent on the government for assistance.

The mid-1970s brought the development of victim/witness assistance programs located in prosecutors' offices. The earliest programs were designed to help victims who were witnesses in criminal cases navigate the criminal court system and to encourage them to cooperate and thereby improve conviction rates. The emotional distress of many victims led some members of the victim/witness staff to offer counseling as part of their job. As they tried to make the road through the justice system smoother, some of them began to see themselves as advocating on behalf of victims as well.

By the early 1980s, a shift developed placing more emphasis on victims' needs. Programs emerged to respond to the crises of all victims of violence—some in grassroots settings and some in law enforcement agencies. The support for increased offender accountability and a back-to-the-basics constitutional approach produced a new emphasis on restitution and individual rights. The law and order movement has been particularly influential in the later stages of the crime victims' movement. Its call for participation by victims as a way to protect their own interests was hastened along by new victim activists—including some within the system who were allied to this cause, as were an increasing number of veterans of the law and order movement who broadened their focus from the offender to the victim.

Sometimes in unison, more often in parallel ways, the women's movement and the law and order movement greatly accelerated the pace and success of the victims' movement in the 1980s.

The following section outlines and describes six stages of the crime victims' movement, detailing critical events in its history. This description denotes changes concerning victim involvement and services, service providers' attitudes, new theoretical concepts, and ongoing legal changes. The changes associated with these stages did not always occur in neat, discrete epochs but evolved out of earlier developments and continued through subsequent stages.

The identification and role of broad movements should not overlook or diminish the contributions of individuals, not necessarily acting in concert with others, to the development of the crime victims' movement. For example, Margery Fry originated the concept of government-run crime victim compensation programs and invented domestic violence shelters. Also important, was the power of personal stories, such as those of Candy Lightner, John Walsh, and Roberta Roper, in fostering a broader appreciation and support for crime victims' rights and services.

Historical Stages of the Victims' Rights Movement

Stage 1: Response to Crime

In the early 1960s, crime rose steadily in the United States, reaching its highest point in 1981 (Federal Bureau of Investigation [FBI], 1981). Its effect on American life was evident. In response, the crime victims' movement mobilized on multiple fronts (Young, 1988).

In 1965, the first crime victims' compensation program was established by the California legislature. However, the major strides of this period were accomplished not by legislatures but by the energy of volunteers, many of whom were crime victims themselves. In many cases, they had been victimized again due to less-than-adequate assistance and services within the criminal justice system.

In 1972, volunteers founded the first three official victim assistance programs that still exist today:

- Aid for Victims of Crime, St. Louis, Missouri (now the Crime Victim Advocacy Center of St. Louis).
- Bay Area Women Against Rape, San Francisco, California.
- Rape Crisis Center, Washington, D.C.

Throughout the 1960s and early 1970s, many state and federal commissions were established to study crime and urban riots and their consequences. Following these efforts, the federal government took two significant steps to address the problem: the creation of the first national victimization survey, *National Crime Survey*, in 1972 (renamed the *National Crime Victimization Survey* in 1990) and the formation of the Law Enforcement Assistance Administration (LEAA) (Young, 1988).

The *National Crime Survey* gathered crime data from randomly selected individuals and households all across America, an approach that was very different from the FBI's *Uniform Crime Report* (UCR), which compiles only crime statistics reported to law

enforcement agencies. The new information made it devastatingly clear that the rates of rape and other violent crimes were much higher than those reported to law enforcement. The *National Crime Survey* showed that actual crime rates were three or four times higher than the UCR's published official rates (Bureau of Justice Statistics [BJS], 1998).

LEAA monies were intended to combat victimization by increasing law enforcement funding and establishing the first victim/witness programs across the United States in 1974. Funds were also used to help educate and increase the sensitivity of police officers in dealing with victims.

In 1974, the first battered women's shelter was established in Denver, Colorado. It was operated by volunteers who used their own funds and a few donations. Their major focus, as in the women's movement, was to provide victim support using the approach of self-help groups. Their goals quickly expanded to target insensitive and unfair treatment of victims by the criminal justice system (Young, 1988), an evolution from helping to advocacy and activism that was occurring in other sectors of the movement.

- LEAA called together leading victim activists to discuss methods of increasing victim assistance and created some pilot victim/witness programs in 1974.
- James Rowland, chief probation officer in Fresno, California, developed the first victim impact statement used by the criminal justice system to clearly ascertain and specify a victim's losses.
- In Fort Lauderdale, Florida, and Indianapolis, Indiana, the first law enforcement-based victim assistance programs were established.

In 1975, Frank Carrington's book *The Victims* promoted "the proposition that the victim's current sorry status in the criminal justice system *need not be so* [italics added] and that something can and must be done to enhance the rights of the victim" (Carrington, 1975). The National Organization for Victim Assistance (NOVA) was founded in 1975.

In 1976, about 100 leaders met at the Second National Victim Assistance Conference in Fresno, California.

During this first stage, mental health providers had limited involvement at the grassroots level. However, practitioners working with victims of sexual assault recognized characteristics common to many victims. In 1974, Ann Burgess coined the term *rape trauma syndrome* (Burgess and Holstrom, 1974). Although not universally accepted until years later, its initial use during this time would later facilitate better services for victims in both the mental health and criminal justice systems.

By the late 1970s, mental health providers became more aware of victim trauma. Research began to show the efficacy of peer support groups; some research indicated that these groups were often much more helpful than mental health professionals, partly because the professionals had little training in the grieving process and crisis therapy.

The Crime Victim's Book, written by Morton Bard and Dawn Sangrey and first published in 1979, was an early, influential primer on understanding and recognizing victims' emotional responses to crime victimization.

As specialized service providers gained new insights into victimization, mental health practitioners began to acknowledge their lack of expertise and began to listen to advocates and victims. For example, the description of the "battered woman syndrome," formulated by Lenore Walker in 1979, provided a theoretical framework for working with victims of domestic violence.

During this period, a number of the pioneers in understanding and treating the mental health problems of crime victims began comparing notes with colleagues treating Vietnam veterans suffering from what seemed to be related aftereffects of trauma.

By the end of this stage, the groundwork was laid from two sources for the development of a full-fledged movement. The women's movement created grassroots rape counseling and domestic violence programs, and within the criminal justice system through LEAA funding, victim assistance programs were emerging.

Stage 2: Conflict and Unstable Funding

At the outset of this second stage, it appeared that many of the gains of the fledgling victims' movement might be lost. In 1979, LEAA was defunded by Congress, and thus the first stream of federal support abruptly ended. As is often the case when limited funding is paired with too many needs, community-based and government-based programs began to compete for limited resources (Young, 1988).

Professionalism and training emerged as competing themes, partly to define differing approaches to victim services and partly to propose that their own perspective was most worthy of the dwindling dollars. Despite their common purpose of assisting victims, the contrasting perspectives, purposes, structure, and operation of grassroots victim programs versus criminal justice-based programs increasingly became issues. This was exacerbated by the frequent complaint of grassroots victim advocates that the criminal justice system did not adequately support victims of rape and domestic violence. Even today, some of the residual tension from this grassroots-versus-system perspective remains, as do critiques of both perspectives from those without ties to either camp.

In 1978, sexual assault programs and domestic violence programs created their own national organizations to pursue their specific agendas (Young, 1986). These organizations include the following:

- National Coalition Against Sexual Assault (NCASA).
- National Coalition Against Domestic Violence (NCADV).

Believing that change in rape and domestic violence law was not happening quickly enough, these organizations decided not to work within the criminal justice system, which, they felt, was not listening. At the same time, however, they fought successfully for the first round of victims' rights reforms, namely rape shield laws and a ban on the exemption for marital rape.

During this period, program leaders and administrators debated the strengths and weaknesses of the various programs.

Many movements fail (including some of the precursors of the victims' movement) because no "second generation" is trained to continue with the original fervor and energy. Fortunately, this was not true for the victims' movement. In spite of the dissension among the established programs, the system-based programs were proving their worth, and important new grassroots organizations arose. Often led by victims, these new groups directly challenged the indifference of the criminal justice system and the stigmatizing approaches of the mental health system.

Two new grassroots programs grew in response to a void in services to family members of those killed. The cumulative effect was a new infusion of energy into the movement. These two programs were:

- Parents of Murdered Children (POMC), founded by Robert and Charlotte Hullinger in 1978.
- Mothers Against Drunk Driving (MADD), founded by Candy Lightner and Cindi Lamb in 1980.

In 1979, Frank Carrington founded the Crime Victims' Legal Advocacy Institute, which was renamed the Victims' Assistance Legal Organization (VALOR) in 1981, to advocate for the legal rights of crime victims. While his main contribution was getting the civil courts to make it easier for victims to get monetary redress, Carrington was also among those seeking reform in the criminal justice system.

On the legislative front, crime victim advocates pressed for reforms, and state legislators enacted laws that increasingly supported victims (NCVC, 1994a), such as the following:

- In 1977, Oregon passed the first law mandating arrest in domestic violence cases.
- In 1978, Minnesota enacted legislation to allow warrantless arrest in domestic violence cases, regardless of whether there was a prior protection order.
- In 1980, Wisconsin enacted the first statutory bill of rights for victims and witnesses of crime, including state funding for county victim/witness assistance programs.

In 1981, Ronald Reagan became the first president to proclaim National Victims' Rights Week. Later that year, the Attorney General's Task Force on Violent Crime issued its

report. The task force, which included Frank Carrington, recommended that a separate task force be created to consider victims' issues.

Stage 3: Public Awareness

As the revitalized crime victims' movement learned better ways to access the news media, public awareness of victims' issues increased. The 1981 Uniform Crime Reports had clearly shown the increase in victimization, and the movement actively used these new statistics for its cause (FBI, 1981).

In response to the Attorney General's Task Force recommendation, President Reagan appointed a Task Force on Victims of Crime in 1982. Chaired by Lois Haight Herrington, this task force made 68 recommendations to improve the treatment of crime victims. The recommendations were directed at all segments of the public and private sectors, including the criminal justice system. The report included, for the first time, a recommendation for a constitutional amendment for crime victims' rights and federal funding for state crime victim compensation and victim/witness assistance programs.

Later that year, Congress passed the Victim and Witness Protection Act. Borrowing from new victims' rights precepts in state laws, this act provided for witness protection, restitution, and fair treatment for federal victims and witnesses of violent crimes (NCVC, 1994a).

Likewise, changes at the federal level encouraged legislative changes at state levels, including victims' bills of rights, proposals for training and education, and expansion of existing victim/witness programs. The single greatest legislative event in the victims' movement to date was the 1984 Victims of Crime Act (VOCA). This act established the Crime Victims Fund to provide funds for local victim assistance programs and state victim compensation as well as services for victims of federal crimes. The fund was made up of money from federal criminal fines, penalties, and bond forfeitures.

The Office for Victims of Crime (OVC), created in the Department of Justice in 1983 to implement the 68 recommendations of the President's Task Force, was designated to administer VOCA, including the distribution of VOCA funds to states for existing victim programs (NCVC, 1994a).

With increased public awareness and high-level political support for victims' issues, numerous programs were started and laws passed during the 1980s. The greatest increase in victim/witness programs occurred in this third stage. Some highlights of this stage were:

- National Conference of the Judiciary on Victims of Crime (1983).
- Missing Children's Assistance Act, which included the establishment of the National Center for Missing and Exploited Children by Congress (1984).

- Attorney General’s Task Force on Family Violence (1984).
- Family Violence Prevention and Services Act (1984).
- National Institute of Mental Health (NIMH) and NOVA national colloquium, “Aftermath of Crime: A Mental Health Crisis” (1985).
- National Center for Victims of Crime (formerly Sunny von Bulow National Victim Center) (1985).
- NOVA Constitutional Amendment Meeting (1986).
- President’s Child Safety Partnership (1987).

Changes in rape and domestic violence laws during this period helped to influence attitudes in the criminal justice system and local communities. However, grassroots rape counseling and domestic violence advocates felt that citizens were still inclined to view these crimes in morality terms rather than criminal terms (Burgess, 2004).

As the movement spread to bring services to other victims as well as victims of domestic and sexual violence, second-generation grassroots organizations—including the newer ones—feared that increased governmental involvement and new competition for funding of victim programs would lead to dissension as in previous years. These fears were not realized, however. A floor amendment to VOCA in 1984 had mandated that priority be given to victims of child abuse, but this led to complaints from groups representing victims of spousal abuse, sexual assault, and other crimes. And so a fourth priority, for “previously underserved victims of violent crimes,” was later added. In 1988, VOCA was reauthorized, and the OVC was established permanently. Crime victim compensation was expanded to include victims of both domestic violence and drunk driving.

In addition, during this stage, theoretical concepts were put to more practical use in both the criminal justice and mental health systems. The concept of *second victimization* as originally enunciated by psychiatrist and former New York City police officer Martin Symonds—that victims were often harmed as much by the system’s response as by the crime itself—became generally recognized and accepted. Even dealings with friendly justice professionals could generate acute stress in victims, leading many in prosecutors’ offices to learn the same crisis intervention techniques as were used by colleagues who saw victims much closer to the original trauma.

The various syndromes identified earlier were being discussed within the context of a new diagnosis—posttraumatic stress disorder (PTSD). With the identification of PTSD, a general diagnosis was now developed that did not stigmatize the victim but, rather, clarified and legitimized the victim’s normal response to an abnormal situation. In 1980, this diagnosis was recognized when the description of PTSD was placed in the *Diagnostic and Statistical Manual* (third edition) of the American Psychiatric Association (APA), the authoritative diagnostic tool of mental health professionals.

In addition, better training in trauma and crisis intervention enabled mental health professionals to learn about victims' issues. Mental health professionals also began to provide better supportive services. Peer support groups began to be seen as a useful adjunct to successful individual therapy.

A major development occurred in 1986 when NOVA was asked to send a team of experienced crisis counselors to help the community of Edmond, Oklahoma, immediately after a mass murder. Tens of thousands of caregivers have been trained in the NOVA model that emerged under the rubric of Community Crisis Response Teams. A similar set of short-term services, called Critical Incident Stress Debriefings, emerged at about the same time, which focused principally on the stresses of first responders in cases of mass violence. Volunteers from both disciplines became the victims' movement's special contribution to disaster services.

During this period, the crime victims' movement came of age, becoming more focused and sophisticated (Andrews, 1992). The first 10 years had been initiated and perpetuated by strong leaders with forthright personalities; however, in this period, an important paradigm shift was taking place. The movement expanded beyond the dynamics of individual-level politics to group-level national politics, resulting in the change into a more formalized profession.

Stage 4: Expanding Legislative Agenda

In the 1900s, three major legislative issues emerged:

- Victim service funding.
- Victims' rights.
- Law and order concerns.

The growing sophistication of the victims' movement enabled advocates to exert power and influence on several fronts. Thanks to state networks and coalitions, political efforts during this time became much more organized and presented clearer and more cohesive agendas, such as:

- Removing the limit on deposits into the Crime Victims Fund for VOCA to provide expanded and more stable funding for state crime victim compensation and victim assistance programs.
- Expanding victims' rights through more extensive and effective state legislation.
- Adopting crime victims' rights amendments in state constitutions.

Successful results of this agenda at the federal level included the following:

- As of 1995, all 50 states, the District of Columbia, and three territories had enacted crime victim compensation programs.
- As of 1998, 33 states had passed constitutional amendments.
- The U.S. Congress passed major legislation that addressed hate crimes, campus security, child protection, violence against women, sexual assault, kidnapping, and gun control.
- The U.S. Supreme Court upheld the use of victim impact statements in capital cases.
- Currently, all states have passed victims' rights legislation in the form of a victims' bill of rights or a series of statutory protections.

This legislative agenda has continued to grow and expand. The recent serious congressional consideration to a federal constitutional victim rights' amendment exemplifies this. The women's movement's rape and domestic law reform agenda has been embraced by both women and men in the lawmaking professions (Burgess, 2004). Activities and issues in this stage continue into the sixth stage.

Stage 5: Emerging Professionalism

One of the most salient issues in recent years has been the emerging professionalism in the field of victim services. As with other grassroots movements, there is some apprehension about professionalizing a community-based service system that originated and developed its strength through the dedication of volunteers who extended themselves personally to victims in need. Most victim service programs, however, have not diluted their passion and are led by dedicated professionals who have years of experience working with victims in specialized settings while still relying heavily on trained, committed volunteers.

The historical distrust of other professionals who have no specialized training or experience in victim treatment issues has persisted in many areas. Experience has made some of these concerns both legitimate and urgent. However, salary issues, increased availability of training, and a growing interest in program evaluation and quality services have led to significant professionalism in the field.

Victim service providers work in very diverse settings. Advocates typically perform a variety of tasks that require an understanding of social, psychological, and legal principles. In addition:

- The areas of expertise and the training needed are multidisciplinary in nature.
- There is a growing recognition that to be accepted by other professionals, certification or some other form of credentialing is necessary.

- Increased professionalization of this field will potentially create professional-level salaries for experienced victim advocates and administrative staff.
- Credentialing by victim groups, with help from allied government agencies to support training called for in the credentialing program, is seen by many as a way to overcome the fear of traditional degree-centered credentials that might be imposed on the field by one of the licensed professions. The trend toward credentialing by advocates' groups and their allies in government has been hastened by (unsuccessful) proposals in a few states that only members of a licensed mental health profession should be allowed to perform certain counseling services.

The changes in this area have often been small but significant and growing. By the early 21st century, a dozen or more states have established their own credentialing systems, with the required educational units designed and taught mostly by peers. (States with such systems include Ohio, Florida, California, Connecticut, Kansas, and South Carolina.)

In 1987, the NOVA Board of Directors adopted a *Code of Professional Ethics for Victim Service Providers*, which covers practitioners' relationship with clients, colleagues, other professionals, and the public. Using NOVA's Code as a template, MADD developed a Code of Ethics for its victim advocates in 1988.

Academic programs were offered in increasing numbers during the 1990s. California State University (CSU), Fresno developed the first academic program in victim services/victimology in the United States. By the summer of 1989, CSU, Fresno had started the first Victim Services Summer Institute to make its certificate program available to professionals in other states. By 1990, the number of graduates from this program had more than tripled. Finally, by 1991, CSU, Fresno developed the first victimology major in the nation and then began developing the first doctorate in 1996 (NCVC, 1994a).

Eight states have established clinics to offer free legal services for victims seeking to enforce their rights. Nurturing this development is the National Crime Victims Law Institute, founded in 2000 at Lewis and Clark Law School in Oregon, which also fosters teaching courses on victims' rights in law schools around the country.

Academic credit and the development of more degree programs will continue to be important for the next phases of the crime victims' movement. Some victimology programs have developed legal advocacy components in addition to their training, technical assistance, and educational activities, such as the Center for the Study of Crime Victims' Rights, Remedies, and Resources of the University of New Haven in Connecticut. This program, part of the School of Public Safety and Professional Studies, provides amicus briefs in selected appellate cases dealing with victims' rights issues.

Based on the template for performance ethnics and standards developed by the National Victim Assistance Standards Consortium, the next potential step could be the development of curriculum standards for education at the national and state levels. The

National Victim Assistance Academy (NVAA) curriculum was created to offer this opportunity. The original NVAA began in 1995 by offering a 45-hour core course of work in victim services that could be taken for academic credit. It formed the basis for the first state-level academy in Michigan in 1998. Then, OVC initiated a multiyear funding strategy for the development of state victim assistance academies in 1999. As of 2006, state victim assistance academies have been offered or are in the process of development in 30 states, most which have received OVC financial support and technical assistance.

A sign of the growing recognition of the need to enhance the professional status of victim service providers was the creation in 2003 of the National Advocate Credentialing Program (NACP) by a consortium of national victim organizations. By 2006, more than 500 victim service providers have received NACP credentials based on their experience and training.

In 1996, the National Domestic Violence Hotline (1-800-799-SAFE) was established to provide crisis intervention information and assistance to victims of domestic violence.

OVC launched a number of international crime victim initiatives in 1996, including working to foster worldwide implementation of a United Nations declaration on victims' rights and initiatives to better assist Americans victimized abroad.

In 1997, OVC representatives joined the U.S. Delegation to the United Nations Commission on Criminal Justice and Crime Prevention. OVC played a leadership role in the development of an International Victim Assistance Training Manual to implement the United Nations *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.

In 1997, the National Center for Victims of Crime (formerly National Victim Center) used its extensive legislative database to create the *Legislative Sourcebook*, a comprehensive compendium of victims' rights laws in all 50 states and the District of Columbia.

In 1998, *New Directions from the Field: Victims' Rights and Services for the 21st Century* was released to the field by OVC. The report was developed with support from OVC and input from more than 1,000 individuals across the nation. It assessed the nation's progress in meeting the recommendations set forth in the *Final Report* of the 1982 President's Task Force on Victims of Crime and issued more than 250 new recommendations from the field for the next millennium. OVC disseminated the 1998 report widely to many programs across the nation.

Stage 6: Advancing Advocacy

During this stage, additional significant developments have occurred on the national and state levels with respect to victims' rights constitutional amendments, legislation, expanded VOCA funding, and creation of national **programs affecting crime victims**.

U.S. Victims' Rights Constitutional Amendments

In the spring of 1996, bipartisan federal victims' rights constitutional amendments were introduced in both the U.S. House of Representatives and the Senate. The amendment was reintroduced in the Senate in January 1997, but no formal action was taken. Hearings on the amendment were then held in Congress in 1996, 1997, and 1998. In 2004, after being unable to break a potential filibuster on their proposal, Senators Jon Kyl and Dianne Feinstein crafted—and Congress passed—a federal statute modeled on their proposed amendment that allowed the general rights of restitution, notification, allocution, and protection with specific measures to enforce its provisions. Additionally, by 1998, a total of 33 states had adopted crime victims' rights constitutional amendments.

PARTICIPANT TEXT
National Victim Assistance Academy Track 1: Foundation-Level Training

EXHIBIT 2-1
STATES' PASSAGE OF VICTIMS' RIGHTS CONSTITUTIONAL AMENDMENTS

State	Year Passed	Electoral Support
Alabama	1994	80%
Alaska	1994	87%
Arizona	1990	58%
California	1982	56%
Colorado	1992	86%
Connecticut	1996	78%
Florida	1988	90%
Idaho	1994	79%
Illinois	1992	77%
Indiana	1996	89%
Kansas	1992	84%
Louisiana	1998	69%
Maryland	1994	92%
Michigan	1988	84%
Mississippi	1998	93%
Missouri	1992	84%
Montana	1998	71%
Nebraska	1996	78%
New Jersey	1991	85%
New Mexico	1992	68%
Nevada	1996	74%
North Carolina	1996	78%
Ohio	1994	77%
Oklahoma	1996	91%
Oregon	1996 (overturned 1998)	59%
Rhode Island	1986	passed by Const. Convention
South Carolina	1996	89%
Tennessee	1998	89%
Texas	1989	73%
Utah	1994	68%
Virginia	1996	84%
Washington	1989	78%
Wisconsin	1993	84%
33 States	Average	79%

Landmark Federal Legislation

1994

In 1994, the landmark Violence Against Women Act (VAWA) was passed. This has been the most significant legislation in the victims' rights field, other than VOCA. This act doubled the maximum federal sentences for sex offenses and domestic violence and required that temporary restraining orders (TROs) be honored by all other jurisdictions. Domestic violence perpetrators with TROs were prohibited from possessing firearms. For the first time, information shared by domestic violence and rape victims with an advocate was considered to be privileged communication. This act also established the Office of Violence Against Women and doubled the available funding for domestic violence and rape counseling programs.

1996

In 1996, the Congress passed "Megan's Law," the Community Notification Act, as an amendment to the national Child Sexual Abuse Registry legislation. This law provided that local communities be notified of the residential addresses of convicted sex offenders.

In 1996, the Antiterrorism and Effective Death Penalty Act included the Mandatory Victims' Restitution Act, under which limited kinds of restitution were made mandatory in all federal misdemeanor and felony cases. Compensation and victim assistance services for victims of terrorism both at home and abroad, including victims in the military, were expanded.

The Interstate Anti-Stalking Punishment and Prevention Act of 1996 was enacted by Congress. This legislation created a uniform federal law to protect stalking victims when they travel across a state line or on federal property, including military bases and Indian reservations. This law made it a felony to cross a state line to stalk someone or to violate a restraining order in another state.

1998

The Identity Theft and Deterrence Act of 1998 was signed into law in 1998. This landmark federal legislation outlawed identity theft and directed the U.S. Sentencing Commission to consider various factors in determining penalties, including the number of victims and the value of the loss to any individual victim. This act further authorized the Federal Trade Commission to log and acknowledge reports of identity theft, provide information to victims, and refer complaints to appropriate consumer reporting and law enforcement agencies.

2000

The Blood Alcohol Concentration Bill of 2000 required states to adopt a 0.08 blood alcohol content (BAC) as the legal limit for drunk driving by 2004; failure to do this would lead to an annual reduction in federal highway appropriations.

The Trafficking Victims Protection Act was passed in 2000 to combat the trafficking of persons, especially into the sex trade, slavery, and slavery-like conditions, through prevention, prosecution, and enforcement against traffickers and by increasing the protection, assistance, and mandatory restitution for victims. This act established programs by the U.S. State Department in foreign countries to assist in the safe reintegration or resettlement of trafficking victims.

Rights Milestones: A Summary

1962 Battered child syndrome (Kempe)
 1965 First crime victims' compensation program in California
 1972 First three victims' programs
 1972 National Crime (Victimization) Survey
 1974 First battered women's shelter in Denver, Colorado
 1974 LEAA Victim Assistance Conference
 1974 LEAA pilot victim/witness programs
 1974 Rape trauma syndrome (Burgess)
 1975 *The Victims* (Carrington)
 1976 Victim Impact Statement (Rowland/Fresno)
 1975 Founding of National Organization for Victim Assistance (NOVA)
 1976 First NOVA Conference in Fresno, California
 1977 National Association of Crime Victim compensation boards
 1977 Mandated arrest for domestic violence in Oregon
 1978 National Coalition Against Sexual Assault (NCASA)
 1978 National Coalition Against Domestic Violence (NCADV)
 1978 Parents of Murdered Children (POMC)
 1978 Victim Offender Reconciliation Program (VORP)
 1979 *The Crime Victim's Book* (Bard and Sangrey)
 1980 Wisconsin Bill of Rights for Victims and Witnesses of Crime
 1980 Mothers Against Drunk Driving (MADD)
 1981 National Victims' Rights Week (President Reagan)
 1982 President's Task Force on Victims of Crime (68 recommendations)
 1982 Federal Victim and Witness Protection Act
 1983 Office for Victims of Crime (OVC) (Herrington)
 1983 Wisconsin Bill of Rights for Children Victims/Witnesses of Crime
 1984 Victims of Crime Act (VOCA)
 1984 Missing Children's Assistance Act
 1984 Family Violence Prevention and Services Act
 1984 Victim Services certificate at CSU, Fresno
 1985 National Victim Center (National Center for Victims of Crime)
 1985 NIMH and NOVA "The Aftermath of Crime: A Mental Health Crisis," a national colloquium
 1986 NOVA Constitutional Amendment Meeting
 1986 First Crisis Response Team deployment
 1987 Posttraumatic stress disorder (PTSD)
 1988 VOCA reauthorized
 1989 Victim Services Summer Institute at CSU, Fresno
 1991 Victimology major at CSU, Fresno
 1994 Violence Against Women Act (VAWA)
 1995 National Victim Assistance Academy (NVAA)
 1996 Megan's Law
 1996 Antiterrorism and Effective Death Penalty Act
 1996 Interstate Anti-Stalking Punishment and Prevention Act
 1996 Support of U.N. Declaration on Victims' Rights by OVC
 1997 Victims' Rights Clarification Act
 1997 *Legislative Sourcebook* (National Center for Victims of Crime)
 1998 Grants to combat violent crimes against women on campus
 1998 Child Protection and Sexual Predator Punishment Act
 1998 Crime Victims with Disabilities Act
 1998 *New Directions from the Field*
 1999 State victim assistance academy grants
 2000 Child Abuse Prevention and Enforcement Act/Jennifer's Law
 2001 USA Patriot Act
 2001 VAWA reauthorized
 2003 PROTECT Act/Amber Alert
 2004 Justice for All Act (JFA)
 2006 VAWA reauthorized

The VAWA of 2000 provided for direct compensation from the federal government to victims of international terrorism. This act improved and expanded the legal tools and programs addressing domestic violence, sexual assault, and stalking. It authorized new grant programs expanding both programs and research for sexual assault and domestic violence. It defined dating violence and placed it under the VAWA programs. It widened the definition of underserved populations and established four new purposes for VAWA funds: coordinated community response, forensic medical examiners training, training to recognize disabled and older victims of domestic violence and sexual assault, and assistance with immigration matters.

2001

The USA Patriot Act of 2001 addressed the needs and concerns of victims of terrorists' acts. The act allowed the OVC director to respond to acts of terrorism both inside and outside the United States. It established an antiterrorism emergency reserve in the Crime Victims Fund and increased federal grants for state crime victim compensation benefits.

In 2001, the VAWA of 1994 was reauthorized with a \$3 billion budget through 2005. Congress reauthorized the original programs and expanded them, including grants for legal services, funding for transitional housing, computerized tracking of protection orders, grants for safe visitation, and grants for programs that address dating violence.

2004

In 2004, Congress passed legislation defining aggravated identity theft and establishing penalty enhancements for 2 additional years. Title I of the Justice for All Act (JFA), called the "Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act" (CVRA), enhanced substantive rights for crime victims in the federal criminal justice system, including the right to be protected from the accused, heard at all proceedings, treated with fairness and respect and to receive timely notice of public proceedings, confer with the government attorney, and receive full and timely restitution. The CVRA's enforcement provisions are more rigorous than other federal victims' rights laws and include the appointment of a victims' rights ombudsman in the U.S. Department of Justice. The act also authorized additional, non-VOCA funding for federal victim/witness coordinators, state and federal automated victim notification systems, and victim assistance legal clinics. Other provisions in the JFA seek to eliminate the substantial backlog of collection of DNA samples in cases of sexual assault and from crime scenes, criminals, and convicted offenders.

2006

VAWA is reauthorized by Congress and signed into law. The reauthorization increased funding to support rape crisis centers and combat violent crimes on campuses and provided funding to place victim assistants in local law enforcement agencies and to create a national educational curriculum to ensure that all courts have access to relevant laws and best practices.

Federal Crime Victims Fund

In 1995, deposits in the federal Crime Victims Fund reached a then-high of more than \$583 million, available for state crime victim compensation, local victim assistance programs, national training and technical assistance, and federal victim assistance. As a result of this increase in fund collections, state assistance grants received more than three times as much in federal funds in 1997 as they had the previous year.

In 1999, the fund deposits reached an all-time high of \$985 million. As a result of significant fluctuations in annual fund deposits, Congress began capping the amount that could be obligated each year with annual revenues above the cap stored in the fund balance, from which the program could draw as a rainy day fund when revenues did not meet the cap. Congress also began using the fund to support federal victim services, including victim/witness coordinators in U.S. Attorneys' Offices, victim specialists in FBI field offices, and a federal Victim Notification System.

References

- Andrews, A. 1992. *Victimization and Survivor Services: A Guide to Victim Assistance*. New York: Springer Publishing Co.
- Ash, Michael. 1972. "On Witnesses: A Radical Critique of Criminal Court Procedures." *Notre Dame Lawyer* 48:386–425.
- Brownmiller, S. 1975. *Against Our Will: Men, Women and Rape*. New York: Simon and Schuster.
- Bureau of Justice Statistics. 1998. *Sourcebook of Criminal Justice Statistics*. Washington, DC: U.S. Department of Justice.
- Burgess, A. 2004. "Research and Practice in Victim Services: Perspective from Education and Research." In *American Society of Victimology Symposium Proceedings*, A. Burgess and T. Underwood. Topeka, Kansas: Washburn University, 2.
- Burgess, A. and L. Holstrom. 1974. "Rape Trauma Syndrome." *American Journal of Nursing*. 131: 981–986.
- Carrington, F. G. 1975. *The Victims*. New Rochelle, NY: Arlington House Pub.
- Deuteronomy, in *The Holy Bible* (Today's New International Version). Retrieved July 17, 2007, from www.ibs.org/niv/passagesearch.php?passage_request=Deuteronomy%2019&tniv=yes.
- Federal Bureau of Investigation. 1981. *Crime in the United States Uniform Crime Reports, 1981*. Washington, DC: U.S. Department of Justice.
- Goldstein, A. S. 1982. "Defining the Role of the Victim in Criminal Prosecution." *Mississippi Law Journal* 52:515–561.
- Gordon, H. 1957 *Hammurabi's Code: Quaint or Forward Looking*. New York: Rinehart.
- Karmen, A. 2004. *Crime Victims: An Introduction to Victimology*. Belmont, CA: Wadsworth/Thomson.
- Masters, R., and C. Roberson. 1985. *Inside Criminology*. Englewood Cliffs, NJ: Prentice-Hall.
- National Center for Victims of Crime. 1994a. *Crime Victims' Rights in America: An Historical Overview*. Arlington, VA: Author.
- Pound, R. 1968. *Social Control Through the Law*. Hamden, CT: Archon.
- Rheinstein, C., ed. 1954. *Max Weber on Law in Economy and Society*. Cambridge, MA: Harvard University Press.

Siegel, L. 1989. *Criminology*, 3rd ed. St. Paul, MN: West Publishing.

Sherr, L. 1995. *Failure Is Impossible: Susan B. Anthony in Her Own Words*. New York: Times Books.

Wallace, H. 1998. *Victimology: Legal, Psychological, and Social Perspectives*. Boston: Allyn and Bacon.

Young, M. 1988. "The Crime Victims' Movement," in F. Ochberg (Ed.), *Post-Traumatic Therapy and Victims of Violence*, New York: Brunner/Mazel, 319–329.

Additional Reading

Bard, M., and D. Sangrey. 1986. *The Crime Victim's Book*, 2nd ed. New York: Brunner/Mazel.

Bureau of Justice Statistics. 1998. *National Crime Victimization Survey*. Washington, DC: U.S. Department of Justice.

Federal Bureau of Investigation. 1998. *Crime in the United States, Uniform Crime Reports, 1997*. Washington, DC: U.S. Department of Justice.

Headden, S. July 1, 1996. "Guns, Money and Medicine." *U.S. News and World Report* 30, 31, 34, 36.

Kilpatrick, D. G., C. N. Edmunds, and A. K. Seymour. 1992. *Rape in America: A Report to the Nation*. Arlington, VA: National Center for Victims of Crime.

Kilpatrick, D. G. and H. S. Resnick. 1993. "PTSD Associated with Exposure to Criminal Victimization in Clinical and Community Populations," In *PTSD in Review: Recent Research and Future Directions*, eds. J. R. T. Davidson and E. B. Foa, 113–143.

Kilpatrick, D. G., A. Seymour, and J. Boyle. 1991. *America Speaks Out: Citizens' Attitudes about Victims' Rights and Violence*. Arlington, VA: National Center for Victims of Crime.

Lurigio, A., W. Skogan, and R. Davis. 1990. *Victims of Crime: Problems, Policies and Programs*. Newbury Park: Sage Publications.

Miller, T., M. Cohen, and B. Wiersema. 1996. *Victim Costs and Consequences: A New Look*. Washington, DC: U.S. Department of Justice, National Institute of Justice.

National Center for Victims of Crime. 1998. *Legislative Sourcebook*. Arlington, VA: Author.

PARTICIPANT TEXT
National Victim Assistance Academy Track 1: Foundation-Level Training

Office for Victims of Crime. 1998. *New Directions from the Field: Victims' Rights and Services for the 21st Century*. Washington, DC: U.S. Department of Justice.

Resnick, H. S., D. G. Kilpatrick, B. S. Dansky, B. E. Saunders, and C. L. Best. 1993. "Prevalence of Civilian Trauma and Posttraumatic Stress Disorder in a Representative National Sample of Women." *Journal of Consulting and Clinical Psychology* 61(6): 984–991.

Roberts, A. 1990. *Helping Crime Victims*. Newbury Park, CA: Sage Publications.

Victims' Assistance Legal Organization (VALOR). 1995–1999. *National Crime Victims' Rights Week Resource Guide*. Washington, DC: U.S. Department of Justice, Office for Victims of Crime.

CHAPTER 3

VICTIMS' RIGHTS LAWS IN THE UNITED STATES

Christine Edmunds and Anne Seymour¹

Thousands of laws have been enacted to provide rights for victims of crime in our nation's justice systems. However, victims' rights laws are not consistent nationwide and vary considerably, as do rights for crime victims across different justice systems. Indeed, our nation's set of victims' rights laws has been described as a "patchwork quilt" (Office for Victims of Crime [OVC], 1998). This chapter will explore crime victims' rights, including the evolution of rights, basic rights for victims, and the enforcement of victims' rights laws.

Evolution of Victims' Rights in the United States

Crime victims' rights laws in the United States date back to the late 1800s, with the enactment of a limited number of restitution statutes. In the early 20th century, laws were passed to protect children from abuse and neglect, but these statutes primarily addressed the exploitation of children in the workplace. In 1965, California's legislature passed the nation's first law to create a crime victim compensation program. However, it was not until the 1970s that laws providing rights for crime victims in our nation's justice systems first began to emerge. Throughout the 1970s, states began enacting piecemeal laws for crime victims, but the nation had yet to embrace victims' rights. With the passage of the first Crime Victims' Bill of Rights in 1980, Wisconsin ushered in a historic change by focusing on a broad range of rights that addressed victims' needs and concerns.

According to the publication *New Directions From the Field: Victims' Rights and Services for the 21st Century*, "few movements in the history of this nation have achieved such success in igniting the kind of legislative response that victims' rights activists have fostered over the past two decades" (OVC, 1998, p. 4). In the early 1980s, state laws addressing victims' rights numbered in the hundreds. Today, there are more than 32,000 crime victim-related state statutes, 32 state victims' rights constitutional amendments, and comprehensive rights for federal crime victims (National Center for Victims of

NVAA Module 3 Learning Objectives

- Identify the major social/political movements that contributed to the rise of the victims' rights movement.
- Describe three major federal victims' rights laws.
- Describe and be able to access the OVC Oral History Project.
- Describe at least three landmarks in the history of the victim assistance field.

¹ Authors of this chapter are Christine Edmunds, Deerfield Beach, FL; and Anne Seymour, Justice Solutions, Washington, DC. Special thanks is expressed to Dr. Mario T. Gaboury, University of New Haven, CT, for his significant input and editing of this chapter.

Crime, n.d.) However, it is not enough to just have laws enacted – the enforcement of victims’ rights has become an important area of focus. These enforcement efforts will be discussed at the end of this Chapter.

The myriad accomplishments relevant to our nation’s passage of victims’ rights laws across the federal, criminal, juvenile, tribal, and civil court systems are documented in “Landmarks in Victims’ Rights and Services,” which was published in the 2006 *National Crime Victims’ Rights Week Resource Guide* and is available online at www.ojp.usdoj.gov/ovc/ncvrw/2006/pdf/landmarks.pdf.

Major Categories of Victims’ Rights Laws

Victims’ rights laws can be generally divided into the following 10 categories:

1. Right to be treated with dignity and respect.
2. Right to information and referral.
3. Right to notification.
4. Right to be present.
5. Right to be heard.
6. Right to reasonable protection from intimidation and harm.
7. Right to restitution.
8. Right to apply for compensation (for violent crime victims).
9. Right to speedy proceedings.
10. Special rights and protections.

1. Right To Be Treated With Dignity and Respect

The right to be treated with dignity and respect asserts that crime victims will be treated with sensitivity during all phases of justice processes and by all agents of justice systems. This critical right is included in most states’ constitutional amendments that define victims’ rights, most states’ victims’ bill of rights, and the Federal Crime Victims’ Rights Act within the Justice for All Act that became law in 2004.

2. Right to Information and Referral

State and federal statutes provide crime victims with basic rights to be given information about their rights, crime victim compensation, the justice process, and community- and system-based services that are available to help victims cope in the aftermath of crime.

Because there are more than 32,000 constitutional and statutory rights for victims of crime, which differ from state to state and among various justice systems, the right to information varies greatly. There are also more than 10,000 organizations that provide a wide range of services to help victims cope with the physical, financial, psychological, social, and spiritual impact of crime.

Information about the range of victim assistance programs in the United States is described in Appendix A. Information about the range of victims' rights and services in the United States is described in Appendix B.

3. Right to Notification

Victim notification is considered to be the threshold right from which all other victims' rights emanate. Timely notification of criminal justice proceedings—from law enforcement through the courts, corrections, and the appellate process—is paramount. If crime victims are unaware that they even have rights, they will be unable to exercise them.

Victim notification (also called *notice*) is an official means of providing information, in oral, written, e-mail, or automated formats, to a victim of or witness to a crime. This may include notice of statutory and constitutional rights available to the victim, the status of the case and alleged or convicted offender, and all junctures throughout the criminal justice process where crime victims have the right to participate.

It is very important that whatever type of notification methodology is used, it has to be 'situation specific' and must be reasonable, accurate, and timely. This is a critical issue for enforcing victims' rights. For example, if crime victims are not given timely notice of the sentencing hearing, then victims may be unable to exercise their right to provide a victim impact statement.

Historical Perspective

The 1982 President's Task Force on Victims of Crime *Final Report* recommended that victim notification laws be enacted to ensure that victims are provided case status information, prompt notice of scheduling changes for court proceedings, and prompt notice of defendants' arrest and bond status. Today, all 50 states, the District of Columbia, and the federal justice system have enacted such notification laws.

There are currently at least 67 different points of notification for victims—of their rights, their rights to attend and participate in hearings, and a number of events and activities involving the status of alleged and convicted offenders (see Appendix C).

Six Notification Processes²

Many law enforcement agencies, courts, prosecutors' offices, and probation agencies have developed victim notification procedures that simplify and streamline the process, often through the use of technology, in order to conserve staff time and agency resources. Victim notification is generally provided in one or more of the following ways:

- In person by a justice agency official or victim service provider.
- By telephone.
- By letter.
- By e-mail.
- Through technology that places automated calls to victims or allows them to call into a computerized system for case status updates.
- Through the use of agency Web sites that document information related to the status of the case and the alleged or convicted offender.

Range of Victim Notification Processes

When victim notification is provided in person, it is essential for justice agencies to document that the notification, as required by law, has been delivered. Some agencies also provide the victim with a follow-up letter that documents and confirms the notification.

Many justice agencies notify victims by telephone, particularly in cases where time is essential, or when a prescheduled hearing or other event has been postponed. Written documentation of telephone notifications is also helpful for case record keeping.

Notification by letter and, in some jurisdictions, by e-mail, is by far the most common method of victim notification. Important considerations in letter and e-mail notifications include the following:

- Confirming that the agency has the current address, e-mail address, or telephone number for the victim.
- Confirming with the victim that the alleged or convicted offender will not have access to his or her mail or e-mail account and, in cases where this cannot be guaranteed, providing alternate notification processes.

² A. Seymour and D. Beatty, in press, *Judicial Education Project Curriculum*, Washington, DC: Justice Solutions et al., and Office for Victims of Crime, U.S. Department of Justice..

- Developing word processing templates for letters and e-mail notifications that facilitate the most time- and cost-effective notification processes.
- Developing victim-sensitive notification letters that are easy to understand and that provide a contact for further information and/or assistance. (See a sample letter in Appendix D.)
- Informing the victim that all notification letters will be delivered in an envelope that contains the watermark of the justice agency so that it will be opened in a timely manner.

Nonintegrated automated voice response technology provides victims with a personal identification number (PIN) to call a centralized mainframe database—free of charge—to receive updates on their offender’s status. These technologies are modeled after systems designed for people to contact state lotteries to determine if they hold winning tickets. Voice-box technology, however, is *not* integrated with existing management information systems; such technological isolation renders this approach less effective than integrated systems.

In some states, an innovative version of electronic monitoring—using satellite technology to track an offender’s every move—can provide immediate information when an offender violates any conditions of supervision regarding his or her location (e.g., staying away from specific victims, staying away from schools). The electronic mapping provided through this technology allows justice officials to detect violations and notify a victim when an offender is near him or her and to detect whether the offender is in violation of the conditions of his or her community supervision.

In some jurisdictions, criminal justice agencies (including some jails and courts) offer all public information on the Internet via agency Web sites. This offers public access (including victim access) to information about offenders who are incarcerated or under community supervision (Seymour, 1999).

Statewide Automated Victim Information and Notification

In 2005, Congress established a grant program with the Bureau of Justice Assistance (BJA) to provide initial funding and guidelines to help states plan and implement Statewide Automated Victim Information and Notification (SAVIN) programs. The intent of Congress is to eventually establish a comprehensive, nationwide automated victim information and notification system.

4. Right To Be Present

A victim’s right to be present (often referred to as the right to attend), by the simple meaning of its terms, asserts the right of a victim to be present during criminal justice proceedings. State statutes and even state constitutions have defined the right to be present in varying degrees of specificity. Some legislative mandates state the right in near

absolute terms (e.g., “Victims shall have the right to attend all criminal justice proceedings that the defendant has the right to attend”). Others establish a rebuttable presumption regarding a victim’s right to attend, allowing judges considerable discretion in its application.

Some jurisdictions have not specifically defined which proceedings the victim has the right to attend, while others have specifically listed such proceedings. (See Colorado Rev. Stat. §24-4.1-302, 302.5 for an enumerated list of applicable proceedings. See Appendix E for the range of proceedings at which victims may have the right to be present.)

The right to be present may also differ dramatically depending on the proceeding to which it applies. Victims may have the broad right to attend sentencing hearings but a very narrow right to attend the guilt phase of the same trial. In some jurisdictions, the right to be present includes the victim’s option to designate a representative to attend proceedings on his or her behalf or to allow family members to assume that right in cases of homicide.

A much debated issue facing the enforcement of a victims’ right to be present is if this right impedes due process rights of the defendant. According to research conducted by the National Crime Victim Law Institute (NCVLI), a nonprofit organization located at Lewis & Clark Law School in Portland, Oregon , there is not a single case that the victims’ rights to be present impedes defendant’s due process rights.

Importance of the Right To Be Present

A crime victim’s right to be present at proceedings or hearings represents a unique opportunity to be part of the criminal justice process. Victims often feel that there is no substitute for witnessing, in person, the administration of justice in their own case. The right to be present is important because:

- It helps victims take an active role in securing justice, holding the offender accountable, and promoting safety for themselves and the community.
- It reminds the judge, jury, court personnel, and parole boards of the real human consequences of crime in a way that helps foster a more balanced and just system.
- It helps keep victims informed about what is happening in their case.
- It provides victims with the information needed to ask the prosecutor timely and informed questions about their case and its progress.

Right To Have a Representative Attend on Behalf of the Crime Victim

As a general matter, anyone is allowed to attend a public hearing. State statutes have been passed to allow the crime victim the right to designate a representative if the victim is unable to attend in person or if the individual is the parent or legal guardian of an underage or incapacitated victim.

Generally, state laws specifically state whom the victim can designate to attend proceedings on his or her behalf and under what circumstances.

Federal and state laws have been passed to provide victims the right to attend public court proceedings. Before the enactment of these laws, crime victims were routinely not allowed to attend the trial of their accused perpetrator. The rationale for denying crime victims this right was that victims should be sequestered if they were to serve as potential witnesses. Laws now exempt victims from this rule, which was often misused by the defense to keep crime victims out of the courtroom. In passing court attendance laws, advocates argued that, just as defendants have the right to be present throughout the court proceedings, so should crime victims, whether or not they testify.

Court attendance laws vary across the nation. For example:

- A number of state laws stipulate that victims should not be subjected to court exclusion if they are potential witnesses.
- Other states laws recognize an “essentially unqualified” right for victims to be present at court proceedings.
- Many states laws provide crime victims the same right to attend every proceeding that defendants have a right to attend or state that victims should be sequestered only on the same criteria as defendants. (Seymour and Beatty, in press)

Even with the passage of “right to be present” statutes, there is still great disparity in the implementation of this right nationwide. Not all states have adopted court attendance laws in the criminal and juvenile justice systems. In many states, the right to attend is extended by law to “all crucial proceedings.”

Two states are noteworthy for their court attendance rights. Louisiana law states that victims must testify first and then be allowed to attend court proceedings, therefore getting around the issue of sequestration. In the early 1980s, Alabama became the first state to provide crime victims the right to attend the trial and to allow victims to sit at the prosecutor’s table during the trial.

5. Right To Be Heard

A victim’s right to be heard provides that victims have a voice at critical hearings related to their cases—from bail and bond hearings to sentencing and parole hearings. This right allows victims to express their concerns about the status of their offenders and, in the case of a victim impact statement (VIS), the opportunity to tell the court or paroling authority about the physical, psychological, financial, social, and spiritual impact the crime has had on them and their families.

Historical Perspective

The right to be heard emanated from the creation of the VIS at sentencing, and it is one of the most fundamental rights extended to crime victims. The right to be heard at sentencing through the use of a VIS dates back to 1976, when James Rowland, a chief probation officer in Fresno County, California, thought it was unfair that his probationers were able to have a pre-sentence investigation (PSI) report completed before the sentence, yet no information was presented at sentencing about the impact of the crime on the victim.

For more than a decade, all 50 states and the federal system have allowed victim impact evidence at sentencing. The majority of states require the sentencing authority to consider the VIS in the sentencing decision (e.g., see Indiana Code §35-35-3-5, Michigan Comp. Laws §28.1287(765), New Jersey Rev. Stat. §52:4B-36). Generally, statutes permit victim impact information in one or more of three forms: oral impact statements, written impact statements, and PSI or pre-adjudication investigation (PAI) reports (in the case of sentencing or adjudication hearings). Most states prescribe what type of information may be included in a VIS. Virtually all states allow victims to include information about the physical, emotional, social, and economic impact the crime has had on them and members of their family (Seymour and Beatty, in press).

Laws Relevant to the Right To Be Heard

In some states, the right to be heard has been extended by statute to include other junctures of the criminal justice system, including the following:

- Pretrial release hearings.
- Bail hearings.
- Before the disposition of plea agreements.
- Before a probation agreement.

Most states also allow victims to be heard before or at hearings related to an offender's parole or commutation.

In addition, one of the most pressing victims' rights today is the absolute need for crime victims to be heard before criminal cases are resolved through a negotiated plea, including the acceptance of a plea of guilty or *nolo contendere*. There are many reasons for this, including the following:

- Due to the challenging number of cases that must be adjudicated, a large percentage of felony cases are disposed of by plea agreements.
- Sentencing is often negotiated as part of the plea agreement.

It is paramount that prosecutors seek victim input before finalizing plea or sentencing agreements. The publication *New Directions From the Field: Victims' Rights and Services for the 21st Century* recommends that in “violent crime cases, prosecutors should request judges to postpone any recommendations for sentence until the victim is notified, consulted, and provided with an opportunity to submit an impact statement” (OVC, 1998, p. 87).

Today, enforcement efforts to ensure a victim has a right to be heard are focusing not just at the sentencing and parole stages of the justice process, but earlier, including during the pretrial, such as bond hearings and in the plea process.

Types of Victim Impact Statements³

In general, there are eight types of VIS that may be used across the criminal justice continuum:

1. **Written VIS** are included as part of the case file and/or the pre-sentence or pre-adjudication investigation report developed for the court by probation or court officials. They may also be used before or at parole hearings.
2. **Oral VIS** (also called “allocutions”) allow the victim to attend the sentencing or adjudication hearing and present his or her impact information in person to the court or paroling authority.
3. **Audiotape VIS** are used when a victim possesses stronger oral than written skills; when the victim wants his or her voice to be heard in court or at parole hearings but is unable or unwilling to provide an oral impact statement; and/or when geographic restrictions prevent the victim from attending a sentencing or parole hearing.
4. **Videotape VIS** are similar to audiotape VIS but also feature film footage of the victim speaking his or her statement.
5. **Closed-circuit television VIS** are used most commonly in child abuse cases when the child victim is fearful of facing the convicted or adjudicated offender in court or at a parole hearing.
6. **Live streaming video VIS** via the Internet can be used when geographic distances preclude the victim from actually attending sentencing or parole hearings.
7. **Video conferencing** is being used in many states by paroling authorities to facilitate the victim’s right to be heard at a site that is separate by sight and sound from the incarcerated offender.
8. **Child VIS** offer child victims a method to deliver VIS in measures that are commensurate with their age and cognitive development.

³ Ibid.

Model Format for Victim Impact Statements (VIS)

This model format (Seymour, 2002) was designed to incorporate both open-ended questions to which the victim can respond with general, personal responses and close-ended questions that are more specific. For each of the 11 questions, a brief description of its intent and purpose follows.

It is important to allow victims as much space as needed to complete their VIS. (See notation at the end of this model format.)

1. Please describe this offense and how it has affected you and your family.

This question allows victims to describe—in their own words—the specifics of the crime itself (this is particularly important in cases that result in plea agreements). It also gives victims an opportunity to address, in general terms, the overall impact that the crime has had on their family and them.

2. What was the emotional impact of this crime on you and your family?

This question allows victims to address any significant psychological or emotional effects that may have resulted from the trauma of victimization, including immediate, short-term, and long-term impact.

3. What was the physical impact of this crime on you and your family?

This question allows victims to address the impact of physical injuries resulting from the crime and its aftermath and how it has affected their lifestyle.

4. What was the financial impact of this crime on you and your family?

This question allows victims to address any financial losses that directly resulted from the crime that can be incorporated into the prosecutor's request for restitution. A checklist of information for "Documenting Losses for Victim Restitution," which can be provided to victims before their preparation of the VIS, is included in Appendix F.

5. Was there any spiritual impact on you and your family? If so, please describe.

A recent addition to many VIS forms, this question provides victims with opportunities to address how their faith has been affected by the crime.

6. What concerns (if any) do you have about your safety and security?

Victimology literature suggests that victims may not always disclose their concerns about personal safety. This question allows them to consider and address such concerns and request specific protective measures if needed (see question 7).

7. Do you want to request a “no contact” order to be in effect during the convicted (or adjudicated) offender’s period of incarceration or community supervision?

For many victims, a no-contact or protective order can offer some peace of mind. If victims request any type of court-ordered protective measure, they should also be provided with information about who can help them seek an order, how it is processed, and whether or not the victim will be notified when the offender is served with the order. (See the next section, “Right to Reasonable Protection From Intimidation and Harm.”)

8. What do you want to happen now?

This open-ended question gives victims the opportunity to consider and express their general opinions and feelings about now and the future, without any specific guidelines. If victims are provided with information about the range of sentencing or adjudication options, it can help them answer this question.

9. If community service is recommended as part of the disposition or sentence, would you like to have input into this recommendation?

Some victims feel empowered by their capacity to guide community service recommendations. The probation agency can provide victims with a list of its standard community service placements. In many jurisdictions, offenders perform community service that directly or indirectly benefits victims of crime and those who serve them.

10. Is there any other information you would like to share with the court regarding the offense and how it has affected you and your family?

This final, open-ended question provides victims with the opportunity to include any information that has not been addressed by the previous nine questions.

11. Would you like to continue to be notified about the status and location of the convicted offender?

If victims request further notification, they should be provided with specific information about which agency is responsible for notifying them, any enrollment requirements they must fulfill to be notified, and the format in which the notification will come (e.g., telephone, automated computerized telephone calls, letter, e-mail).

6. Right to Reasonable Protection From Intimidation and Harm

The right to reasonable protection provides that justice agencies and agents have a duty to offer victims a range of measures that can enhance their personal safety and prevent an alleged or convicted offender from intimidating, threatening, or harming them.

Historical Perspective

While no statute, law, or even constitutional amendment can guarantee that victims will be protected from their accused or convicted offenders, numerous states have specifically stated that victims have a right to “reasonable protection” from the offender. More than half the states have passed laws granting victims the right to be reasonably protected from the accused during the criminal justice process.

Statutes and policies related to victim protection provisions take many forms. One category of these statutes and policies relates to providing information that may directly affect victim safety or, conversely, to protect information that might compromise such safety. Another category addresses safety issues related to the release of accused or convicted offenders. A third category provides legal recourse for victims through protective orders, and a fourth category establishes policies and practices that enhance victim safety in the courthouse (Seymour and Beatty, in press).

Today, the right to protection from intimidation, harassment, and retaliation by accused and convicted offenders has become even more critical. Justice system officials find it more difficult to obtain convictions when crime victims and witnesses are afraid to testify.

Victims’ rights laws address safety concerns in various ways, including the following:

- Victims’ bills of rights generally require victims to be notified at the onset of the judicial process about legal action they can take to protect themselves from intimidation and harassment, such as orders of protection or restraining orders.
- Many states have enacted laws requiring courts to establish safe and secure waiting areas for crime victims and witnesses to reduce the potential intimidation and harassment from a defendant or his or her family and friends. Courthouses across the country have improved security. When new courthouses were recently designed in the state of Connecticut, for example, separate and secure waiting areas for victims were incorporated into the architectural plans.
- Many states have also established specific offenses for the harassment of victims and witnesses and make such harassment grounds for bail revocation and reincarceration.
- Many states have enacted protection statutes that mandate that judges issue no-contact orders as a condition of pretrial and posttrial release, with the same type of victim protection afforded by parole boards.
- States also have passed laws that require automatic revocation of pretrial or supervised posttrial release if the defendant or convicted offender harasses or intimidates a victim or witness.
- Many state laws have given courts the authority to detain defendants who pose a danger to victims or community safety.

Crime Victims and Safety Concerns

Victims of crime may have important concerns about their personal safety and that of their family and loved ones. Often, victims' concerns about safety arise from many circumstances, including the following:

- The trauma of victimization.
- Real or implied threats made by the alleged or convicted offender and his or her colleagues.
- Not knowing or understanding their rights to protection as defined under law.
- Not knowing about the range of services available to identify and address their safety concerns.

When victims have concerns about their safety and identify these concerns to criminal justice and victim assistance officials, a variety of approaches can be developed to promote safety for the victim within the criminal justice system, as well as at home and in the community.

While state and federal laws provide crime victims with the right to receive orders of protection from potential intimidation and harassment by the defendant or convicted offender, the practical reality is that such orders are difficult to enforce. Some have referred to orders of protection as “paper promises.” Various methods can be used to enhance the effectiveness of orders of protection. For example:

- All protection orders should be maintained in a central, automated database so that law enforcement and other justice officials have immediate access to the information.
- Violations of protection orders should be consistently and quickly sanctioned, and all protective orders should be enforced within states and across state lines.

One of the most important provisions of the 1994 Violence Against Women Act (VAWA) was to allow interstate enforcement of orders of protection. Before the passage of this important statute, law enforcement did not have the power to arrest anyone for violating a protection order issued in a jurisdiction outside their state.

Specific Suggestions for Ensuring Victim Safety

Crime victim protection rights begin with ensuring that victims are knowledgeable about the complete range of victim protection rights available. Advocates should ensure that crime victims know the following:

- The right to reasonable protection from the accused or convicted offender means that victims can request that the court, correctional agency, probation agency, or paroling authority issue a protection or no-contact order. This means that for a designated

period of time, the offender will be under a criminal justice system order to refrain from contacting the victim.

- Victims can also request contact information for the specific criminal justice agency and official(s) who are responsible for offender supervision or incarceration.
- While orders of protection cannot guarantee victims' personal safety and security, it is important that victims are informed of the specific conditions of the order and that justice agencies confirm that it has been served to the offender (i.e., that he or she is in possession of the order).

A no-contact order is just one possible condition of community supervision that addresses safety issues. Others include confiscation of firearms or other dangerous weapons, intensive probation, electronic monitoring, and protection orders for specific venues. A list of conditions of offender supervision that are related to victim protection is included in Appendix G.

It is also helpful for advocates to assist victims in making decisions and considering actions that can enhance their personal safety and security—at home, at work, and in the community.

Many victim assistance programs help victims develop safety plans that give them a sense of control and involvement in their personal protection.

7. Right to Restitution

Restitution is the oldest victim right. The concept of restitution dates back thousands of years. Restitution statutes were among the first victims' rights laws passed in the 1960s and 1970s.

Restitution is part of a criminal sentence that is applied to offenders in an attempt to restore—to the extent possible—the crime victim to his or her pre-offense state. It also serves to prevent unjust enrichment of the offender.

The Role of Restitution⁴

The consequences of violent crime are predominantly viewed in the context of offenses committed against the state, and punishment is often referred to as “paying a debt to society.” The most obvious and real impact of crime is visited not on such an abstract entity as the state, but on actual living people who suffer the real harm that crime inflicts—physically, emotionally, spiritually, and financially.

Victim advocates and others have argued that victims, by virtue of the fact that they suffer the real harm of crime, are the parties with the greatest moral, if not legal, authority

⁴ Ibid.

to demand that their rights and interests be addressed by the criminal justice system—that their wounds be healed, both figuratively and literally. Though physical, emotional, and financial injuries have no simple salve that any system, criminal or otherwise, can offer as a cure-all, such injuries share one common aspect—costs. In the real economic sense of the word, costs include the following circumstances:

- Physical injuries often require costly medical care and physical therapy.
- Psychological and emotional injuries often require ongoing counseling and therapy.
- Victims also suffer direct economic losses as a result of property damage, theft, lost wages, and expenses related to their participation in the justice process.
- Given the limited resources of many crime victims, the economic consequences often push victims to and over the brink of bankruptcy.

When multiplied by the number of crime victims nationwide, the total cost of crime is staggering. The National Institute of Justice (NIJ) estimates that the cost of crime in terms of medical expenses, lost earnings, and public assistance tops \$105 billion per year (Miller, Cohen, and Wiersema, 1996). When researchers added pain, suffering, and reduction of quality of life, the estimate reached an astounding \$450 billion (Miller et al., 1996). Yet, as this study points out, “most of these costs are shouldered by the victims and public or private victim service providers” and *not* by those who committed the criminal acts.

Restitution is intended to shift some of that burden back to where it is most appropriate—the convicted criminal offenders (Seymour and Beatty, in press).

Today, all states have passed restitution laws that provide crime victims the right to receive financial recompense from their offender. Restitution can be ordered in federal and state criminal and juvenile courts. However, these laws vary greatly across the nation. In general, restitution can be ordered in the following cases:

- Property crime involving the theft of goods or stolen or damaged property.
- For victims and survivors of violent crime and for homicide victims for current and future expenses related to the crime.
- Theft of services, fraud, forgery, and violation of vehicle and traffic laws.

Restitution is not a punishment or an alternative to fines, sanctions, or interventions with the offender. Rather, restitution is a debt owed to victims. Recently, judges have begun to order community restitution in which the convicted or adjudicated offenders pay back the community through service or fines. However, restitution is often overlooked and minimized by the justice system due to the many myths that surround the concept, such as offenders not having money to pay or that it is too difficult to collect.

Traditionally, restitution has been defined as a monetary payment by the offender to the victim for the harm resulting from the offence. Early restitution laws limited restitution to those crime victims who suffered physical injury or financial loss as a direct result of crime and were eligible to receive restitution for out-of-pocket expenses. However, restitution laws have greatly evolved, and the definitions of who qualifies and the types of losses covered have broadened. For example:

- In addition to the crime victim, some states allow family members, victims' estates, and victim service agencies and private organizations that provide assistance to victims to be eligible for restitution.
- States have expanded their definitions of the types of compensable losses that can be paid for by restitution, including psychological treatment, sexual assault exams, HIV testing, and occupational or rehabilitative therapy, as well as lost profits, moving and meal expenses, case-related travel expenses, and burial expenses.
- Restitution can include both monetary payments and in-kind services to the victim.

One of victims' key concerns is the ordering of restitution by judges. State laws have addressed the issue of mandatory restitution in a variety of ways, including the following:

- Approximately half of state victims' rights laws require that mandatory restitution should be made to crime victims.
- Many state laws provide that mandatory restitution should be ordered by judges unless compelling reasons to the contrary are stated on the record.
- In the 32 states that have passed victims' rights constitutional amendments, at least 10 of the amendments require that judges order mandatory restitution for crime victims.

Restitution Enforcement

Today, effective restitution programs involve several justice agencies. For example:

- Law enforcement must inform victims of their right to restitution.
- Prosecutors must request that judges order restitution and not reach plea agreements without requesting restitution.
- Judges should order restitution or explain in writing why they did not.
- Institutional corrections should collect and disburse restitution.
- Probation and parole agencies must collect and disburse restitution.
- Supervision and/or sanctions should be extended until restitution is paid in full.
- States should extend probation or parole until all restitution is paid in full.

- Sanctions should be placed on offenders who refuse to pay restitution.
- Restitution can become a civil lien.
- Restitution can be collected to reimburse state compensation programs.

Documenting Losses for Victim Restitution

A critical role for victim advocates is helping victims to document their losses for the purpose of restitution. A checklist that can be easily adapted to any jurisdiction or justice system to help victims consider the range of losses that may be covered by restitution is included in Appendix F.

8. Right To Apply for Compensation

Victim compensation programs may reimburse crime victims for crime-related expenses that are not covered by collateral sources—such as medical costs, mental health counseling, funeral and burial costs, and lost wages or support. However, to qualify for compensation, certain requirements must be met.

Historical Perspective

Every state has a crime victim compensation program that can provide substantial financial assistance to crime victims and their families. While no amount of money can erase the trauma and grief victims suffer, this aid can be crucial in the recovery process. By paying for care that enhances victims' physical and mental health, and by replacing lost income for victims who cannot work or for families who lose a breadwinner, compensation programs help victims rebuild their lives and their financial stability.

State laws dictate the range of compensation benefit levels available to crime victims. Almost all states have minimum loss requirements. All states have maximum benefit levels, usually ranging from \$10,000 to \$25,000 (National Association of Crime Victim Compensation Boards, 2005). Claimants use the compensation funds over the long term.

As a result of the passage of the Victims of Crime Act (VOCA) in 1984—and to qualify for VOCA funding—compensation programs must agree to consider for eligibility all U.S. citizens who are victims of crimes within their states, regardless of the residency of the victim. In addition, compensation programs also must cover their own residents who are victims of terrorism in foreign countries and crimes falling under federal jurisdiction within the states, such as crimes occurring on Indian reservations, national park lands, or military bases.

Eligibility Requirements

Once a victim of violent crime has been informed of his or her right to apply for compensation, it is important to understand eligibility requirements. While these vary from state to state, the victim generally must:

- Be innocent of criminal activity or significant misconduct that caused or contributed to the victim’s injury or death.
- Report the crime promptly to law enforcement. (Many states have a 72-hour standard, but nearly all states have “good cause” exceptions applied liberally to children and incapacitated victims and in other special circumstances.)
- Cooperate with police and prosecutors in the investigation and prosecution of the case. (Some states make exceptions.)
- Submit a timely application to the compensation program (generally 1 year from the date of the crime, although a number of states have longer time frames, and most can waive these requirements when appropriate) and provide other information as requested by the program.
- Have a cost or loss not covered by insurance or some other readily available collateral resource.

A victim advocate or other helping professional can further explain victims’ roles to them, including the type of documentation that is required for an application, how decisions are made by compensation programs, and the length of time it may take to receive a decision and/or remuneration. Judges should encourage victims to contact a victim advocate or state victim compensation program for additional information or assistance.

Compensation Benefits

Compensation programs can pay for a wide variety of expenses and losses related to criminal injury and homicide. Beyond medical care, mental health treatment, funerals, and lost wages, a number of programs also cover moving or relocation expenses, transportation to medical providers, crime-scene cleanup, rehabilitation (including physical therapy and occupational therapy), modifications to homes or vehicles for paralyzed victims, the cost of housekeeping and childcare services, and fees for attorneys who help victims apply for compensation (usually in limited amounts and sometimes only for appeals).

Personal property stolen, lost, or damaged during the crime is not covered, with a few limited exceptions (Florida, New Jersey, and New York). All states will cover medically necessary equipment, such as eyeglasses or hearing aids. Only three states currently pay for costs associated with pain and suffering (Hawaii, Rhode Island, and Tennessee).

Collateral Resources

All compensation programs are “payers of last resort.” Other collateral sources of payment to the victim—such as medical or auto insurance, employee benefit programs, Social Security, and Medicaid—must be accessed first before the programs will consider payment. In addition, if the victim recovers any money from the offender or any other party liable for the victim’s expenses, the compensation program must be paid back for that portion of the expenses the program covered, unless the victim’s total out-of-pocket losses exceed the amount both paid by the program and recovered from another source.

9. Right to Speedy Proceedings

A victim’s right to proceedings without unreasonable delay means that a court is required to consider any adverse impact a delay may have on the well-being of the victim when considering a motion for a delay or continuance.

Many states have passed laws that give crime victims the right to request a speedy trial, just as defendants have a similar right that is clearly defined in the U.S. Constitution. There have been horror stories of intentional delays and continuances initiated by the defense to delay the trial until the victim is no longer able or willing to testify. Elderly victims, victims with life-shortening illnesses, and child victims are examples of victim population groups for whom speedy trial rights are particularly important. Some states have passed speedy trial laws for these specific groups.

One of the greatest hardships victims endure in the criminal justice process is the delay of scheduled proceedings. Repeated continuances cause serious hardships and trauma for victims as they review and relive their victimization in preparation for trial, only to find the case has been postponed. The impact of continuances is particularly difficult for victims whose memories may fade over time or whose health may deteriorate.

The schedules and concerns of victims should be taken into consideration by judges before they grant continuances. A disposition free from unreasonable delay helps to ensure that victims, as well as defendants, receive speedy trials and that the impact of delay on victims is considered by judges in response to requests for continuances.

10. Special Rights and Protections

The following three victims’ rights laws fall under the category of special rights and protections.

Employer Intercession

Most states have enacted laws that prohibit employers from taking adverse action against victims who must miss work to participate in the justice process, although these laws do

not provide monetary compensation for victims who participate. These laws are designed to prevent employers from firing or penalizing victims when they take time off from work to attend preliminary hearings, trials, sentencing hearings, parole hearings, and so forth. If victims are also witnesses, they will qualify for standard witness fees according to individual state laws and policies.

The rationale in passing employer intercession laws is that crime victims should not be discriminated against on the job because they have to take time off to participate in the justice process. The publication *New Directions From the Field: Victims' Rights and Services for the 21st Century* (OVC, 1998) provides the following suggestions on how this right should be implemented:

While protections for jurors are limited, victims should have, at minimum, the same levels of protections as jury members. To the extent possible, employers should be required to work with employees and their unions to ensure that victims maintain their employment after absences due to attendance at criminal and juvenile justice proceedings. Victims should continue to receive salaries or wages, reduced by any witness fees received, for a designated period of time. Afterwards, they should be able to use vacation and sick leave. In addition, judges should be encouraged to take employment concerns of victims and their employers into consideration when scheduling proceedings. (p.26)

Prompt Property Return

Procedures for the swift return of property to victims and witnesses should be developed at the federal, state, and local levels to serve as models for law enforcement agencies nationwide. Emergency funds should be made available to victims to replace essential items. Laws providing victims the right to have their property returned within a reasonable period of time should be enacted in all states and on the federal level.

Law enforcement agencies should place high priority on the speedy return of victims' property. They should augment their property identification procedures by providing written instructions to victims to help them assist in the description and retrieval of property held as evidence. When it is not possible to release property held as evidence, an emergency fund should be available in every community to cover the cost of replacing essential property, such as a warm winter coat. Victims should never be charged for the storage of their property, and they should be reimbursed for property that is lost, sold, or damaged while held as evidence.

Victims' Right to Privacy

Generally the question of victims' right to privacy covers two specific subject matter areas of particular interest to crime victims. The first involves the protection of the victim's contact information (e.g., home and work address, telephone number, e-mail). The second relates to the protection of information about the identity of the victim. These two privacy rights differ significantly not only as to the subject matter but also as to the prospective audience from which the information is intended to be withheld. More

significantly, they differ as to the purpose for which they were created (Seymour and Beatty, in press).

Privacy rights related to contact information were created primarily to prevent defendants or their agents from discovering the location of the victim to further victimize, harass, or intimidate the victim or his or her immediate family members. In other words, the primary purpose of privacy rights concerning the victim's contact information is to protect the safety of the victim.

In the second instance, privacy rights to prevent the disclosure of the victim's identity to the public are intended to address the embarrassment, loss of dignity, and stigma that could result from the publication of deeply personal facts about the victim or details related to the crime itself.

Strategies to Strengthen Victims' Rights⁵

Historical Perspective

At the founding of our country, *private* prosecution was the norm. In this previous system of justice, crime victims were responsible for investigating and prosecuting crimes against them, and the harm from crime was predominately thought of as a private harm. Over the years, the office of the public prosecutor was born and rose in prominence, as did the idea that harm from crime was not just a private harm but also was a social harm.

Private prosecution persisted well into the 19th century, often co-existing with public prosecution. In some locations today, private prosecution continues for misdemeanor crimes, and in other locations, citizens have access to grand juries such that they can present their case to that body. As is often true of pendulums, the pendulum of our criminal justice system swung far away from its early victim-centric criminal justice system that allowed for substantive victim participation, toward an exclusive public prosecution/social harm approach to criminal justice. This nearly exclusive reliance on public prosecution has diminished and also has engendered the modern crime victims' rights movement.

⁵ Substantial portions of this content was provided by Meg Garvin, Executive Director of the National Crime Victim Law Institute (NCVLI), a nonprofit organization located at Lewis & Clark Law School in Portland, Oregon, a national organization dedicated to ensuring enforcement of victims' rights in criminal courts nationwide.

Key Events in Victims' Rights Enforcement

The case of *Linda R.S. v. Richard D.* is one of critical moments in the history of victims' rights enforcement. In 1972, the Supreme Court considered whether an unmarried woman could seek to enjoin the prosecutors' office from discriminately applying a statute criminalizing the nonpayment of child support by refusing to prosecute fathers of children born to unmarried women, *Linda R.S. v. Richard D.*, 410 U.S. 614 (1972). The Court's narrow holding was that the victim could not demonstrate a sufficient nexus between the prosecutor's alleged discriminatory enforcement of the statute and the woman's failure to secure child support payments from the father, and therefore, the victim did not have standing to seek the relief she requested. In *dicta*, the Court acknowledged the then-prevailing view that "a private citizen lacks a judicially cognizable interest in the prosecution or non-prosecution of another." In law, when you have no "judicially cognizable interest" you have no right to ask the court for redress of your grievance. The Court's statement could be interpreted to mean that victims of crime have no interest or right to participate in the prosecution of their offender, which is a shocking proposition to a victim of crime. Importantly, *Linda R.S.* went on to provide a foundation for remedying the above-described situation by stating in a footnote that Congress, and by logical extension state legislatures, could "enact statutes creating legal rights, the invasion of which creates standing, even though no injury would exist without the statute." *Id.* at 617 n.3.

Another critical moment in the history of victims' rights enforcement is Federal Rule of Evidence 615 (the rule of sequestration). In 1975, Federal Rule of Evidence 615 (the rule of sequestration), was adopted. This rule required automatic exclusion of witnesses if requested by either the prosecutor or defendant. Shortly after Rule 615's adoption, most states adopted a rule of sequestration similar to the federal rule. As a result, crime victims were routinely identified as potential witnesses, whether there was a real intention to call them or not, thus resulting in their systematic exclusion from trial.

In response to the pendulum's swing, and with more societal concern for the victims of crime, the modern victims' rights movement was born. This movement sought first, enforceable rights for crime victims; and second, social services for crime victims, such as crime victim advocates and other service providers.

A foundational document in the development of the crime victims' movement was the 1982 President's Task Force on Victims of Crime. The task force set out 68 recommendations for how rights and services for crime victims could be substantially improved in this country's justice systems. Notably, among the recommendations of the Task Force was to amend the Sixth Amendment to the United States Constitution so that "victims in every criminal prosecution shall have the right to be present and heard at all critical stages of judicial proceedings." The Task Force recommended the passage of this federal constitutional amendment to create specific, constitutional rights for crime victims. The Sixth Amendment provides specific rights and protections for those accused of crime, yet offers no rights for crime victims.

In the mid 1980s, a constitutional amendment strategy was adopted to seek state constitutional amendments first to establish a strong nationwide base of support before pursuing a federal constitutional amendment. Today, 32 states had adopted constitutional amendments, with the overwhelming support of voters. Notably, these constitutional provisions vary in the number of rights afforded (e.g., only California explicitly provides for restitution) as well as enforceability. All states and the federal government have passed crime victims' rights legislation. At the federal level, Congress passed the first of several pieces of crime victims' rights legislation in 1982, the Victim and Witness Protection Act, and subsequently passed a series of laws, successively giving greater legislative recognition to the rights of crime victims. Generally, victims' rights are aimed at protecting victim privacy, protection, and participation. In 1983, the American Bar Association issued its *Fair Treatment of Crime Victims and Witnesses*. The *Fair Treatment Guidelines* set forth 13 guidelines establishing "courtesies and considerations" owed to victims and witnesses in the criminal justice process, seeking, in part, to remedy the then-existing "nonstatus" of crime victims.

A national advocacy effort to pass a federal constitutional amendment began in earnest. In 1991, a resolution was first introduced in Congress to create federal constitutional rights for crime victims. Over the course of the next decade, numerous congressional hearings were held, and many victim advocacy groups worked very hard for the passage of the amendment. By 2004, the effort had failed. Instead, the Justice for All Act was passed, which provided specific rights for crime victims and some remedies for the enforcement of victims' rights.

There are many significant reasons to enact constitutional rights for crime victims. Currently, there are no consistent and comprehensive rights for crime victims in every state or at the federal level. Constitutional rights would also help ensure that the nation's courts "engage in a careful and conscientious balancing of the rights of victims and defendants" (OVC, 1998, p. 9). In addition, constitutional rights would help guarantee that crime victims have the opportunity to participate in all proceedings related to crimes against them.

Many victim advocates believe that a victims' rights constitutional amendment is the "only legal measure strong enough to rectify the current inconsistencies in victims' rights laws that vary significantly from jurisdiction to jurisdiction on the state and federal levels" (OVC, 1998, p. 10). In addition, most agree that it is the "only legal measure strong enough to ensure that the rights of victims are fully enforced across the country" (OVC, 1998, p. 10).

Today, 32 states have passed constitutional amendments that provide specific rights for crime victims. The goal of passing state constitutional amendments has been to strengthen existing victims' rights statutes and provide a more forceful tool for enforcement of these rights. In 2006, the National Victims' Constitutional Amendment Network (NVCAN) recommitted its energies to seek state-level constitutional amendments in the 18 states and District of Columbia that currently lack such laws, as it keeps its eye on the ultimate goal of securing a federal constitutional amendment for victims' rights.

Despite the passage of significant victims' rights legislation in the past decades, there is a failure of enforceability of many victims' rights laws. This failure was keenly demonstrated by *United States v. McVeigh*, 106 F.3d 325 (10th Cir. 1997). In *McVeigh*, a number of the victims of the Oklahoma City bombing sought to exercise their federal statutory right to attend the criminal trial of McVeigh, and to subsequently testify at the sentencing proceeding if McVeigh was convicted. The trial court prohibited the victims' attendance at trial if they opted to appear and testify at sentencing. The victims sought review from the appellate court, and the Tenth Circuit Court of Appeals upheld the trial court, pointing to the statute's requirement of only "best efforts," and finding that the statute did not grant the victims standing to seek review of denials of their rights. *Id.* at 335.

This ruling meant that while victims of the bombing had, on paper, the rights to both attend the proceedings and to be heard at the sentencing, when the trial court denied these rights there was nothing the victims could do. Consequently, in 1995, the leaders of the National Victims Constitutional Amendment Network (a group of pro-victims' rights advocates) called on Congress to take action on the final recommendation of the President's Task Force: adoption of a federal constitutional amendment affording rights to victims of crimes.

The history of the move for a federal constitutional amendment is detailed and ongoing. Here are some of the highlights.

- On April 22, 1996, during the 104th Congress, a constitutional amendment was introduced. The proposed amendment contained seven rights, and a subsequent version included crime victim standing to enforce the articulated rights.
- The 104th Congress did not pass the amendment, but in the years between 1996 and 2004 resolutions calling for a federal constitutional amendment creating rights for crime victims were introduced in nearly every Congress, and congressional hearings on the resolutions were held numerous times.

Other Key Developments in Enforcement of Victims' Rights

All is not bleak with respect to the enforcement of victims' rights laws. There are many shining examples of innovative efforts to better ensure that victims' rights are protected. For example:

- Maryland passed a statute that enables victims of violent crimes to apply for "leave to appeal" any final order that denies victims their basic rights. (See Maryland Code Ann., Art. 27, §776 [1993], [ND p 43/90].)
- Arizona enacted a law that "grants victims the right to challenge post-conviction release decisions resulting from hearings at which they were denied the opportunity to

receive notice, attend, or be heard” (Arizona Rev. Stat. Ann., §13-4437 [West 1991], [ND p 43/91]).

- Arizona law gives victims the right to sue for money damages from any government entity responsible for the “intentional, knowing or grossly negligent violation” of victims’ rights (Arizona Rev. Stat. Ann., §13-4437 [West 1991], [ND p 43/91]).
- Court-ordered injunctions and writs of mandamus are available to force criminal justice personnel to respond to willful violations of victims’ rights laws.
- Several states have an Office of the Crime Victims Ombudsman, which is charged with investigating statutory violations of victims’ rights laws and mistreatment of victims by criminal justice officials.
- Colorado has a statewide coordinating committee that serves as an ombudsman for victims’ rights implementation.
- Wisconsin law offers penalties for the willful violation of crime victims’ rights.
- Beginning in 2003, the Office for Victims of Crime has funded the National Crime Victim Law Institute to establish and oversee a network of pro bono legal clinics nationwide that help victims assert and seek enforcement of their state and federal victims’ rights. The first of these clinics, Arizona Voice for Crime Victims, continues to be a model for others. Together these clinics have represented more than 1,200 victims in criminal proceedings, made more than 1,300 court appearances, and filed more than 665 court documents on behalf of victims.
- In 2004, Congress passed and the president signed into law the “Scott Campbell, Stephanie Roper, Wendy Preston, Lourarna Gillis, and Nila Lynn Crime Victims’ Rights Act Federal Crime Victims’ Rights Act of 2004,” 18 U.S.C. § 3771 (CVRA). The CVRA provides victims of federal offenses with eight rights and explicitly provides trial-level standing for victims to individually assert those rights, as well as the right of victims to seek rapid and mandatory appellate review of any denial of their rights. This law is codified in Title 18--the criminal code--of the United States Code, so that it resides side-by-side with the majority of other provisions governing federal criminal processes. Following passage of the CVRA, one federal court stated, “The criminal justice system has long functioned on the assumption that crime victims should behave like good Victorian children--seen but not heard. The [CVRA] sought to change this by making victims independent participants in the criminal justice process.” *Kenna v. United States Dist. Ct. for the Cent. Dist. of Cal.*, 435 F.3d 1011, 1013 (9th Cir. 2006).
- In 2008, the people of Oregon passed two new constitutional amendments making explicit that their existing constitutional victims’ rights could be individually enforced by the crime victim in the criminal case.

- In November of 2008, as this chapter was going to press, an important new development occurred. Marsy's Law, California's new Victims' Rights Amendment, passed. This law is one of the most comprehensive piece of victims' rights legislation in the nation. California, victims will have meaningful and enforceable rights, including the rights:
 - To notice of all proceedings
 - To be present whenever the defendant has the right to be present
 - To be heard at critical stages ... before the defendant is released after arrest, before a plea bargain is accepted by the court, before any sentence is imposed, before there is a parole, and any time their rights are at issue.
 - To have their safety considered before any release decisions are made and to know when the offender is being released or has escaped
 - To protect their confidential records
 - To refuse to submit to interrogations by the defendant or his lawyer before trial
 - To confer with the prosecutor
 - To be free from intimidation, harassment, or abuse, and to be treated with fairness and respect
 - To a speedy trial and to reasonable finality. Victims would have an independent right to enforce these rights in any court.
 - It will require that victims be informed of their rights just like the defendants are given their Miranda rights.
 - It will provide the means to stop the regular nightmare of repeated opportunities for clearly dangerous offenders to be re-considered over and over again for parole.
 - It will secure for victims a meaningful opportunity to participate in parole proceedings and will set their safety and the safety of the public as the critical standard before release decisions are made.

Legal Enforcement Efforts

As noted above, although well meaning and oftentimes at least somewhat effective, there are fundamental legal flaws with the legislative steps previously outlined. Despite positive legislative enactments, many victims' rights continued to suffer a fundamental legal flaw: *They were often unenforceable*. Thus, while the constitutional amendments & statutes appeared to advance victims' rights, in practice often they were not "rights"

because without remedies rights are empty promises. What is needed is legal advocacy for victims of crime and the funding and support for those who advocate for the enforcement of victims' rights. Below are some examples of differing mechanisms for engaging legal advocates in the pursuit of enforcement of legal rights for victims through the courts.

Legal Advocates for Victims

Connecticut's Office of the Victim Advocate [www.ct.gov/ova/site/default.asp], established in 1999 by Connecticut General Statute Section 46a-13b *et seq.*, is an example of victim rights enforcement that may provide direct legal assistance to victims who feel that their rights have been abridged and who seek vindication of those rights. The Connecticut Office of the Victim Advocate:

- Monitors and evaluates the provision of services to crime victims and the enforcement of victims' rights in Connecticut.
- Receives complaints from crime victims regarding the provision of rights and services and may investigate such complaints.
- Files an appearance in any court proceeding to advocate for victims' rights when it is alleged that such rights have been or are being violated.
- Advances policies throughout the state that promote the fair and just treatment of victims throughout the criminal justice process.
- Provides oversight and advocacy when the criminal justice system fails crime victims.
- Ensures that the voices of crime victims play a central role in Connecticut's response to violence and those victimized by crime.

Very unique to this approach is that the office is a state agency that directly represents victims of crime with their complaints against other government entities that have not provided victims with their constitutional and statutory protections and accommodations.

National Crime Victim Law Institute⁶

The National Crime Victim Law Institute (NCVLI), a nonprofit organization located at Lewis & Clark Law School in Portland, Oregon, is a national organization dedicated to ensuring enforcement of victims' rights in criminal courts nationwide. NCVLI's mission is to actively promote balance and fairness in the justice system through crime victim-centered legal advocacy, education, and resource sharing. NCVLI accomplishes its

⁶ Ibid.

mission through education and training; technical assistance to attorneys; promotion of the National Alliance of Victims' Rights Attorneys (www.navra.org); research and analysis of developments in crime victim law; and provision of information on crime victim law to crime victims and other members of the public.

While NCVLI does not directly represent crime victims, it ensures enforcement of victims' rights in criminal cases through two avenues. First, with grants from the Office for Victims of Crime (OVC), NCVLI launched a network of eight legal clinics that provide direct, pro bono legal representation and social service support to victims as they assert and seek enforcement of their rights in state, federal and tribal criminal proceedings. As of fall 2008, with technical assistance from NCVLI, this network had represented over 1000 victims in criminal cases, appearing in court as legal counsel more than 1300 times. Second, NCVLI's legal team strategically analyzes cases and identifies those that could benefit from participation in an amicus curiae (friend of the court). In these cases NCVLI files briefs which provide the court a national perspective on victim law, and a legal framework to aid advancement of rights. For information about NCVLI or its programs, or to seek technical assistance please go to www.ncvli.org.

State Crime Victim Legal Clinics

As noted above, NCVLI funds 8 clinics to provide direct pro bono legal and social service support to victims. These clinics are located in Arizona, Colorado, Idaho, New Jersey, New Mexico, Maryland, South Carolina and Utah. In addition, OVC directly funds two additional clinics that provide pro bono legal representation. These clinics are located in Ohio and Oklahoma. In addition to representing crime victims, all 10 clinics serve as an important resource to victims, social services providers, courts, and criminal justice professionals by training lawyers, judges, victim advocates and law students on victims' rights law.

The clinics, listed alphabetically by order of the state in which they are located, are:

- Arizona Voice for Crime Victims: www.voiceforvictims.org/
- Colorado Crime Victims Legal Clinic: www.coloradocrimevictims.org//
- Victims' Rights Clinic at the University of Idaho:
www.law.uidaho.edu/default.aspx?pid=65564
- Maryland Crime Victims' Resource Center, Inc.: www.mdcrimevictims.org/
- New Jersey Crime Victim Law Center: www.njcvlc.org/
- New Mexico Victims' Rights Project: www.nm-victimsrights.org/home.html
- Justice League of Ohio: www.thejusticeleagueohio.org/

- Oklahoma- Native American Victim Rights Law Clinic:
www.law.utulsa.edu/indianlaw/
- South Carolina Crime Victim Legal Network: www.scvan.org/legal/index.html
- Utah Crime Victims Legal Clinic: www.utahvictimsclinic.org/

The Role of Victim Advocates in Ensuring that Victims Receive Their Rights

A critical role of victim advocates is to ensure that crime victims' rights are enforced as specified under state and federal laws. Effective victim advocacy requires that victim advocates have a strong working knowledge of victims' rights laws and how they should be implemented, as well as a strong familiarity with victims' rights enforcement mechanisms. Victim advocates can do the following:

- Maintain copies of all laws pertaining to crime victims' rights in their respective state or jurisdiction.
- Update the laws yearly, adding any new amendments to existing victims' rights laws or new laws enacted.
- Check to see if the state VOCA administrator, Attorney General's Office, Governor's Office, state Victims' Rights Coalition, or other entity has compiled a list of the laws pertaining to victims' rights. Many states now offer compilations of victims' rights laws either online or in printed directories.
- Become familiar with advances in case law on behalf of victims by visiting the National Crime Victim Law Institute website (www.ncvli.org) and other resources.
- Identify whether your state has any of the major enforcement mechanisms or advocates, such as, an Ombudsperson's Office, a Statewide Coordinating or Review Committee, a Legal Advocacy Office for Victims, or a Legal Clinic, etc.
- If your state does not have a viable enforcement mechanism in place, advocate for one!

It is important for victim advocates to read the actual victims' rights laws rather than rely on others to explain the rights. Once an advocate develops a working knowledge of victims' rights laws, then a trusted prosecutor, judge, or other legal professional can help the advocate understand the nuances of the law.

Advocates also need to determine whether the law specifies timeframes for implementation of certain rights, such as timely notification, and to have a working knowledge of the justice agency responsible for implementing the right. Some state laws do not specify who should be responsible for implementing the right. In this case,

advocates should find out what agency (or agencies) in their state or community is taking on the responsibility of implementing the right.

Cross-training among justice agencies about crime victims' rights is critical. Victim advocates can organize and support such training for justice professionals in their communities to ensure that those responsible for providing victims' rights are familiar with and well trained on the law, as well as any recent legal changes.

Finally, victim advocates should determine whether a statewide agency or office has been established to serve as an ombudsman for the implementation and enforcement of victims' rights. It is important for advocates to get to know this agency and how its staff can assist advocates in ensuring that crime victims receive their rights.

References

- Miller, T., M.A. Cohen, and B. Wiersema. January 1996. *Victim Costs and Consequences: A New Look*. Washington, DC: National Institute of Justice, U.S. Department of Justice.
- National Association of Crime Victim Compensation Boards. May 30, 2001. *FAQ: Benefits*. Retrieved May 2, 2005. from www.nacvcb.org/faq/3.html.
- National Center for Victims of Crime. n.d. Retrieved September 4, 2007, from www.ncvc.org.
- Office for Victims of Crime. May 1998. *New Directions from the Field: Victims' Rights and Services for the 21st Century*. Washington, DC: Author.
- Right to Protection from Unreasonable Harm: (See, for example, Alaska Stat. §12.61.010, Hawaii Rev. Stat. §801D-4, Mississippi Code Ann. §99-36-5, Missouri Rev. Stat. §595.209, Nebraska Rev. Stat. §81-1848, New Hampshire Rev. Stat. Ann. §21-M:8-k, New Jersey Rev. Stat. §52:4B-36, Oklahoma Stat. tit. 19§215.33, South Dakota Codified Laws §23A-28C-1, Tennessee Code Ann. §40-38-102, Washington Rev. Code §7.69.030, Wisconsin Stat. §950.05.) An additional eight states have granted this right via a constitutional amendment. (See Alaska Const. Art. 1, §24; Illinois Const. Art. 1, §8.1; Michigan Const. Art. I, §24; Missouri Const. Art. 1, §32; New Mexico Const. Art. II, §24; Ohio Const. Art. 1, §10a; Texas Const. Art. I, §30; Wisconsin Const. Art. I, §9m).
- Seymour, A. 1999. *Promising Practices and Strategies for Victim Services in Corrections*. Washington, DC: Office for Victims of Crime and National Center for Victims of Crime.
- Seymour, A. 2002. *Victim Impact Statement Resource Guide*. Washington, DC: Justice Solutions.
- Seymour, A., and D. Beatty. In press. *Judicial Education Project Curriculum*. Washington, DC: Justice Solutions et al. and Office for Victims of Crime, U.S. Department of Justice.

CHAPTER 4

IMPACT OF CRIME ON VICTIMS

Eidell Wasserman and Carroll Ann Ellis*

The trauma of victimization can have a profound and devastating impact on crime victims and their loved ones. It can alter the victim's view of the world as a just place and leave victims with new and difficult feelings and reactions that they may not understand. It is important for victim assistance professionals to understand the different ways that crime can affect victims—psychologically, financially, physically and spiritually. Any discussion of the impact of crime on victims is necessarily general in scope. The following information is offered to help victim assistance professionals to be aware of the common types of reactions that victims experience, and should be used as general guidelines to provide direction and references for additional resources.

NVAA Module 4 Learning Objectives

- Identify primary and secondary victims of crime.
- Recognize factors that influence a victim's ability to cope.
- Identify symptoms of trauma that victims may have in the immediate, short-term, and long-term periods following victimization.
- Discuss possible physical, psychological/emotional, financial, and spiritual effects of crime on victims.

Crime has significant, yet varying consequences, on individual crime victims, their families and friends, and communities. The impact of crime on victims results in emotional and psychological, physical, financial, social and spiritual consequences. While there are no consistent findings about victims' challenges in coping with the aftermath of criminal victimization with respect to demographic characteristics, a victim's ability to cope with the impact of crime depends on a variety of factors (National Institute of Mental Health, 2006):

- A history of victimization increases trauma following a new crime.
- A history of mental health problems increases trauma following a new crime, particularly a history of post-traumatic stress disorder or major depression.
- A higher degree of threat to life and physical injury increases the risk of difficulty in coping.

* Authors of this chapter are Eidell Wasserman, Ph.D., Sebastopol, CA; and Carroll Ann Ellis, M.A., formerly with Fairfax County Police Department, Fairfax, VA

- Generally, violent crime victims have a more difficult time coping than property crime victims.
- Research also indicates two key post-victimization factors that can increase the likelihood of victims to develop mental health problems:
 - ◆ A lack of or poor social support systems.
 - ◆ The degree of exposure to the justice system.

The incidence of violent crime in the United States decreased from 1994 to 2004 (U.S. Department of Justice, 2006); however, according to the FBI Uniform Crime Reports (2006), violent crime increased in 2005. Rape was the only violent crime that showed a decrease. Americans are still concerned about becoming crime victims. Americans' fear of becoming a victim of a crime affects more people than crime itself (Warr, 2000).

According to the Bureau of Justice Statistics, in 2004:

- About 14 percent of households in the United States (16 million households) experienced one or more property crimes or had a member age 12 or older who experienced one or more violent crimes.
- About one in 250 households included a member victimized by an intimate partner, such as a spouse, ex-spouse, boyfriend, or girlfriend.
- About 5 percent of households had at least one incident of vandalism. Over 5.6 million households were vandalized during this period (Klaus, 2006).

Recent research has shown that Native Americans and Alaska Natives are victims of violent crime more often than members of any other group. American Indians experienced a per capita rate of violence twice that of the U.S. resident population. On average, American Indians experienced an estimated one violent crime for every 10 residents age 12 or older (Perry, 2004).

As the field of victim services has evolved, so has understanding of the multidimensional impact of crime on victims, their families, and their communities. Victims of either violent or nonviolent crimes can face a multitude of challenges as the result of their victimization. Crime affects victims and their families on a variety of levels: physical, physiological, behavioral, emotional, cognitive, financial, social, and spiritual. Victim assistance programs may offer resources to deal with many or all of these issues.

Victim service providers need to:

- Understand the dynamics of trauma and the vital role victim service providers have in trauma response and victims' rights advocacy.
- Remember that every victim is unique.

- Never make assumptions concerning how a victim will react.
- Recognize that a person’s reaction to victimization will be influenced by a variety of factors.
- Try to identify the specific needs of individual victims and develop a plan to meet them.
- Know and use the wide range of community, cultural, and justice system resources to meet the myriad needs of victims.
- Become familiar with the culture and traditions of the populations being served.

The impact of crime is frequently described through the results of research studies. Participants in these studies often are people who have sought services from agencies (for example, victim assistance agencies, social services, and hospitals) or who are involved in the criminal justice system. Research allows us to present information in easily understood numerical terms. The impact of crime is not easily understood or quantifiable, however. Many cultures and groups have a more experiential approach to human events and do not find empirical approaches helpful. This chapter focuses on the more mainstream empirically based approach. Students are encouraged to think beyond the numbers and research results and develop an awareness of the multilayered impact of crime, as well as the individual, highly personal meaning that victims, their families, and their communities attach to crime victimization.

Who is Affected by Crime?

Everyone is affected by crime, either as a direct victim or a friend or family member of a victim. Even individuals who are not direct victims of crime can be negatively affected in a variety of ways, such as developing an increased fear of crime or experiencing the financial impact of crime (e.g., higher insurance rates, lost work days). While primary victims of crime might be identified easily, secondary victims such as family and clan members may not be so readily identifiable and may not receive needed services. Identifying services offered for neighborhoods and communities can be even more difficult.

Another group affected by crime is first responders—the people who typically are first on the scene or first to respond to crime, including police officers, firefighters, and emergency medical technicians. A vivid example of the impact of crime on first responders involves those who responded to the September 11, 2001, terrorist attacks. Descriptions of stepping through or on body parts while trying to find survivors illustrate the experiences that can cause long-term trauma to first responders. However, crimes need not have devastating, large-scale impact to affect those who respond. An officer interviewing a child sexual abuse victim may be reminded of her or his own child of the same gender and age.

The term “trauma” often is used to describe the experience of crime victims. Trauma refers to both a medical and a psychiatric condition. “Medically, ‘trauma’ refers to a serious or critical bodily injury, wound, or shock. Psychiatrically, ‘trauma’ has assumed a different meaning and refers to an experience that is emotionally painful, distressful, or shocking, which often results in lasting mental and physical effects” (National Institute of Mental Health, 2006, p. 2).

Potential Victim Reactions in the Aftermath of Crime

Immediate and Short-term Trauma Reactions

Short-term trauma occurs during or immediately after the crime and lasts for about 3 months (Kilpatrick, 2000). This time frame for short-term versus long-term trauma is based on several studies showing that most crime victims achieve considerable recovery sometime between 1 and 3 months after the crime. Some common responses to trauma include the following:

- Few crime victims are anticipating a violent assault as the crime occurs, so most are shocked, surprised, and terrified when it happens.
- Crime victims often have feelings of unreality when an assault occurs and think, “This can’t be happening to me.”
- People who have been victimized in the past are at greater risk of developing emotional problems than newly victimized individuals. Victims do not “get used to it.”
- Many victims of violent crime describe experiencing extremely high levels of physiological anxiety, including rapid heart rate, hyperventilation, and stomach distress.
- Crime victims often experience cognitive symptoms of anxiety, including feeling terrified, helpless, guilty, or out of control.

Such physiological and emotional reactions are normal “flight or fight” responses that occur in dangerous situations. In the days, weeks, and first 2 or 3 months after the crime, most victims of violent crime continue to have high levels of fear, anxiety, and generalized distress. The following are examples of distress that may disrupt crime victims’ ability to perform simple mental activities requiring concentration:

- They are preoccupied with the crime; they think about it a great deal, talk about it, or have flashbacks and bad dreams about it.

- They are often concerned about their safety from attack and about the safety of their family members.
- They are concerned that other people will not believe them or will think that they were to blame for what happened.
- Many victims also experience negative changes in their belief systems and no longer think that the world is a safe place where they can trust other people.
- For victims of some crimes, such as child abuse or domestic violence, the trauma occurs many times over a period of weeks, months, or even years. Victims in such cases often experience the compounded traumatic effects of having to always worry about when the next attack will occur.

Long-term Trauma Reactions

Most victims of crime are able to cope with the trauma of victimization. This is especially true of those who receive counseling, other supportive services, and/or information about justice processes and their relevant rights. However, if victim trauma is neither identified nor addressed with mental health assistance, the initial and short-term trauma reactions can exacerbate and turn into long-term trauma reactions, including:

- Major depression.
- Thoughts of suicide and suicide attempts.
- Use and abuse of alcohol and other drugs.
- Ongoing problems with relationships.
- Anxiety disorders.
- A changing view of the world as a safe place.
- Increased risk of further victimization.

Posttraumatic Stress Disorder (PTSD)

The American Psychiatric Association (2000) describes a characteristic set of symptoms that develop after exposure to an extreme stressor. Types of stressors that are capable of producing PTSD include sexual assault, physical attack, robbery, mugging, kidnapping, or child sexual assault, as well as observing the serious injury or death of another person due to violent assault and learning about the violent personal assault or death of a family

member or close friend. People who respond to these stressors with intense fear, helplessness, or horror, and whose symptoms persist over a specified length of time and influence their functioning in major areas of life, may be experiencing symptoms of PTSD. In such cases, appropriate medical attention is required. However, PTSD is a psychiatric illness that can only be diagnosed by a trained professional. The following are characteristic symptoms after a traumatic event:

- Persistent reexperiencing of the event (i.e., distressing dreams, distressing recollections, flashbacks, or emotional or physiological reactions when exposed to something that resembles the traumatic event).
- Persistent avoidance of things associated with the traumatic event or reduced ability to be close to other people and experience or sustain loving feelings.
- Persistent symptoms of increased arousal (i.e., sleep difficulties, outbursts of anger, difficulty concentrating, constantly being on guard, extreme startle response).

Research studies with adults (Resnick, 1993) indicate that PTSD is a frequent reaction to violent crime:

- Rates of PTSD are much higher among those who have been victims of violent crime than those who have been victims of other types of traumatic events. For example, one study found that the lifetime prevalence of PTSD was 25.8 percent among crime victims compared to 9.4 percent among victims of other traumatic events.
- Victims of crimes that resulted in physical injuries, and who believed they might have been killed or seriously injured during the crime, were much more likely to suffer from PTSD than victims whose crimes did not involve life threat or physical injury (45.2 percent compared to 19 percent).
- Rates of PTSD appear to be higher among victims who report crimes to the justice system than among non-reporting victims, probably because these crimes are more serious or more likely to result in injury.

Evidence shows that many crime victims with PTSD do *not* spontaneously recover without treatment, and some crime victims experience PTSD years after they were victimized.

Physical, Spiritual, Emotional, and Financial Impact of Crime

Victims may face a wide range of immediate, short-term, and long-term reactions in the aftermath of crime. Every crime victim is unique. Individual trauma is affected by previctimization and postvictimization factors related to individual experiences, degree of personal and social support, resiliency, and exposure to supportive services.

Brief summaries of the physical, spiritual, emotional/psychological, and financial impacts of crime are shown in Exhibits 4-1 and 4-2, which provide an overview of *the range of possible reactions* that victims *may* experience.

EXHIBIT 4-1

PHYSICAL AND SPIRITUAL IMPACT OF CRIME ON VICTIMS

Physical Impact	Spiritual Impact
<ul style="list-style-type: none"> ▪ Physiological anxiety (including rapid heart rate, hyperventilation, and stomach distress) ▪ Physical injuries (such as gunshot wounds, lacerations, broken bones, sprains, and burns) ▪ Physical injuries that lead to other health conditions (such as heart attack, stroke, fractures from falling, and loss of dexterity) ▪ Increased risk of cardiac distress, irritable bowel syndrome, and chronic pain ▪ Permanent disability ▪ Disfigurement ▪ Immune disorders that increase the potential for infectious diseases ▪ Substantial lifestyle changes, including restriction of activities once enjoyed ▪ Lethargy and body fatigue ▪ Sleep disorders ▪ Loss of appetite, excessive appetite, or eating disorders ▪ Decreased libido and sexual dysfunction ▪ Inability to work ▪ Increased risk of future victimization ▪ For sexual assault victims: possible exposure to sexually transmitted diseases, exposure to HIV, and unwanted pregnancy 	<ul style="list-style-type: none"> ▪ In an attempt to understand events that make no sense, people who do and do not engage in religious practice often turn to the spiritual beliefs with which they were raised. These spiritual insights are sometimes helpful; more often than not, however, victims express disappointment in the reactions of their faith communities. ▪ All religions accept suffering as a component of the human experience but understand its role differently. Hindus and Buddhists understand the role of karma in tragic events and seek to accept what has happened rather than seek justice. Jews believe that God expects human beings to act in kindness to one another; when they do not, justice is sought and forgiveness must be earned. The wide gamut of Christianity practiced in the United States includes all perspectives, from acceptance of suffering as “God’s will” and forgiveness of offenders to strong drives for justice in the secular arena. Muslims believe they have a special mission from God/Allah to create a just society. They typically condemn violence and willingly participate in the justice system.

EXHIBIT 4-2

EMOTIONAL/PSYCHOLOGICAL AND FINANCIAL IMPACT OF CRIME ON VICTIMS

Emotional/Psychological Impact	Financial Impact
<ul style="list-style-type: none"> ▪ Shock ▪ Terror ▪ Feelings of unreality ▪ Feelings of numbness ▪ Confusion ▪ Helplessness ▪ Fear ▪ Anger or rage ▪ Grief or intense sorrow ▪ Enhancement of particular senses (e.g., hearing, smell, sight) ▪ Anxiety (including terror, helplessness, and feeling out of control) ▪ Difficulty trusting self or others ▪ Depression ▪ Panic symptoms ▪ Anxiety disorders (e.g., panic disorder, agoraphobia, obsessive-compulsive disorder) ▪ Inability to concentrate ▪ Guilt and self-blame ▪ Shame ▪ Preoccupation with the crime ▪ Concerns about personal safety ▪ Problems with important relationships ▪ Social withdrawal ▪ Concerns about being believed ▪ Concerns about being blamed ▪ Negative changes in belief system ▪ Increased feelings of vulnerability ▪ Increased risk of alcohol or other drug abuse ▪ Isolation ▪ Persistent avoidance of things associated with the traumatic event ▪ Suicide ideation ▪ PTSD 	<ul style="list-style-type: none"> ▪ Medical bills (e.g., emergency transportation, hospital stays, inpatient and outpatient physical care, medical supplies) ▪ Medication and prescription drugs ▪ Replacement of eyeglasses, hearing aids, or other sensory aid items damaged, destroyed, or stolen ▪ Rental and related costs for physical mobility restoration equipment (e.g., wheelchairs, ramps, crutches) ▪ Physical therapy ▪ Occupational therapy ▪ Job retraining ▪ Mental health counseling and therapy ▪ Loss of wages due to incapacitation, rehabilitation, or taking time off from work to repair damage from property crimes, participate in criminal or juvenile justice proceedings, or seek medical or mental health treatment ▪ Crime scene cleanup ▪ Loss of or damage to personal property ▪ Costs of replacing locks and changing security devices ▪ Child and elder care ▪ Fees incurred in changing banking or credit card accounts ▪ Higher insurance premiums ▪ Relocation expenses ▪ For families of homicide victims, funeral and burial expenses and loss of income

The Financial Costs of Crime

Some of the financial costs of crime—such as property damage, replacement of stolen or damaged items, medical bills, lost days at work, and therapy expenses—are easy to identify. However, emotional pain and suffering, fear, damage to interpersonal relationships, community-wide fear and loss, and other intangible costs can be difficult to measure. In 1996, the U.S. Department of Justice published a study of the costs and consequences of crime victimization that attempted to quantify both the monetary costs of crime victimization as well as the psychological/emotional costs (Miller, Cohen, and Wiersema, 1996). Among the findings were:

- Personal crime is estimated to cost **\$105 billion** annually in medical costs, lost earnings, and public program costs related to victim assistance.
- Including pain, suffering, and the reduced quality of life increases the cost of crime to victims to an estimated **\$450 billion** annually.
- Violent crime (including drunk driving and arson) accounts for **\$426 billion** of this total, with property crime at **\$24 billion**.

One method for assigning value to fear, pain, suffering, reduced quality of life, and other intangible costs is to use the amount of money given in jury awards for these losses. This method is imperfect, however, as it does not take into account the impact on a person's extended family or clan nor the impact on the wider community. Some crimes, such as hate crimes, may negatively affect every member of a particular group in a city or state or even the entire country. In fact, one of the purposes of a hate crime is to affect all members of the targeted group (Craig, 2002).

Who Pays for Crime?

Victims and their families pay the actual financial costs for some crimes, while insurance companies, government, taxpayers, and employers also pay. Insurers pay \$45 billion annually due to crime, or \$265 per American adult (Miller, Cohen, and Wiersema, 1996).

Community Impact

Crime has an impact not only on primary and secondary victims but also on the entire community. High-profile major crimes, such as school shootings or multiple-victim molestations, understandably will have an impact on all community members. Other crimes, such as kidnappings, sexual assaults, or drunk driving crashes, can also have a wide effect. Some communities have begun to use community victim impact statements to assess the effect of crime. Similar to individual victim impact statements, these statements can be introduced after conviction to assist the judge in sentencing. The use of such statements, even on a limited basis, shows that the court system is beginning to acknowledge the wider impact of crime beyond the primary victim and family members.

The Impact of Trauma on Brain Development

A variety of research studies have examined the impact of trauma on brain development (DeBellis, 1999; Perry, 1997; van der Kolk, 1994). The research strongly suggests that physiological changes take place in a child's developing brain due to the experience of trauma. Changes in the developing brain can even take place in utero, based on the mother's experience of trauma or stress (Dowling, Martz, Leonard, and Zoeller, 2000). A child's brain continues to develop after birth, weighing 75 percent of its adult weight by age 2 and being almost completely developed by age 5 (Wasserman, 2004).

Traumatic experiences before age 5 may alter the development of neural pathways, sensitizing pathways that are related to fear and arousal. This sensitization predisposes the child to react to external stimuli in a certain way. A child who has been exposed to traumatic events may be predisposed to react to all situations as potentially dangerous. Physiological changes, such as the release of stress hormones, can cause the child to become hypervigilant, fearful, and anxious.

Successful emotional and social development are dependent on successful brain development. As the child grows and the brain matures, the brain is dependent upon external stimuli for normal growth. There appear to be critical time periods for the development of certain skills. A child who does not learn verbal language skills by a certain age may never be able to develop these skills. The parts of our brains that control higher order functions such as social skills, emotional control, and logical thinking are among the last areas to develop. If a child experiences trauma in the early years, normal brain development may be affected, making it more difficult to develop these higher order skills.

The brain develops, in part, in response to the infant's experiences. If the relationship with the primary caregiver is neglectful or abusive, this will have a negative impact on the child's development of appropriate coping skills. Trauma in early life can lead to problems in maintaining interpersonal relationships, coping with stressful situations, and controlling emotion (Wasserman, 2004, p.14).

The Impact of Trauma on the Developed (Adult) Brain

Response to trauma leading to psychological and physiological disorders should be viewed as a spectrum of conditions rather than a single disorder. On one end is acute stress reaction that resolves on its own without treatment. "Complex" posttraumatic stress disorder (PTSD) is at the other end of the spectrum, and "classic" or "simple" PTSD lies somewhere in between (Herman, 1997). While there is also a spectrum of adaptation to traumatic events, the various conditions have some basic features in common. One of these features is the effect of trauma on the adult brain.

Trauma's effect on the brain has become of increasing interest to researchers, clinicians, victims, and victim advocates. With advancements over the last decade in the field of neuroimaging, scientists are better able to document and understand the structural, biochemical, and functional condition of individuals who have experienced trauma that results in posttraumatic stress disorder. The causal relationship between trauma and brain adaptation, however, is not without controversy. Some scientists question whether a preexisting brain anomaly might serve as a risk factor for development of PTSD following a person's exposure to trauma (Stein, Hanna, Koverola, Torchia, and McClarty, 1997). Others suggest that brain abnormality occurs only in persons with chronic or complicated PTSD (Bonne, Brandes, Bilboa, et al., 2001). While study findings to date are tentative, scientists do know that certain areas of the brain are consistently implicated in PTSD.

These regions of the brain play an important role in learning and memory (hippocampus), emotional regulation (medial prefrontal cortex), and encoding of emotional memories, sensitization, and fear conditioning (amygdala). They are all part of what is called the limbic system of the brain. Emotion and memory are very closely related. In ordinary circumstances, we tend to remember things that carry some emotional content. For example, we are more apt to recall someone we just met if that person made us laugh or feel embarrassed. Exposure to severe stress affects the memory and emotional regulation portions of the brain. The medial prefrontal cortex is then less able to inhibit the amygdala, thereby further intensifying and increasing occurrences of traumatic memories. This confluence of brain deficits creates one of the hallmark symptoms of PTSD: exaggerated emotional reaction coinciding with difficulty recalling the emotional event (Elzinga and Bremmer, 2001). Other symptoms include emotional numbing, avoidance, and reexperiencing the trauma.

Neuroimaging studies, which reveal changes in the brain's structure and function in persons with PTSD, underscore deficits found in hippocampal function using neuropsychological measures. Magnetic resonance imaging (MRI) has shown reduction in the volume of the hippocampus in individuals exposed to trauma. Positron emission tomography (PET) studies have shown dysfunction in the prefrontal cortex in individuals responding to stimuli associated with their PTSD (Bremmer, 1999). In addition, it is reported that chronic hyperarousal symptoms (mediated by the amygdala) contribute to atrophy of the hippocampal region of the brain (Villarreal and King, 2001).

Being able to measure—to document—changes in the brain carries enormous implications for individuals with PTSD. For example, a diagnosis of PTSD may have bearing on an individual's job security and workplace accommodation (based on regulations set forth by the Americans With Disabilities Act). The Social Security Administration's disability claim evaluation process does not focus on specific diagnoses, but on functional limitations imposed by an illness or impairment. But if and when impairment is documented through assessment, it can be a determining factor in obtaining eligibility for Social Security Disability

Insurance (SSDI) or Supplemental Security Income (SSI). In most states, eligibility for these programs also confers eligibility for Medicaid. Medicaid benefits enable recipients to obtain better access to health care and enable providers to obtain compensation for these health services. Less defined, but equally critical, is the impact a diagnosis of PTSD may have on personal relationships. Family members, friends, coworkers, as well as the patients themselves, are more likely to accept emotional abnormalities when they are viewed and understood as a medical issue, not simply a “mood problem.”

Examining the physiological impact of trauma on the brain through neuroimaging has another benefit. There is recent evidence that damage to the limbic brain regions can be reversed. The effects of trauma can be countered in a number of ways. Both cognitive processing therapy (CPT) and prolonged exposure therapy have been found to mediate negative outcomes of trauma (Foa, 2006; Resick, Nishith, Weaver, Astin, and Feurer, 2002). Also, studies using serotonin re-uptake inhibitors (SSRIs), a class of antidepressants, and phenytoin, a medication commonly used for epilepsy, reported that these treatments may have played a role in reversing the trauma effects on the volume of the hippocampus in patients with PTSD. At the same time, in one study an SSRI increased declarative memory function by 35 percent (Bremner, Elzinga, Schmahl, & Vermetten, 2008; Bremner, 2006). A systematic replication of this study found similar improvements in memory after a year of SSRI treatment but the effects were not significant over placebo (Fani, Kitayama, Ashraf, Reed, Afzal, Jawed, & Bremner, 2009).

Some victims of crime may benefit from the use of SSRIs and other psychotropic medications. As with most drugs, there are side effects to using SSRIs or serotonin re-uptake inhibitors including an increase in suicidal ideation in some patients. Use of SSRIs may affect memory and emotional responding in either negative or positive ways, depending on the cognitive and emotional symptoms and their presentation. All SSRIs have side effects and some side effects can be life threatening in a small percentage of the population. The choice to use psychotropic medications for PTSD, anxiety, or depression brought on by a victimization should be a choice made by the victim in consultation with their physician or psychiatrist. It should be noted that the first-line management of PTSD is widely considered to be nondrug therapy while first-line pharmacotherapy points to the use of SSRIs (Alderman, McCarthy, & Marwood, 2009).

Posttraumatic stress disorder is a highly disabling condition associated with an extremely high rate of medical and mental health service use. It is diagnosed in combat veterans, victims of child abuse, and mothers of chronically ill children. It occurs in victims of crime as well as witnesses to crime, victims of physical abuse and victims of emotional abuse, persons who receive a threat as well as persons who only perceive a threat. As the vulnerable hippocampus and other portions of the limbic system are exposed to trauma, the brain is altered. Some people are more vulnerable to trauma than others. Coping mechanisms, age, social supports,

and drug use are all mitigating factors. Anyone can get PTSD. It is a “normal response to an abnormal occurrence.”

Scientists know that other regions of the human body are also affected by trauma. People with PTSD tend to have abnormal levels of key hormones involved in response to stress. Cortisol levels are lower than normal and epinephrine and norepinephrine are higher than normal. Also, when people are in danger, they produce high levels of natural opiates, which can temporarily mask pain. People with PTSD tend to produce higher levels of these opiates after the danger has passed, which can lead to blunted emotions (National Institute of Mental Health, 2002).

Additional studies to examine how the brain functions will help researchers better understand the physiological impact of trauma on brain development and brain damage. This area of research may help service providers understand the long-term impact of trauma and the importance of prevention.

References

- American Psychiatric Association. 2000. *Diagnostic and Statistical Manual IV-TR*. Washington, DC: Author.
- Bonne, O., D. Brandes, A. Gilboa, et al. 2001. "Longitudinal MRI Study of Hippocampal Volume in Trauma Survivors with PTSD." *The American Journal of Psychiatry*. 158: 1248–1251.
- Bremner, J.D. 2006. "The Relationship Between Cognitive and Brain Changes in Posttraumatic Stress Disorder." *Annals of the New York Academy of Sciences* 1071: 80–86.
- Bremner, J.D. 1999. "Alterations in Brain Structure and Function Associated with Post-Traumatic Stress Disorder." *Seminars in Clinical Neuropsychiatry* 4(4): 249–55.
- Bremner, J.D., Elzinga, B., Schmahl, C., and Vermetten, E. (2008) Structural and functional plasticity of the human brain in posttraumatic stress disorder. *Progress in Brain Research*, 167: 171-80.
- Christopher, P. A., McCarthy, L. C., and Marwood, A. C. (2009) Pharmacotherapy for Post-traumatic stress disorder, *Expert Review of Clinical Pharmacology*, 2(1):77-86
- Craig, K.M. 2002. "Examining Hate-motivated Aggression: A Review of the Social Psychological Literature on Hate Crimes as a Distinct Form of Aggression." *Aggression and Violent Behavior* 7: 85–101.
- DeBellis, M.D.1999. "Developmental Traumatology: Neurobiological Development in Maltreated Children with PTSD." Retrieved January 9, 2004, from www.psychiatrytimes.com/p990968.html.
- Dowling, A.L.S., G. U. Martz, J. L. Leonard, and R. T. Zoeller. 2000. "Acute Changes in Maternal Thyroid Hormone Induce Rapid and Transient Changes in Gene Expression in Fetal Rat Brain." *Journal of Neuroscience* 20: 2255-2265.
- Elzinga, B.M., and J.D. Bremner. 2001. "Are the Neural Substrates of Memory the Final Common Pathway in Posttraumatic Stress Disorder (PTSD)?" *Journal of Affective Disorders* 70: 1–17.
- Fani, N., Kitayama, N., Ashraf, A., Reed, L, Afzal, N., Jawed, J. and Bremner, J. D. (2009) Neuropsychological functioning in patients with posttraumatic stress disorder following short term paroxetine treatment. *Psychopharmacology Bulletin*, 42(1): 53-68.
- Federal Bureau of Investigation. 2006a. "Preliminary Annual Uniform Crime Report, 2005." Retrieved June 14, 2006, from www.fbi.gov/ucr/2005preliminary/index.htm.
- Foa, (2006) Psychosocial therapy for Posttraumatic Stress Disorder. *Journal Clinical Psychiatry*, 2006:67 S2.

Herman, J. 1997. *Trauma and Recovery: The Aftermath of Violence from Domestic Abuse to Political Terror*. New York: Basic Books.

Kilpatrick, D.G. 2000. "The Mental Health Impact of Rape." Retrieved May 26, 2006, from www.musc.edu/vawprevention/research/mentalimpact.shtml.

Kilpatrick, D. G., C. N. Edmunds, and A. K. Seymour. 1992. *Rape in America: A Report to the Nation*. Arlington, VA: National Center for Victims of Crime; Charleston, SC: Medical University of South Carolina.

Kilpatrick, D.G., C. L. Best, B. E. Saunders, and L. J. Veronen. 1988. "Rape in Marriage and in Dating Relationships: How Bad Is It for Mental Health?" In *Human Sexual Aggression: Current Perspectives*, eds. R.A. Prentky and V.L. Quinsey. New York: New York Academy of Sciences, 335–344.

Kilpatrick, D.G., B. E. Saunders, and D. W. Smith. 2003. *Youth Victimization Prevalence and Implications*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

Klaus, P. 2006. *Crime and the Nation's Households*. 2004. Washington, D.C: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

Miller, T.R., M. A. Cohen, and B. Wiersema, 1996, *Victim Costs and Consequences: A New Look*, Washington, DC: U.S. Department of Justice.

The National Center on Elder Abuse in Collaboration with Westat, Inc.1998. *The National Elder Abuse Incidence Report*. Washington, DC: Administration for Children and Families and the Administration on Aging.

National Institute of Mental Health, National Institutes of Health. 2002. *Facts About Posttraumatic Stress Disorder*. Retrieved December 21, 2006, from www.nimh.nih.gov/publicat/ptsdfacts.cfm.

National Institute of Mental Health. 2001. *Helping Children and Adolescents Cope With Violence and Disaster*. Retrieved June 10, 2006, from www.nimh.nih.gov/publicat/violenceresfact.cfm.

Perry, B.D. 1997. "Incubated in Terror: Neurodevelopmental Factors in the 'Cycle of Violence.'" In *Children, Youth and Violence the Search for Solutions*, ed. J. Osofsky. New York: Guilford Press.

Perry, S. 2004. *American Indians and Crime*. Washington, DC: U.S. Department of Justice.

Resnick, P.A., P. Nishith, T.L. Weaver, M.C. Astin, and C.A. Feurer. 2002. "A Comparison of Cognitive-Processing Therapy with Prolonged Exposure and a Waiting Condition for the Treatment of Chronic Posttraumatic Stress Disorder in Female Rape Victims." *Journal of Consulting and Clinical Psychology* 70(4): 867–79.

- Resnick, H.S., D.G. Kilpatrick, B.S. Dansky, B.E. Saunders, and C.L. Best. 1993. "Prevalence of Civilian Trauma and PTSD in a Representative National Sample of Women." *Journal of Clinical and Consulting Psychology* 61(6).
- Stein, M.B., D. Hanna, C. Koverola, M. Torchia, and B. McClarty. 1997. "Structural Brain Changes in PTSD: Does Trauma Alter Neuroanatomy?" *Annals of the New York Academy of Sciences* 1(1): 76–82.
- Van der Kolk, B.A. 1994. "The Body Keeps the Score: Memory and the Evolving Psychobiology of Posttraumatic Stress." *Harvard Review of Psychiatry* 1: 253–265.
- Villareal, G., and C.Y. King. 2001. "Brain Imaging in Posttraumatic Stress Disorder." *Seminars in Clinical Neuropsychiatry* 6(2): 131–45.
- Warr, M. 2000. "Fear of Crime in the United States: Avenues for Research and Policy." Retrieved May 27, 2006, from www.ncjrs.gov/criminal_justice2000/vol_4/04i.pdf.
- Wasserman, E. 2004. *Understanding the Effects of Childhood Trauma on Brain Development of Native Children*. West Hollywood, CA: Tribal Law and Policy Institute.

CHAPTER 5

NAVIGATING THE JUSTICE SYSTEM

Christine N. Edmunds, Anne K. Seymour, and Mario T. Gaboury*

In the United States, there are many “systems of justice” that seek to redress the harm caused to crime victims and hold offenders accountable for their actions. These include the criminal, federal, juvenile, military, and tribal justice systems. State-level criminal justice systems are the primary focus of this chapter, since the vast majority of cases are adjudicated within states through their respective criminal justice systems. Some of the basic elements of and distinctions among these different justice systems will be explored, emphasizing the rights for crime victims in each justice system. One additional justice system that may provide some redress for victims, but which is not discussed here as it is outside the criminal system, is the civil justice system. Information about civil justice for victims may be obtained from the Office for Victims of Crime (1998).

NVAA Module 5 Learning Objectives

- Describe the seven phases of the criminal justice process.
- Identify at least two key victims' rights in each phase of the criminal justice process and describe the advocate's role in securing or ensuring enforcement of these rights.
- Describe at least two key distinctions between the federal, juvenile, military, and tribal justice systems.

For crime victims, the criminal justice system can be extremely complex. Depending upon the state in which they live, they may have a wide range of rights that define and protect their interests as victims of crime. It is critical that victim advocates and crime victims understand the criminal justice process and victims' rights at each phase of the process.

This chapter also describes the basic elements of four other key justice systems in the United States: federal, juvenile, military, and tribal. Most of the core components of each justice system directly relate to the basic phases of state criminal justice systems. The legal language and the procedures are often different and may confuse victim advocates and crime victims, but most often the core components remain the same. However, it is important to emphasize that *rights for crime victims vary greatly across these justice systems.*

For example, the federal criminal justice system operates under a set of rights and protections for victims of crime, dating back to the initial passage of the Federal Victim

* The authors of this chapter are Christine N. Edmunds, Deerfield Beach, FL; Anne K. Seymour, Justice Solutions, Washington, DC; and Mario T. Gaboury, Ph.D., JD, University of New Haven, CT.

and Witness Protection Act of 1982. These rights were recently underscored by the Justice for All Act of 2002, which includes the Crime Victims' Rights Act of 2004. In the military justice system, many recent military directives have provided rights and services for victims of crime. All states have juvenile justice systems, where cases are prosecuted against minors. Among the greatest changes in victims' rights over the past decade have been those that have provided rights for crime victims of juvenile offenders. Many states have enacted laws to ensure that the rights of victims of juvenile offences mirror the rights of adult offenders, thus ensuring that, regardless of the age of the offender, crime victims often receive corresponding rights. Finally, in the many tribal justice systems, victims' rights also vary greatly, depending upon whether the crime constitutes an offense that is prosecuted by the federal justice system or the tribal justice system.

Criminal Justice System

The criminal justice system is our society's method of addressing crime and promoting public safety. It is designed to prevent and respond to crime; identify, apprehend, and prosecute persons charged with crime; and incarcerate and supervise convicted offenders with efforts to rehabilitate them and hold them accountable for their criminal actions. The criminal justice system is a sequential process that includes at least seven key phases:

1. Law enforcement.
2. Prosecution.
3. Judiciary and courts.
4. Probation.
5. Institutional corrections.
6. Parole.
7. Appellate courts.

While the agencies in each phase have specific roles and responsibilities in promoting public and victim safety, often their roles are shared and require ongoing cooperation among agencies to ensure effective operations and collaborative responses to victims' rights and needs.

The professionals involved in the criminal justice process have relationships with and responsibilities to victims and witnesses, alleged and convicted offenders, and communities that are concerned about individual and public safety. They are responsible for protecting individual rights under state and federal constitutions and laws, and for implementing procedures that are fair and equitable to all parties involved.

It is important to note that throughout the seven phases of the criminal justice system, *all* justice agencies have a role and responsibility to:

- Provide information about and referrals to available crime victim services.
- In cases involving violent crime, provide information about the Crime Victim Compensation Program and professionals who can help victims of violent crime complete an application to cover out-of-pocket financial losses directly resulting from the crime.

Phase 1: Law Enforcement

Law enforcement agencies operate at many levels, which can include:

- Local (village/town, city, or other municipal police agencies).
- County (County Police Department or Sheriff's Office, which often includes the county jail).
- State (highway patrol and state police).
- Federal, military, and tribal law enforcement.
- Higher education (police forces on college and university campuses).

Law enforcement agencies work to prevent and respond to crime and protect individuals and property. They are the first responders when a crime is reported by a victim, witness, or third party with knowledge that a crime occurred.

Within the law enforcement segment of the criminal justice system, the range of rights for crime victims may include:

- Notifying victims of their rights as a victim of crime.
- Providing the name(s) and contact information for the law enforcement official(s) assigned to the case.
- Notifying victims of the status of the case and alleged offender (such as the arrest of a defendant, a bail hearing, and a defendant's release on bail).
- Providing information about protective measures, such as protective or stay-away orders that prevent the defendant from contacting the victim, and how to obtain such an order.
- Helping victims whose property is taken as evidence to secure prompt return of the property.

Phase 2: Prosecution

When law enforcement has investigated a crime and a suspect has been arrested, the case is then referred to a prosecutor. The prosecutor is an attorney who works on behalf of the citizens of a state (or acts in this capacity for federal, military, or tribal justice systems). The prosecutor decides whether police have collected enough evidence against a suspect and what crime(s) to charge. The prosecutor can negotiate the charges and sentences with the defendant and the defendant's lawyer. Such negotiations may result in a plea agreement. If the case goes to trial, the prosecutor prepares and presents the case. At sentencing, the prosecutor gives the judge information, facilitates the victim impact statement and restitution order, and makes recommendations for the sentence.

Alleged offenders may be charged for either misdemeanor or felony offenses:

- Misdemeanor: a crime that is less serious than a felony and for which the punishment can be imprisonment for one year or less, usually in a jail or other local facility, and/or a fine.
- Felony: a serious crime potentially punishable by state or federal prison time.

Crime victims' rights will vary, depending on whether the crime charged is a misdemeanor or felony.

The prosecutor represents the interests of the state at all hearings throughout the trial process. While the prosecutor does *not* directly represent the victim, per se, he or she should take into consideration the victims' needs and concerns, inform them of their rights under law, and help them exercise these rights.

Within the prosecution segment of the criminal justice system, the range of rights for crime victims may include:

- Notifying victims of their rights as a victim of crime.
- Notifying victims of the status of the case and any related hearings or activities.
- Informing victims of any rights they have to attend and/or participate in such hearings as a victim and/or witness.
- Notifying victims of the status and location of the alleged offender (such as detention and release into the community on bail).
- Providing information about victims' right to protection and assisting them with direct help or referrals to obtain protective or stay-away orders that prevent the defendant (or others) from contacting them.
- If victims have the right to a speedy trial, ensuring that their needs are requested and respected.

- Intervening with employers, creditors, and/or schools upon request.
- If any of a victim’s personal property has been taken as evidence for the trial, providing victims with information about how to get their property returned within a reasonable time frame.
- Consulting with crime victims to receive their input before any plea agreement.
- **If there is a conviction:**
 - ♦ Informing victims of their right to complete a victim impact statement before sentencing that will help the court understand the physical, emotional, financial, and spiritual effects the crime has had on them and their loved ones.
 - ♦ Informing victims of their right to restitution and giving them information about how to document their financial losses resulting from the crime so a request for restitution can be made as a condition of the sentence.
 - ♦ Providing victims with information about the conditions of the sentence; informing them of the agency that will be incarcerating or supervising the convicted offender; and providing contact information for victim notification, restitution, and other assistance.

Phase 3: Judiciary and Courts

In the criminal justice system, judges are responsible for many important activities. Most critical of all, the judge must make fair and unbiased decisions. A judge cannot take sides in a criminal case. He or she cannot have any personal contact with the victim or members of the victim’s family while the case is ongoing. The judge cannot meet with an attorney, victim, witness, defendant, juror, or any other person involved in the case unless the attorneys for both sides are present.

The judge oversees all hearings throughout the trial process. He or she decides whether or not a defendant can be released on bail; who should be appointed as defense counsel; how to handle motions on legal issues; and what evidence to admit in a case, using the law, rules of evidence, and rules of procedure. The judge also controls the timing of the case by setting deadlines and holding the prosecution and defense to those deadlines. Victims and their families often want their case to finish as soon as possible; however, many things can happen to slow the progress of a case.

After a trial that results in a conviction or after a defendant pleads “guilty” or “no contest” to a felony offense, the judge schedules and presides over a sentencing hearing. Before the sentencing hearing, a pre-sentence investigation (PSI) report is prepared for the judge that includes a wide range of information about the convicted offender. Important information about the victim—such as the impact of the crime on the victim

and his or her family and any financial losses that can be addressed by a restitution order—is also included in the PSI report.

At the sentencing hearing, both the prosecution and the defense can call witnesses to talk about the circumstances of the crime, the effect of the crime on the victim and the community, and the prospects for the offender to be rehabilitated.

Victims have the right to be present at the sentencing hearing and to provide the court with a victim impact statement that describes the physical, emotional, financial, and spiritual effects of the crime.

The judge will make a decision about sentencing based upon the facts of the case, state law, and any sentencing guidelines relevant to the jurisdiction. The victim can ask for a copy of the sentencing order, which includes all conditions of the sentence ordered by the judge.

Judges are responsible for ensuring a range of rights for crime victims, including:

- Ensuring that victims are informed of their rights.
- Ordering restitution for crime victims as part of the sentence, regardless of whether the defendant was adjudicated through a plea agreement or trial and regardless of whether the offender is incarcerated or placed on probation.
- Providing safe and secure waiting areas for crime victims attending court proceedings.
- Taking into consideration victim and community safety in any pretrial release hearings.
- Upon request from the victim, including a no-contact provision as part of any pretrial release order, including bail, bond, or release on personal recognizance that states that the accused or defendant shall not harass, intimidate, threaten, or harm the victim or the victim’s family.
- Requesting that prosecuting attorneys demonstrate that reasonable efforts were made to confer with the victim before determining plea agreements.
- Ensuring speedy trials for special populations of crime victims (such as the elderly or children) in states that have passed such laws.
- Allowing crime victims and their families to be present at court proceedings in states that have enacted laws to afford victims this right.
- Allowing victims to be heard at sentencing through victim impact statements.

In the post-sentencing period of a criminal case, correctional agencies are responsible for managing convicted offenders in the community or in institutions. Sometimes county

jails are also considered part of corrections, although they are used primarily to detain defendants after arrest and during the trial.

There are two different types of correctional agencies:

- Community corrections, which include probation and parole supervision of offenders in the community, as well as paroling authorities that make decisions about whether to allow an incarcerated offender to return to the community.
- Institutional corrections, which include prisons and, in cases of prison overcrowding or jurisdictional discretion, county jails.

The purposes of corrections are to promote public safety through the effective management of offenders; reduce the risk of repeat criminal behavior through incarceration and community supervision; promote positive changes in offenders' behavior; and ensure that victims of offenders under any form of correctional supervision are treated with respect and provided with rights in accordance with law and services to help them.

Phase 4: Probation

Probation is the single most common criminal sanction in the United States today. The probation agency is responsible for protecting the community; maintaining public safety through the supervision of offenders and enforcement functions that uphold the law; and providing guidance and supervision to offenders that can help them become, and remain, law-abiding citizens.

The probation department supervises offenders and monitors their conduct to make sure they are complying with all conditions of supervision. The department may provide or facilitate services to offenders such as job training and placement, education, and alcohol or other drug treatment. If convicted offenders fail to comply with their probation conditions, the probation officer can arrest them with or without a warrant. The probation department is also responsible for maintaining contact with the offender's victim(s) and helping them exercise their rights to notification, protection, victim impact statements, and restitution.

When a convicted offender is sentenced to probation (which is sometimes called community supervision), a probation officer will conduct an assessment to help determine the most effective supervision plan.

Within the probation segment of the criminal justice system, the range of rights for crime victims may include:

- Notifying victims of their rights as victims of crime; the name and contact information of the probation officer who is supervising the offender; and the status of

probation supervision and any related hearings or activities (such as termination or expiration of the sentence, technical violations, or revocation).

- Notifying victims of the status of the probationer (such as home confinement, community supervision, or detention).
- Notifying victims if the offender requests to serve his or her probation sentence in another state and the state that will be supervising the offender's probation. This right is enforced by the Interstate Compact, through which all 50 states agree to notify victims if their offenders ask to serve probation in a state other than the one in which the crime was committed.
- Informing victims of any rights they have to attend, participate in, and/or testify at hearings (such as technical violations or revocation hearings) as a victim or witness and facilitating their attendance and participation.
- Providing victims with information about their right to protection and assisting them with referrals to obtain protective or stay-away orders that prevent the probationer from contacting them.
- Informing victims about the pre-sentence investigation process and their role in providing critical information that will contribute to the sentencing recommendation.
- Informing victims of their right to complete a victim impact statement before sentencing that will help the court understand the physical, emotional, financial, and spiritual effects the crime has had on them and their loved ones and to have their statement included in the pre-sentence investigation (PSI) report to the court.
- Informing victims of their right to restitution; providing them with information about how to document their losses resulting from the crime so a request for restitution can be made as a condition of the sentence; and monitoring restitution payments made by the offender to the court, which will be provided to victims when they are received.

Phase 5: Institutional Corrections

The state Department of Corrections is responsible for incarcerating offenders who have been convicted of a felony crime. (In cases involving federal, military and tribal courts, respective correctional institutions are used.) Through a variety of classification, risk management, education, and treatment programs, institutional corrections can effectively manage inmates in a secure environment and contribute to the overall safety of crime victims and the public.

Some inmates will choose to serve their entire sentence behind bars, which means that when their sentences expire, they will not be subject to any supervision in the community. Victims of crime are entitled to receive information about the status of such offenders while they are still in prison and when they are released. Other inmates will be

eligible for parole consideration prior to the expiration of the sentence handed down by the court. In such cases, victims are entitled to be notified about any possible parole release hearings and to provide input before or during such hearings.

Information about the name, location, custody level, and first possible date for considering release of all inmates is available online to crime victims and the public in most states through their Department of Corrections Web site, which includes contact information if victims have any questions or concerns or need additional information about an inmate's status.

Within the institutional corrections segment of the criminal justice system, the range of rights for crime victims may include:

- Notifying victims of their rights as a victim of crime.
- Notifying victims of the location, status, and custody level of the inmate, including notification if the inmate escapes from secure custody.
- Notifying victims of contact information for the institution where the inmate is housed.
- Providing information about a victim's right to protection, assisting them with referrals to obtain "no contact" orders that prevent the inmate from contacting them, and informing them of measures they should take to document and address any unwanted contact from an inmate.
- If the sentence included an order of restitution, (in some states) informing victims of their right to receive restitution payments from the inmate through deposits in a trust account and/or wages received from work.

Phase 6: Parole

When inmates are released from prison, they are reintegrated into the community through parole. Parole is the supervised release of prisoners to the community, with conditions attached to the release that are designed to protect the safety of the public, as well as the victim(s) of that parolee. Parole is considered part of the prison sentence that is served in the community. If a defendant is sentenced to "life without possibility of parole," that means he or she will never be eligible for parole supervision and will serve the entire sentence in prison.

The paroling authority includes a statutorily designated number of members that are appointed by and serve at the pleasure of the Governor. In many states, there is a designated position on the paroling authority that must be filled by a victim/survivor of crime. The paroling authority makes decisions about whether to grant parole to inmates; monitors the control of parolees who are released to community supervision; discharges offenders from parole when they have completed the terms and conditions of parole

supervision; and, in some states, makes parole revocation decisions if a parolee has violated the terms and conditions of parole.

Victim Input at Parole

Victims of crime are allowed to provide information to the paroling authority about how the crime has affected them since it occurred—physically, emotionally, financially, and spiritually. This is called a victim impact statement (VIS). It can be provided to the parole board before the hearing in a written statement or through a personal interview with a member of the parole board; before or at the hearing in an audiotape, videotape, or DVD format; in person at the actual parole hearing by testifying before the paroling authority or providing a written statement that will be read at the hearing; or (in some states) through the use of teleconferencing technology that enables personal testimony without requiring the victim to be present at the hearing.

The Paroling Authority and Victims' Rights

Within the paroling authority segment of the criminal justice system, the range of rights for crime victims may include:

- Notifying victims of their rights as victims of crime.
- Notifying victims of their right to attend or participate in paroling authority hearings.
- Providing victims with information to exercise their right to submit a victim impact statement to the paroling authority.
- Providing victims with information about their right to protection and assisting them with referrals to obtain protective or no-contact orders from law enforcement that prevent the inmate or parolee from contacting them.
- Notifying victims of the decision of the paroling authority (whether the offender is denied parole and returned to prison or released on parole to the community), and the status of the offender (including when he or she will be released from prison).
- If the offender is released on parole supervision, providing victims with contact information for the supervising agency and officer.
- In some states, if a parolee violates the conditions of parole supervision, notifying victims of such violations and providing them with the opportunity to attend and/or have input at any parole revocation hearing.

Parole Supervision

When an inmate is released on parole, he or she is supervised and monitored by a parole officer or agent. Parole supervision centers on the officer's contact with the offender and his or her family, employers, friends, and counselor, as well as with the victim of the crime. The parole officer or agent can obtain a great deal of information from these

sources about whether or not the parolee is complying with the conditions of parole established by the paroling authority through a variety of strategies (see the Probation section of this chapter).

Victims of crime should be aware of the conditions of parole supervision and the name and contact information for the supervising parole officer or agent. If a victim is aware of any violations of the conditions of parole, these should be reported immediately to the parole officer and, in cases of emergency, to local law enforcement.

Parole Supervision and Victims' Rights

Within the parole supervision segment of the criminal justice system, the range of rights for crime victims may include:

- Notifying victims of their rights as victims of crime.
- Notifying victims of the name and contact information for the parole officer or agent who is supervising the offender.
- Notifying victims of the status and conditions of parole supervision and any related hearings or activities (such as early discharge, expiration of parole, or revocation).
- Informing victims of any rights they have to attend, participate in, and/or testify at parole revocation hearings as a victim or witness and facilitating their attendance and participation.
- Notifying victims of the status of the parolee.
- Notifying victims if the offender requests to be supervised on parole in another state and the state that will be supervising the offender's probation. (This right is enforced by the Interstate Compact, through which all 50 states agree to notify victims if their offenders ask to serve their parole in a state other than the one where the crime was committed.)
- Providing information about a victim's right to protection and assisting victims with referrals to obtain protective or stay-away orders that prevent the parolee from contacting them.

Phase 7: Appellate Courts

Upon conviction in criminal cases, the convicted offender has constitutional and other legal rights to appeal. An appeal is a request by the losing party to have the Court of Appeals or the Supreme Court review the decisions made in the trial court. Many of the issues raised on appeal concern how the judge managed the trial. The issues are technical and usually do not question the defendant's guilt but rather the procedures used in the court process. For instance, there may be questions about whether the judge should have

allowed certain evidence to be presented or whether the judge gave improper instructions to the jury.

An appellate brief is sent to the state Attorney General by the defendant. In reviewing a case, the appellate court considers only the written record of what occurred at the trial. No new evidence or testimony is given. Only in a small number of cases are oral arguments scheduled. An oral argument is a brief opportunity for each party's attorney to persuade the court and answer any questions. Victims do *not* have to testify during the appellate process.

Ultimately, the appellate court's decision will:

- Agree with the lower court and uphold the previous decision.
- Disagree with the lower court and overrule the previous decision.
- Agree in part, disagree in part, and send the case back for the lower court to resolve certain questions.

In 27 states, direct assistance to victims is provided by a designated victim assistance unit in the Attorney General's office; in eight states, victim assistance is provided by another unit in the office. While each state's laws vary, in general victims have the right to be notified that a case is being appealed; notified of the time, date, and location of an appeals hearing; and notified about the status and outcome of an appeal.

Federal Justice System

Federal and nonfederal courts exist in separate justice systems. Victims of federal crime can be people who are victimized on federal land (Indian reservations, national parks, etc.) or victims of federal crime (e.g., bank robbery). Victims of crime in Indian country may have access to tribal victim assistance programs. OVC currently funds 30 such programs, which provide a wide range of services on reservations to victims of crime.

Crimes committed in Indian country may be prosecuted in both federal and tribal court, depending on the nature of the crime and whether the victim and/or perpetrator are Native American. Crimes committed in Indian country by non-Indians against non-Indians are usually under the jurisdiction of the state court.

Federal crimes are prosecuted by the U.S. Attorney's Office. The main person who deals with federal victims is the federal Victim/Witness Coordinator. If you are involved in a case where there is federal jurisdiction, it is vital to coordinate with the federal Victim/Witness Coordinator, located within the U.S. Attorney's Office in your jurisdiction.

Due to the large number of cases handled by most U.S. Attorneys' Offices, it can take months or even years for the office to accept or decline a case for prosecution. If the case

is also subject to tribal jurisdiction, a victim may need to deal with two different court systems. Victim service providers working with tribal victims need to be familiar with federal court procedures as well as tribal court procedures.

Many federal crimes have multiple victims. Terrorism prosecutions, such as Timothy McVeigh's trial, can involve hundreds of victims. The Zachariah Moussai case, for example, involved thousands of victims and witnesses. Financial crimes can also involve hundreds of victims.

The main agency involved in providing support for programs that deal with victims of federal crime is the Office for Victims of Crime, Federal Assistance Division (FAD). The FAD is responsible for providing advocacy, leadership, and policy development guidance to federal agencies and Indian tribes to assist them in developing direct services for victims of federal crime. The FAD also coordinates services with other elements of the Federal Government, such as the Federal Bureau of Investigation, Drug Enforcement Administration, Department of Homeland Security, Executive Office for United States Attorneys, Department of the Treasury, Department of State, the Federal Bureau of Prisons, the Department of Defense and the military services, the Postal Inspection Service, the Bureau of Indian Affairs, and other federal agencies with criminal justice responsibilities. The staff assists the OVC Director in monitoring agency compliance with the victims' issues contained in federal statutes and the accompanying Attorney General Guidelines for Victim and Witness Assistance (AG Guidelines). The FAD also:

Identifies service needs of Federal crime victims and recommends strategies and program activities to address or improve the needed services.

Develops training and technical assistance programs for staff of federal law enforcement agencies, U.S. Attorneys' offices, and American Indian/Alaska Native organizations to enhance their capacity to respond to crime victims.

Funds demonstration programs with federal agencies with criminal justice responsibilities and Indian tribes/tribal organizations to develop promising practices that can be replicated by other agencies and tribes or tribal organizations.

Administers the discretionary grant program of the Children's Justice Act Partnerships for Indian Communities, which makes grant awards available to Indian tribes to improve the investigation, prosecution, and handling of child abuse cases.

Administers the Tribal Victim Assistance (TVA) discretionary grant program (an expansion of the former Victim Assistance in Indian Country grant program), which makes grant awards available to Indian tribes and tribal organizations to establish victim assistance programs in remote areas of Indian Country.

Administers the Counseling for Crime Victims in Indian Country by Faith-Based Organizations. The purpose of this initiative is to support the provisions of faith-based counseling services to crime victims and to support the creation of collaborative models

for local victim assistance programs to join with faith-based organizations, spiritual leaders, and traditional healers in American Indian/Alaska Native (AI/AN) communities.

Encourages coordination between victim services provided by federal agencies and victim services offered by the states' victim compensation programs and victim assistance providers.

Encourages coordination between victim assistance programs in the military services, the FBI, and U.S. Attorneys' Offices to provide resources and improve services to victims of crime on military installations.

Monitors the law enforcement agencies of the Department of Justice, the Department's Litigating Divisions, and the U.S. Attorneys' Offices for compliance with the Attorney General Guidelines for Victim and Witness Assistance (AG Guidelines).

Monitors Federal law enforcement agencies outside the Department of Justice to encourage adoption of guidelines consistent with the federal guidelines for fair treatment of crime victims and witnesses.

Analyzes, reviews, and comments on proposed federal legislation regarding crime victims. (OVC, n.d.)

Federal crimes are prosecuted in one of the 94 United States Attorneys' Offices throughout the United States, Guam, Puerto Rico, and the Virgin Islands.

Major Federal Laws Affecting Federal Crime Victims

Several significant laws affecting federal victims of crime have been enacted in the past two decades. Six major federal laws that directly affect victims in federal courts are:

- The Victim and Witness Protection Act of 1982.
- The Crime Control Act of 1990.
- The Violent Crime and Law Enforcement Act of 1994.
- The Mandatory Victims Restitution Act of 1996.
- The Victims' Rights Clarification Act of 1997.
- The Crime Victims' Rights Act of 2004.

The **Victim and Witness Protection Act of 1982** (VWPA) was enacted to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process; to ensure that the federal government does all that is possible within the limits of available resources to assist victims and witnesses of crime without infringing on the

constitutional rights of the defendants; and to provide a model for legislation for state and local governments@ (AG Guidelines, 1983). The VWPA was considered landmark legislation in 1982 because, for the first time, basic rights for victims of federal crimes were established.

The **Crime Control Act of 1990** contained a wealth of new legislation and amendments to the existing federal criminal code affecting the treatment of crime victims, including children.

- Title V, the Victims= Rights and Restitution Act of 1990, in effect created a Federal Crime Victims= Bill of Rights and codified services that should be available to victims.
- Title II, the Victims of Child Abuse Act of 1990, contained extensive amendments to the federal rules of criminal procedure affecting the treatment of child victims and witnesses in the federal system, such as allowing the use of closed-circuit television and videotaped depositions of children.
- Title XXXI, Bankruptcy and Restitution, protected victims by preventing drunk driving offenders from discharging debts arising from offenses under Chapter 13 of the bankruptcy code.

The enactment of a Federal Crime Victims' Bill of Rights was historic and paralleled legislative activity in the states. Section 502 of the Act mandated that federal officials . . . shall make their best efforts to see that victims of crime are accorded the following rights:

1. The right to be treated with fairness and with respect for the victim's dignity and privacy.
2. The right to be reasonably protected from the accused offender.
3. The right to be notified of court proceedings.
4. The right to be present at all court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
5. The right to confer with the attorney for the Government in the case.
6. The right to restitution.
7. The right to information about the conviction, sentencing, imprisonment, and release of the offender (42 U.S.C. Section 10606(b)).

Four years later, Congress enacted comprehensive crime legislation entitled the **Violent Crime Control and Law Enforcement Act of 1994** (Crime Act). In addition to the establishment of new victims' rights, and the passage of the historic Violence Against Women Act contained within it, the Crime Act encouraged the federal government to

form partnerships with state and local communities. The specific rights and services contained in the 1994 Crime Act include:

- Notice and payment for testing and counseling for sexually transmitted diseases for sexual assault victims.
- The right of a domestic violence victim to be heard at a prerelease hearing of the defendant.
- Allocution at sentencing for victims of crimes of violence and sexual abuse.
- Mandatory restitution for the following victims:
 - ♦ Domestic violence.
 - ♦ Sexual assault.
 - ♦ Sexually exploited and other abused children.
 - ♦ Telemarketing fraud victims.

The **Mandatory Victims Restitution Act of 1996** amends the federal criminal code to require judges to order mandatory restitution for victims of violent crime, certain property offenses, fraud, and consumer product tampering. Restitution may now be granted to victims who are not victims of the specific offense resulting in conviction, provided that the parties agree to that in the plea agreement. In addition, procedures for issuing and enforcing restitution orders were significantly expanded under the Act. Full implementation of these new provisions will bring new importance to restitution in federal criminal proceedings.

This Act expands the rights of victims to attend and observe trial, stating that victims shall not be excluded from the trial of the defendant because the victim may, during the sentencing hearing, make a statement or present any information in relation to the sentence. This right is further expanded in capital cases to deny exclusion in cases where the victim may, during the sentencing hearing, testify as to the effect of the offense on the victim and the victim's family.

The **Crime Victims' Rights Act**, Section 3771 (a) of the Justice for All Act of 2004 (H.R. 5107, Public Law 108-405), amends the federal criminal code to grant crime victims specified rights, including:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding or any parole proceeding involving the crime, or of any release or escape of the accused.

- (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- (5) The reasonable right to confer with the attorney for the Government in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

The Act adds new victims' rights and modifies some existing rights. Most notable is the new right of victims to be reasonably heard at any public proceeding involving release, plea, or sentencing. The Act also requires prosecutors to advise victims that they can seek the advice of an attorney with respect to the rights established by the Act. Although the Act does not provide grounds for a new trial, it allows victims to file motions to reopen a plea or a sentence in certain circumstances.

An OVC Fact Sheet about the Justice for All Act and Crime Victims' Rights Act can be accessed at www.ojp.usdoj.gov/ovc/publications/factshts/justforall/welcome.html.

2005 Attorney General Guidelines for Victim and Witness Assistance

The 2005 Attorney General Guidelines for Victim and Witness Assistance facilitates the critical work of the U.S. Department of Justice on behalf of crime victims. It incorporates the many provisions for crime victims' rights and remedies that have been enacted since the publication of the last edition of the Guidelines in 1995, including the Justice for All Act of 2004. It also includes new guidance on assisting the victims of certain crimes, such as human trafficking and identity theft, which may give rise to unique challenges. According to U.S. Attorney General Alberto R. Gonzales:

We at the Department of Justice have a duty not only to uphold the rights of individuals who are accused or convicted of a crime but to protect the rights of the victims of crime. Dedicated professionals throughout the Department of Justice work to vindicate the rights of crime victims under law, to offer them aid through the Crime Victims' Fund, and generally to ease their interaction with the criminal justice system. Crime victims deserve no less (2005, p. 2).

Resources for Federal Victims of Crime

The OVC's Federal Assistance Division (FAD) is responsible for providing advocacy, leadership, and policy development guidance to federal agencies and Indian tribes to assist them in developing direct services for victims of federal crime. FAD also coordinates services with other federal agencies with criminal justice and victim-related responsibilities (including the federal agencies described below as well as the Drug Enforcement Administration, Department of Homeland Security, Department of State, agencies of the Department of the Treasury, Department of Defense and the military services, the Postal Inspection Service, and the Bureau of Indian Affairs, among others). Information about OVC FAD and links to other relevant federal agencies can be accessed at: www.ojp.usdoj.gov/ovc.

Each U.S. Attorney's Office has a victim-witness coordinator who can provide information to victims of federal crime or serve as a resource regarding the federal criminal justice system. A direct link to each U.S. Attorney's Office can be accessed at: www.usdoj.gov/usao/offices/index.html.

In January 2002, the Federal Bureau of Investigation (FBI) established an Office of Victim Assistance (OVA) at its headquarters. The mission of OVA is to ensure that victims of crimes investigated by the FBI are afforded the opportunity to receive the services and notification required by federal law and the Attorney General Guidelines on Victim and Witness Assistance. The FBI has 112 full-time Victim Specialist positions to assist victims of federal crime that are investigated by the division or field office where they work. Information about the FBI OVA can be accessed at www.fbi.gov/hq/cid/victimassist/home.htm.

The U.S. Department of Justice has instituted the Office of the Victims' Rights Ombudsman within the Executive Office of the U.S. Attorneys to receive and investigate complaints filed by crime victims against its employees. The Office was established by the Crime Victims' Rights Act of 2004 (see above). Information about the Office of the Victims' Rights Ombudsman can be accessed at www.usdoj.gov/usao/eousa/vr/index.html.

The U.S. Department of Justice Victim Notification System (VNS) is a cooperative effort among the FBI, U.S. Attorneys' Offices, and the Federal Bureau of Prisons. The automated system provides information and notification to federal victims of crime in English and Spanish. VNS provides victims with information about scheduled court hearings, and an offender's custody status (such as incarceration, placement in community corrections centers, furlough, release, or death). Additional information about VNS can be accessed at: www.usdoj.gov/usao/nd/victimwitness/brochures/vns.html.

Juvenile Justice System

There are significant differences between America's juvenile justice and adult criminal justice systems. These differences stem from the underlying philosophical distinction of

the juvenile court, which is to assist young people in need of services and capable of rehabilitation, rather than to prosecute them for crimes. It is helpful to know and understand these differences, as they result in distinct terminology as depicted in Exhibit 5-1.

EXHIBIT 5-1

TERMINOLOGY USED IN THE CRIMINAL JUSTICE AND JUVENILE JUSTICE SYSTEMS

Criminal Justice System	Juvenile Justice System
Prosecutors	Court advocates
Charge	Petition for a hearing
Trial	Hearing
Conviction	Adjudication
Sentence	Disposition
Guilty verdict	Finding
Sentence	Placement
Parole supervision	Aftercare
Criminals/delinquents	Wards/kids
Getting locked up	Placement
Crimes	Incidents

It is extremely important that victim advocates become familiar with the statutory provisions, procedural operation, and terminology of the juvenile justice system within their respective jurisdictions, as there are wide variations here.

Victims' Rights in Juvenile Cases

The basic victims' rights afforded to victims of adult criminal offenders are available to victims of juvenile offenders in many jurisdictions, including the rights to be treated with dignity and respect; receive notification and information; be afforded reasonable protection; be heard (victim impact statements); receive restitution; be provided with information and referrals; and be provided with information about how to apply for victim compensation (the latter in violent crime cases). However, enforcement of such rights is not always consistent. It depends on the statutory language that creates the juvenile court and often depends on whether juvenile judges allow victims access to the court when their interests conflict with those of the juvenile offender.

Juvenile Offender Confidentiality

Perhaps the most frequent conflict between juvenile offenders and their victims is the issue of confidentiality, a hallmark of the traditional juvenile court system. Most states have included provisions in their juvenile justice statutes that mandate confidentiality for the juvenile offender. These laws were enacted to avoid stigmatizing the youthful offender with every expectation that such information would serve only to impede rehabilitative efforts. Consequently, information regarding the name and age of the offender is sometimes unavailable to the victim from law enforcement and juvenile court records.

Juvenile court proceedings are often confidential and generally exclude all persons other than court personnel from the actual hearing. In most states, the records of juvenile court proceedings are sealed after the offender has reached adulthood, and the dispositions of juvenile cases cannot be considered in any future criminal proceedings against the offender as an adult. However, recent public policy trends give certain organizations and individuals (including victims) access to juvenile information and records. Some states allow victims access to specific information about the status of the case and the offender, while excluding the general public from such access. Others make most information about juveniles a matter of public record.

Victim service providers must be familiar with confidentiality laws pertaining to youthful offenders, as they affect crime victims' rights to receive notification; be protected from intimidation, harassment, or harm; make victim impact statements; and seek restitution.

Other substantive and procedural issues of importance to victims include:

- The age for juvenile court jurisdiction is generally under 18 but can vary and may apply to older individuals if there is evidence that they lack maturity or social development. Conversely, some jurisdictions provide that young offenders may be tried as adults under certain circumstances.
- Many states incarcerate juvenile offenders for a period of up to no more than the age of 25. Others have enacted statutes that provide for the transfer of serious youthful offenders after a given age to the adult penal system to finish the remainder of their designated period of detention/incarceration.
- Most states employ a progressive array of sanctions for juvenile offenders. Some “diversion” or alternative programs include parent and child counseling, police youth activities, community service, drug prevention education, and informal probation. Such programs are generally used with first-time nonviolent offenders. Often these programs will impose restitution as a provision of diversion. Victims should seek input into any decision to divert a case.
- Probation is the sanction used most often in both criminal and juvenile justice cases. This sanction of community supervision is imposed by the juvenile court. Probation is generally characterized by requirements, known as terms and conditions of

probation, which delineate expected behavior that the probationer must adhere to for a given period of time.

- Often, juvenile courts will commit offenders to community treatment programs. Such residential counseling centers and drug treatment programs are designed to hold offenders accountable while helping them learn the life skills necessary to reintegrate into society. The programs may be located in the local community or in adjoining jurisdictions or states.
- With the exception of serious, habitual, and violent offenders, youth detention facilities are generally considered the disposition of last resort for young offenders in the juvenile justice system. It is important for victims to understand that most youthful offenders are eventually returned to the community.
- Many states are enacting statutes or administrative policies that afford victims opportunities to participate in juvenile parole hearings. In determining whether an individual should be released from custody, each juvenile parole board considers many factors, including the offender's progress toward educational or vocational goals and his or her overall behavior while incarcerated. In addition, the juvenile paroling authority considers the seriousness of the original offense for which the person was incarcerated, the overall impact upon his or her release into the community, and the youthful offender's financial and legal obligations, including victim restitution. This information is included in victim impact statements, among other resources.
- Similar to probation in its design and functioning, parole supervision (also called aftercare) is granted to juveniles who are released after having served a period of institutionalized detention or incarceration. Parole officers can be a valuable asset to victim service providers in ensuring that youthful offenders refrain from contacting or harassing the victim in any way and fulfill their court-ordered restitution obligations.

Victim Services in Juvenile Court

A significant trend since the early 1990s has been the development of victim assistance programs within juvenile courts. Similar to victim/witness programs in the criminal justice system, these programs provide a wide range of information, support services, advocacy, and referrals to victims of youthful offenders. The National Council of Juvenile and Family Court Judges has identified nine critical elements that comprise a comprehensive victim services program within the juvenile justice system:

1. A complete understanding of the mandates of the statutes applicable in the state.
 - Victims' rights statutes.
 - Juvenile code/statute and confidentiality restrictions.

- Related statutes (e.g., child orders of protection).
2. A complete understanding of the operations of juvenile/family court.
 - Division of responsibilities within the court system.
 - Roles and responsibilities of court personnel.
 - Accessing case information within the system.
 3. Knowledge of what aspects of the statute are currently being met and by whom. Basic victims' rights should include:
 - Explanation of the juvenile justice system.
 - Notification of hearings/proceedings.
 - Establishment of a safe victim waiting room.
 - Submission of a written or oral victim impact statement.
 - Orders of restitution.
 - Measures of victim protection.
 4. Identification of personnel in the system who support the precepts of victims' rights in conjunction with the protections to be afforded to juvenile offenders.
 - Building relationships based upon an understanding of victimization.
 - Identifying specific concerns or reservations staff may have regarding implementation of victims' rights.
 5. Determination of the role of victim service professionals within the system.
 - Staff member of the juvenile justice system (assigned position).
 - Contracted individual whose responsibilities and involvement in court cases is well-defined; what protection is necessary for juvenile confidentiality (statutory restrictions).
 6. Referral of victims to victim service professionals.
 - Review of police reports submitted with admission of juvenile offender to detention facility.

- Referral of victims by court personnel (utilizing referral form).
 - Self-referral by victims.
 - Referral of victims from community resources.
7. Development of services to be provided to victims and subsequent training to be provided to juvenile court staff:
- Explanation of the juvenile court process, terminology, and procedures, and roles of various court staff.
 - Crisis intervention, supportive counseling relevant to victimization issues.
 - Availability of Crime Victims= Compensation.
 - Access to community resources through networking (e.g., counseling) and subsequent referral, as appropriate.
 - Preparing and accompanying victims to hearings.
 - Assisting with the completion of victim impact statements.
 - Providing notification of all court dates (if required).
 - Advocating for victims with law enforcement agencies in order to obtain report information for the victim and to encourage the law enforcement agency to refer the case to the court.
 - Accompanying victims to line-ups held in detention facility.
 - Establishing protocol for assisting families in which the victimization is sibling on sibling.
 - Providing assistance with restitution information.
 - Notifying victims of disposition of case.
8. Participation on various committees within the juvenile justice system when victim assistance is pertinent to the assignment of that committee.
- Public relations/community education.
 - Training committees (e.g., police, court personnel).
 - Any protocol committees involving victim-related issues (e.g., notification of release from secured facility, victim/offender mediation).

9. Program development and program evaluation.
 - Determine source(s) of funding for the program.
 - Develop surveys for court personnel feedback.
 - Develop protocols for involving volunteers/student interns as victim advocates.

Military Justice System

Members of the U.S. military are subject to the same rules of behavior as the civilian population but are also governed by the Uniform Code of Military Justice.

Uniform Code of Military Justice

The Uniform Code of Military Justice (UCMJ), enacted by Congress, contains substantive and procedural laws governing the military justice system. The President prescribes procedural rules and punishments for violations of crimes in the Manual for Courts-Martial (MCM). For example:

- Investigations of serious offenses involving military personnel such as rape, indecent assault, drugs, or larceny are usually conducted by a criminal investigative agency, such as the Army's Criminal Investigation Command (CID).
- For less serious offenses and most military-connected crimes, the authority rests with military or security police investigators.
- In cases involving very minor offenses, the immediate commander of the military member suspected will conduct or cause to be made a preliminary inquiry. Lawyers, known as judge advocates, are actively involved in advising commanders throughout the process.

Unlike civilian communities, military commanders exercise discretion in deciding whether an offense should be charged and how the offenders should be punished. The disposition decision is one of the most important and difficult decisions facing a commander. The commander has a number of options available for the resolution of disciplinary problems. Commanders may choose to:

- Take no action when a preliminary inquiry indicates that the accused is innocent of the crime or that the only evidence is inadmissible.
- Initiate administrative action against a service member. This action is not punitive; instead, it is meant to be corrective and rehabilitative. Administrative actions include measures ranging from counseling or a reprimand to involuntary separation.

- Dispose of the offense with nonjudicial punishment. Article 15, UCMJ, provides a means of handling minor offenses requiring immediate corrective action. Rather than a judge, the commander conducts the hearing. In order to find the service member guilty, the commander must be convinced beyond a reasonable doubt that the service member committed the offense.
- The commander may dispose of the offense by court-martial. If the commander decides that the offense is serious enough to warrant trial by court-martial, the commander may exercise this option, preferring and forwarding charges.

There are three levels of court-martials: summary, special, or general:

- A summary court-martial is designed to dispose of minor offenses. Only enlisted service members may be tried by summary court-martial. A single officer presides over the hearing. The accused has no right to counsel but may hire an attorney to represent him or her.
- A special court-martial is an intermediate level composed of either a military judge alone or at least three members and a judge. An enlisted service member may ask that at least one-third of the court members be enlisted. There is both a prosecutor, commonly referred to as the trial counsel, and a defense counsel. In addition, the accused may be represented by civilian counsel, at no expense to the government, or by military counsel requested by the individual.
- A general court-martial is the military's highest level trial court and tries service members for the most serious crimes. The punishment authority of the general court-martial is limited by the maximum authorized punishment for each offense in the Manual for Courts-Martial.

Each court-martial differs in the procedures, rights, and possible punishment that can be adjudicated.

DoD Victim and Witness Assistance Programs

Department of Defense (DoD) Directive 1030.1, Victim and Witness Assistance and DoD Instruction 1030.2, Victim and Witness Assistance Procedures implement statutory requirements for victim and witness assistance and provide guidance for assisting victims and witnesses of crime from initial contact through investigation, prosecution, and confinement. Together, the Directive and Instruction provide policy guidance and specific procedures to be followed for victim and witness assistance in all sectors of the military. They apply to the Office of the Secretary of Defense and the following military components:

- The Chairman of the Joint Chiefs of Staff.
- The Unified Combatant Commands.

- The Inspector General of the Department of Defense.
- Department of Defense Field Activities and Defense Agencies.
- The military services, including the Coast Guard (when operating as a service in the Navy).

The Directive includes a Bill of Rights that closely resembles the Federal Crime Victims' Bill of Rights. DoD officials are responsible for ensuring that victims of military crimes are afforded the rights to:

- Be treated with fairness and respect.
- Be reasonably protected from the offender.
- Be notified of court-martial proceedings.
- Be present at court-martial proceedings.
- Confer with the government attorney.
- Available restitution.
- Know the outcome of the trial and any release from confinement.

The DoD victim and witness assistance programs cover the entire military justice process from investigation through prosecution and confinement. In providing services and assistance to victims, the DoD programs emphasize an interdisciplinary approach involving law enforcement, chaplains, family advocacy personnel, emergency room staff, family service center staff, equal opportunity staff, judge advocates, unit commanding officers, and corrections personnel.

Family Advocacy Program

Each branch of the military services has a Family Advocacy Program that operates in accordance with DoD Directive 6400.1. These programs are designed to prevent child and spouse abuse, to promote early identification and intervention in cases of alleged child and spouse abuse, and to provide programs of rehabilitation and treatment for child and spouse abuse problems. Each branch of service maintains a central registry containing data on reports of alleged child and spouse abuse. If more than one child is a victim of sexual abuse in an out-of-home care setting, DoD may convene a multidisciplinary team of specially trained personnel to provide technical assistance.

Sexual Harassment and Counseling Hotline

The Army, Navy, Marines, and Air Force provide hotlines for victims of sexual harassment to provide counseling and assist them in discreetly reporting crimes to appropriate officials.

Navy's Sexual Assault Victim Intervention Program (SAVIP)

The Navy SAVIP was established in 1994 as a comprehensive, standardized, victim-sensitive system response to sexual assault. The program provides sexual assault awareness and prevention education programs and victim advocacy and intervention services; and collects accurate data on sexual assault in the Navy. There are 28 SAVIP coordinators working in 26 Family Service Centers.

Descriptions of these DoD victim assistance initiatives can be accessed at www.defenselink.mil/vwac/. In addition, this Web site includes information about victim and witness assistance, victim/witness forms, training materials relevant to DoD guidance and policy, victim/witness assistance, and links to victim and witness points of contact for the DoD, including:

- Department of the Air Force.
- Department of the Army.
- Coast Guard.
- Marine Corps.
- Department of the Navy.
- Office of the Secretary of Defense.

Special Compensation Programs in the Military

Transitional Compensation [10 U.S.C. '1059]

Federal law authorizes payment of monthly transitional compensation for abused family members. DoD Instruction 1342.24, Transitional Compensation for Abused Dependents, implements this law and is designed to partially alleviate the financial hardship to the abused dependents for coming forward with the information needed to take action against the alleged abuser. Dependents of members of the Armed Forces are eligible for transitional compensation if the military member was:

- Separated from active duty under a court-martial sentence resulting from a

dependent-abuse offense.

- Administratively separated from active duty if the basis for separation includes a dependent-abuse offense.
- Sentenced to forfeiture of all pay and allowances by a court-martial which has convicted the member of a dependent-abuse offense.

Payments from Retired Pay for Abused Dependents [10 U.S.C. ‘1408(H)]

Federal law also authorizes payments of portions of retired pay to help alleviate the financial hardship to abused dependents for coming forward with information needed to take action against the military sponsor. In order to receive payments from retired pay, the spouse or former spouse must obtain a civilian court order (typically done as part of a legal separation or divorce action) setting forth the spouse’s portion of the military member’s retired pay. The spouse or former spouse must have been married to the abusive member for at least 10 years during which the member performed at least 10 years creditable service toward retirement (the 10-year periods must overlap). The spouse may not receive payments under both this program and the Transitional Compensation Program.

Property Claims Article 139, UCMJ

Under Article 139, UCMJ, commanders may direct that service members pay victims for willful damage or theft of property. The damage or theft must have been intentional and not caused inadvertently or thoughtlessly through simple or gross negligence.

Foreign Claims Act

Under some circumstances, the Foreign Claims Act authorizes payment of claims for property damage, personal injury, or death caused by military personnel to a foreign inhabitant in a foreign country. Under the Act, the United States can pay for intentional acts committed by service members abroad. Victims must file a claim under the Act within 2 years of the damage or injury.

Restitution from the Offender

The Uniform Code of Military Justice does not authorize restitution as a form of a court-martial sentence. DoD policy, however, encourages military prosecutors, in appropriate cases, to include a requirement to pay restitution as a condition of a pretrial agreement. Payment of restitution to a victim may also be included as a condition of parole.

Compensation for Military Victims Under State Programs

Victims of crimes committed by military personnel may be eligible for compensation from state compensation programs. Since state compensation programs are “payers of last

resort,” they do not cover cost paid for by A collateral resources” such as military benefits, medical and automobile insurance, or other public assistance programs.

Tribal Justice System

Three major federal laws have governing jurisdiction over crimes committed in Indian country:

- PL 83-280 IndiansB Criminal Offenses and Civil CausesB State Jurisdiction, 18 U.S.C. ‘1162 (Supp. 1968), which grants six states jurisdiction over crimes committed in all or part of Indian country within the state, except those locations normally included under federal jurisdiction.
- The Major Crimes Act, 18 U.S.C. ‘1153 (Supp. 1986), which applies to crimes committed in Indian country, except for crimes committed in PL 280 states.
- The General Crimes Act, 18 U.S.C. ‘1152, which applies to all crimes committed by non-Indians against Indians in Indian country and subject to exclusive federal jurisdiction regardless of the seriousness of the offense.

A summary of the federal, state, and tribal criminal jurisdictions in Indian Country is provided in Exhibit 5-2.

EXHIBIT 5-2

SUMMARY TABLE OF CRIMINAL JURISDICTION IN INDIAN COUNTRY

Persons Involved	Federal Jurisdiction	Tribal Jurisdiction	State Jurisdiction
Indian Offender v. Indian Victim	Major Crimes Act. The U.S. can prosecute 16 listed offenses. Among these, burglary, involuntary sodomy, and incest are defined and punished in accordance with the state law; all others are defined by federal statute.	Tribal courts may have concurrent jurisdiction over crimes under the Major Crimes Act. For all other offenses, tribal courts have <i>sole</i> jurisdiction (except where federal statute specifically provides otherwise).	None, except under PL 280 as amended or other federal statute or by tribal vote pursuant to 25 U.S.C.’1321. The tribe <i>may</i> retain concurrent jurisdiction.
Indian Offender v. Non-Indian Victim	Major Crimes Act General Crimes Act Assimilative Crimes Act	Tribal courts may have concurrent jurisdiction over crimes under the Major Crimes Act. They do have concurrent jurisdiction over offenses that can be prosecuted by the U.S. under	Same as above.

PARTICIPANT TEXT
National Victim Assistance Academy Track 1: Foundation-Level Training

Persons Involved	Federal Jurisdiction	Tribal Jurisdiction	State Jurisdiction
		the General Crimes Act. Except for major crimes, tribes may preempt federal prosecution. For any other offenses (as defined by tribal codes), tribal courts have exclusive jurisdiction.	
Indian Offender Victimless Crime	The U.S. probably can prosecute under the General Crimes Act, as explained above, or under the Assimilative Crimes Act.	Same as above.	Same as above.
Non-Indian Offender v. Indian Victim	General Crimes Act, plus a substantive offense defined by federal statute or a substantive offense defined by state law incorporated by the Assimilative Crimes Act.	Tribal courts have no jurisdiction to prosecute non-Indians, unless Congress delegates such power to them.	Probably no state jurisdiction except under PL 280, as amended, or with tribal consent pursuant to 25 U.S.C.'1321.
Non-Indian Offender v. Non-Indian Victim	No federal jurisdiction except for distinctly federal offenses.	Same as above.	State courts have jurisdiction over all offenses defined by state law and involving only non-Indians.
Non-Indian Offender Victimless Crime	General Crimes Act, plus a substantive offense defined by federal statute or a substantive offense defined by state law incorporated by the Assimilative Crimes Act. The law is still unclear on whether federal jurisdiction is exclusive or concurrent with the state's jurisdiction.	Same as above.	State courts probably have concurrent jurisdiction with the U.S., although the law is unclear.

(Adapted from the National Indian Justice Center Legal Series, Petaluma, CA.)

Structure of Tribal Justice Systems

The overall history, structure, and jurisdiction of American Indian justice systems have been greatly affected by the experience of Indian Nations with the federal government. As a result, tribal courts and victim response systems vary considerably. Some Indian Nations have justice systems that mirror the structure of American courts, while others have retained their indigenous justice forums. Some tribal courts have developed separate court components, such as traffic, civil, small claims, family, and juvenile court divisions.

Most indigenous justice systems include victim-sensitive components in their structure. Recently, more of the American style tribal justice systems have developed support services such as victim-witness services, probation departments, correctional alternatives, and other programs to address the needs of victims and communities. Many Indian justice systems are enhancing victim services with policy and protocol revision and development.

Indian Nations continue to possess four key characteristics of their sovereign status:

1. A distinctive permanent population.
2. A defined territory, with identifiable borders.
3. A government exercising authority over territory and population.
4. The capacity to enter into government-to-government relationships with other nation-states (Valenia-Weber and Zuni, 1995).

Indian Nations retain the authority to determine the legal structure and forums to use in administering justice and to determine the relationship of the legal structure with other governing bodies. They also exercise personal jurisdiction over both member and nonmember Indians, territorial jurisdiction over their lands, and subject matter jurisdiction over such areas as criminal, juvenile, and civil matters. While limited by the Indian Civil Rights Act in sentencing, Indian Nations have concurrent jurisdiction over the felony crimes enumerated under the Major Crimes Act.

Tribal Justice Forums

The impact of federal Indian policies, Supreme Court decisions, and the historical trauma of conquest, colonization, and modernization explains the variations in tribal justice forums. Current tribal forums have in some way been affected by a combination of all these influences. As a result, Indian Nations have developed tribal courts that are hybrids, borrowing and implementing different approaches to administering justice (Vicenti, 1995). Since European contact, Indian Nations have struggled to retain their sovereign powers, especially in maintaining the type of forums they use to address the internal affairs of their people and communities. In many tribal communities, dual justice systems exist, one based on an American paradigm of justice and the other based on an indigenous paradigm. Varying combinations of the following forums outlined in Exhibit 5-3 may be used by Indian Nations (Melton, 1998).

EXHIBIT 5-3
TRIBAL JUSTICE FORUMS

Family and Community Forums	Traditional Courts	Courts of Indian Offenses	Tribal Courts
Established by unwritten customary law and traditions.	Established by the tribal council and tribal religious leaders according to unwritten laws.	Established by the Secretary of Interior under Title 25, Code of Federal Regulations (CFR).	Established by the tribal council, usually under the authority of the tribe=s constitution.
Subject only to the authority of traditional clan systems and/or family elders, based on consensus of participants.	Subject only to the authority of the tribal council and religious leaders.	Subject to the authority of the tribal council <i>and</i> the Interior Department. The council may adopt ordinances or resolutions affecting the CFR Court, but the Interior Department must approve them.	Subject to the authority of tribal council or law and order committees. Tribal constitutions may require Interior Department approval of council ordinances or resolutions affecting the tribal court.
Procedures and offenses defined according to unwritten, customary laws, traditions, and practices.	Procedures and offenses defined according to unwritten, customary laws, traditions, and practices.	Procedures and offenses defined in Title 25, CFR. Judges may develop Rules of Court for conduct of hearings and trials.	Procedures and offenses defined by tribal council in codes, ordinances, or resolutions. Tribal judges may develop Rules of Court for conduct of hearings and trials.
Presided over by family elders, chosen elders, or adults from the community or by traditional tribal officials	Judges are governors or chief executive officers of the pueblo who serve without pay. They are appointed by the pueblo council, which is composed of ex-governors and tribal religious leaders.	Judges are appointed by the Commissioner of Indian Affairs, subject to approval by the tribal council, and are paid with federal funds.	Judges may be elected by the tribal membership or appointed by the tribal council if paid by the tribe.
Decisions usually cannot be appealed, but matters may be pursued through formal tribal courts.	Appeals of decisions by the pueblo governor are heard usually by the pueblo council.	Appeals of CFR Court decisions may be heard by an appellate court composed of judges appointed under the CFR.	Appeals of tribal court decisions may be heard by a tribal appellate court, composed of judges, or by the tribal council.

Enhancing the Response to Crime Victims in Indian Country

There is a resurgence among Indian people to strengthen, reimagine, and retraditionalize their tribal justice systems, often within the context of restorative justice. Many supporters of restorative justice recognize that it is an ancient philosophy that only gained its impetus in mainstream society in the 1970s and 1980s, especially to deal with young offenders (Bazemore and Umbreit, 1994).

In many Indian communities, tribal leaders, criminal and juvenile justice practitioners, and policymakers, in collaboration with victim advocates, are assessing the impact of violent crime and the tribal response to victim and witness needs. This self-assessment has caused many Indian people to revisit and rediscover their historical and traditional ways of dealing with crime and violence in their communities. It is important then to understand what promise lies in the indigenous justice paradigm that is different from the traditional criminal justice paradigm in mainstream society.

Indigenous Peacekeeping Systems

Indigenous peacekeeping systems involve a holistic approach that connects all the affected persons on a continuum of shared and balanced power and responsibility. These systems are based on customary laws, practices, and traditions that require the involvement of the individuals in the conflict, their families, and, when necessary, tribal officials. They use nonadversarial processes that facilitate discussion between people in conflict in a safe environment that promotes resolution of underlying problems and keeping relationships intact. The methods used are based on restorative, distributive, and reparative justice concepts and principles of peace, healing, and living in harmony with all beings and with nature. This group approach contradicts what is often considered an adversarial system that is focused on the individual offender and limits participation to strangers who have little or no investment in the offender, the victim, the community, or the relationships involved. The paradigm differences are outlined in Exhibit 5-4.

EXHIBIT 5-4

DIFFERENCES IN THE PARADIGMS OF JUSTICE

American Justice Paradigm	Indigenous Justice Paradigm
Vertical.	Holistic.
Communication is rehearsed.	Communication is fluid.
English language is used.	Native/tribal language is used.
Written statutory law learned from rules and procedure, written record.	Oral customary law learned as a way of life by example.
Separation of powers.	Law and justice are part of a whole.
Separation of church and state.	The spiritual realm is invoked in ceremonies and prayer.
Adversarial and conflict oriented.	Builds trusting relationships to promote resolution and healing.
Argumentative.	Talk and discussion are essential.
Isolates behavior, freeze-frame acts.	Reviews problem in its entirety; contributing factors are examined.
Fragmented approach to process and solutions.	Comprehensive problem solving.
Time-oriented process.	No time limits on the process; long silences and patience are valued.
Exclusive—limits participants in the process and solutions.	Inclusive of all affected individuals in the process and problem solving.
Representation by strangers.	Representation by extended family members.
Focus on individual rights.	Focus on victim and communal rights.
Punitive—removes offender.	Corrective—offenders are accountable and responsible for change.
Prescribed penalties by and for the state.	Customary sanctions used to restore victim-offender relationship.
Right of accused especially against self-incrimination.	Obligation of accused to verbalize accountability.
Vindication to society.	Reparative obligation to victims and community, apology, and forgiveness.

This chart represents differences noted by Ada Pecos Melton and Christine Zuni.

Unique Victimization Issues in Indian Communities

Victimization issues in Native American communities need to be understood from historical, political, economical, environmental, and social perspectives. The impact of violence and victimization is not limited to individual victims but extends to families and communities. Violence and victimization issues are not limited to current problems. The impact of historical trauma and cultural oppression by the dominant society has greatly contributed to the social problems existing in Indian communities today, including the new crime phenomena presented by Indian gangs, sex offenders and the escalation of violence against women. Acknowledgment of the historical experiences of Indian Nations is an important factor in understanding how social problems occur and how they can be addressed in tribal communities.

The following issues have been consolidated from various focus groups conducted with Indian and non-Indian criminal and juvenile justice practitioners, policymakers, and citizens by American Indian Development Associates from January 1997 to December 1998. This material provides a perspective of the range of issues that Indian justice systems must address to meet the needs of Indian crime victims effectively.

Limited Resources for Victims. Most Indian communities are rural and geographically isolated, which limit the resources that come into the community or that can be provided by the tribal government. Generally, victims live in the same community as the offender or perpetrator and are limited in their willingness and/or ability to relocate within or outside their tribal community. Many victims lack financial and family resources to move elsewhere; elderly victims are especially reluctant to leave. Victims' rights are compromised when victims, rather than perpetrators, are the ones who are removed from their community or are coerced to leave for safety and protection. This contributes to a lack of confidence in the ability of the tribal response systems to provide public safety and protection to citizens who are victimized. As a result, tribal citizens alienate themselves due to the fear that their needs cannot be met on the reservation.

Inadequate Law Enforcement Services Diminish Victims' Confidence in the System. Lengthy police response time exacerbates victim trauma and injury. Inadequate financial support for law enforcement services in Indian communities inhibits timely police response to crime and provision of adequate assistance, protection, and safety to victims. Many Indian Nations do not have "911" emergency response numbers available. These conditions weaken the effectiveness of responses. As a result, witnesses and victims are often reluctant to talk because there is time and opportunity for intimidation to occur from the perpetrator.

Limited Training for Service Providers. Often tribal police, social services, probation, and other court-related service providers are not adequately trained in victim response, and therefore are limited in their ability to identify specific needs and provide adequate assistance to victims. Strained budgets limit the ability to provide ongoing specialized training in such areas as sexual assault, child abuse, gang violence, and intimidation.

Lack of System Reliability. Victims often do not have confidence in the tribal system response system due to the lack of infrastructure, such as protection codes, adequate staff, facilities to hold offenders, or capacity to provide safe havens or shelters for victims. This lack of confidence continually prevents victims from seeking help. As a result, many suffer in silence and remain victims. System reliability is further hindered by the lack of coordinated approaches and responses among the various tribal, state, and federal governments that can become involved in victim-related cases.

References

- Attorney General Guidelines. 1983. Washington, DC: U.S. Department of Justice.13.
- Bazemore, G., and M. Umbreit. 1994. *Balanced and Restorative Justice: Program Summary*. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.
- Gonzales, Alberto R. 2005. *Attorney General Guidelines for Victim and Witness Assistance*. Washington, DC: U.S. Department of Justice.
- Melton, A. P. November-December 1998. "Indigenous Justice Systems and Tribal Society." *Judicature* 79(3).
- Office for Victims of Crime. August 1998. "New Directions from the Field: Victims' Rights and Services for the 21st Century: Civil Remedies." *OVC Bulletin 17*. Washington, D.C.: U.S. Department of Justice.
www.ojp.usdoj.gov/ovc/new/directions/pdf/bulletins/bltn17.pdf.
- Office for Victims of Crime. n.d. "Federal Assistance Division (formerly FCVD)." Retrieved June 19, 2006, from www.usdoj.gov/ovc/welcovc/fcvd/welcome.html.
- Valencia-Weber, G. and C. Zuni. 1995. *Domestic Violence and Tribal Protection of Indigenous Women in the United States*, Chicago: St. John=s University Law Review.
- Vicenti, C. November-December 1995. "The Reemergence of Tribal Society and Traditional Justice Systems." *Judicature* 79(3).

Acknowledgments

The criminal justice portion of this chapter is excerpted from the “Crime Victims’ Rights Handbook” developed by the Victims’ Rights Education Project, sponsored by the National Victims’ Rights Constitutional Amendment Network (NVCAN) with support from OVC, and written by Justice Solutions Senior Advisor Anne Seymour. In developing this handbook, nine key sources were used for research and reference. The authors are grateful for the excellent guidance that these documents provided.

Alaska Judicial Council. 1998. *Criminal Justice Guide*. Anchorage, AK.

American Probation and Parole Association. 1995. *Crime Victims’ Handbook*. Lexington, KY.

New Hampshire Department of Corrections. n.d. *Time in Prison*. Concord, NH: State of New Hampshire.

Seymour, Anne K., 1999, *Victim Services in Corrections*, Washington, DC : Office for Victims of Crime, U.S. Department of Justice.

Seymour, Anne K., Mario Gaboury, and Christine Edmunds. 2000. “Dynamics of the Criminal Justice System.” *National Victim Assistance Academy Text*. Washington, DC: U.S. Department of Justice, Office for Victims of Crime.

Vermont Center for Crime Victim Services n.d. *You Are Not Alone: An Informational Guide for Victims and Survivors of Crime in Vermont*. Waterbury, CT.

Virginia Department of Corrections. “Probation and Parole Frequently Asked Questions.” Commonwealth of Virginia. www.vadoc.state.va.us/offenders/community/faqs.shtm, accessed September 3, 2007.

Wisconsin Department of Justice Office of Crime Victim Services. 1992. *Guide to Victims’ Rights*. Madison, WI.

Wyoming Office of the Attorney General. n.d.. *Victim/Witness Handbook*. Cheyenne, WY.

CHAPTER 6

COMMUNICATION WITH VICTIMS AND SURVIVORS

Nancy Lewis and Ann Jaramillo*

This chapter introduces a communications framework in which to develop effective skills for understanding and assisting victims of crime. By developing an awareness of the various cultural styles of communication, victim service providers can strengthen their skills in active listening and paraphrasing the victim's statements to build trust and to demonstrate that he or she has been heard. Also addressed here are the many barriers that must be overcome to be effective in communication, including cultural barriers, program barriers, language barriers, and emotional barriers. Communicating with child victims calls for additional skills. Communication in a victim needs assessment is one specific area where the service provider must be sensitive and alert to the verbal and nonverbal communication from the victim.

NVAA Module 6 Learning Objectives

- Demonstrate their use of active listening techniques.
- Differentiate between open-ended and close-ended questions.
- Demonstrate their use of five communication skills (i.e., active listening, paraphrasing, reflective listening, affirmation, and open-ended and closed-ended questioning) to establish trust with a victim.

Communication Framework

Victim service providers have an opportunity and a responsibility to advocate for victims in the aftermath of a crime and throughout their involvement in the criminal or juvenile justice system. Victim service providers must be able to communicate effectively with crime victims and survivors, who may be in crisis and in a hypersensitive state, in order to assess the situation and respond effectively to their needs. Victim service providers who practice good communication skills are better able to help victims move forward and reclaim the control they have lost as a result of their victimization. Poor communications can further traumatize and revictimize the victim.

* The authors of this chapter are Nancy Lewis, Colorado Organization for Victim Assistance, Denver, CO; and Ann Jaramillo, Introspect Consulting, Evergreen, CO.

The goals of effective communication with crime victims are to:

- Identify victims' needs and attempt to meet them.
- Explain the justice process and the role of the victim service provider and allied professionals.
- Help victims to understand and exercise their statutory and constitutional rights in accordance with the law.
- Protect the safety of victims.
- Provide information.
- Obtain information.
- Be sensitive to special needs or concerns.

Good communication requires that the message be sent and received as it was intended. Thus, the victim service provider must use clear and concise language and provide timely, accurate information to avoid misunderstanding and confusion. Good listening skills must be employed to make sure the needs of the victim are identified and clearly understood. This chapter offers communication concepts and techniques to help the victim service provider communicate effectively.

Skills Within the Communication Framework

A victim service provider uses many skills within the victim services communication framework, including:

- Building trust.
- Using active listening.
- Understanding and overcoming communication barriers.
- Conducting an effective assessment through observation and asking questions.

Building Trust

The experience of being victimized has the potential to turn every aspect of a crime victim's life into chaos and disarray. A common feeling reported by victims in the aftermath of a crime is a loss of control. Because victims had no control over their victimization, this sense of helplessness can persist into other areas of their lives and create suspicion and mistrust of other people and of the criminal or juvenile justice

system in general. It is important for victims to begin to regain some control of their lives and to develop trusting relationships with people who can help them cope with their victimization, access support and services, and navigate through the criminal or juvenile justice system. Victim advocates should attempt to develop a positive relationship with the victim by establishing mutual trust.

Many victims seek and obtain services from a variety of service providers who are both system- and community-based. Collaborative casework requires collaborative communications and management among service providers who share responsibility for helping a crime victim. If victims are required to deal with new service providers as they seek supportive services and navigate through the system, it is essential to ease the transition from one victim service provider into a “new” relationship.

Tips for Building Trust with Crime Victims

- Find out as much as you can about the individual victim and his or her case before making contact. If this is not possible, take time to listen closely to what the victim has to say.
- Properly identify yourself (show your official identification) and explain your specific role, what your agency or organization does, and how you can help the victim.
- Ask the victim how he or she would like to be addressed, i.e., by first name, surname, etc. Then use the victim's preferred name (and if the communication is written, always check for the correct spelling).
- Express empathy for what has happened.
- Be aware of your own style of communication (e.g., tone, pitch, speed, method, organization, what you say, and what you don't say) to determine if it is appropriate for the situation, and adapt it accordingly.
- Pay attention to any assumptions and judgments you might be making, and be aware of your nonverbal cues (such as eye contact, hand gestures, etc.).
- Take into account your posture, gestures, facial expressions, overall body language, and appearance, which all affect whether victims sense they are being listened to.
- Be mindful of personal space and appropriate physical contact. Some victims are not comfortable with hugging, while others welcome personal contact. Service providers should always wait until or if a victim initiates personal contact before returning it in a caring manner.

Having good information and being able to provide useful, relevant resources to victims goes a long way in developing trust and increasing a victim's confidence in the victim service provider and the criminal or juvenile justice system. Victim service providers should seek to:

- Provide timely and accurate information. If such information is unable at the time of contact, inform the victim that you will try to obtain it in a specified time frame and get back to them.
- Know state laws and agency rules about victim privacy and confidentiality, inform the victim of any such protections, and abide by them.
- Explain the specific rules of privilege that may apply to communications with victims (i.e., disclosure requirements versus confidential communication between advocates and victims).
- Explain the purpose behind the questions that you are asking. Provide as much information as possible about how the case will proceed (or if the case is not prosecuted, about resources available to help the victim).
- Explain to victims what their options are with regard to reporting a crime and participating in the process. Help them to understand and evaluate their options and the possible consequences of each decision.
- Be sensitive to victims' mental health and medical needs, and make appropriate referrals.
- Explain crime victim compensation and help violent crime victims apply for it when they are eligible.
- If victims feel alienated as a result of their age, culture, race, religion, gender, or sexual orientation, partner with a representative from the relevant community to improve the quality of victim assistance.
- In the role of advocate, never make promises that cannot be kept.

Building trust requires good communication skills, which can be practiced using these basic techniques:

- Active listening.
- Paraphrasing.
- Reflective listening.
- Affirmations.
- Observation and nonverbal communication.

- Asking open-ended and close-ended questions.
- Awareness of cultural styles of communication.

Active Listening

People normally speak at a rate of 100 to 175 words per minute, but they can listen intelligently at 600 to 800 words per minute (Fowler, 2006). Since only a part of our mind is paying attention, it is easy for our mind to drift. The cure for this is active listening, which involves listening with a purpose. There is a real difference between hearing and listening. Active listening assumes an understanding or comprehension that hearing does not. This type of listening weighs and considers what is being said.

Some techniques to be a good active listener include:

- Be attentive. Don't fidget, daydream, or let your eyes wander when a victim is speaking to you. Maintain eye contact, if culturally appropriate, to show that you're interested in what is being said.
- Take time to listen to the full story. When there is a pause in the conversation, ask questions or offer gentle probes to clarify what is being said or to elicit more information.
- If you have trouble concentrating on what a victim is saying, try repeating his or her words mentally after you hear them. This will reinforce the speaker's message and help you control mind-drift.
- Ask for clarifications or repetitions of statements to understand what the victim is saying.
- Be willing to repeat information you are offering to the victim several times. Victims in trauma may have trouble concentrating or understanding and remembering information.
- Use silence to gather information. Silence gives victims time to think, and they may be better able to provide additional information if they are allowed quiet time.
- Listen without judgment. Many victims have already been stigmatized and marginalized. Show understanding, concern, and caring.
- Take brief notes. This demonstrates professionalism and concern and records important information. Do tell the victim why you are taking notes and whether the notes are confidential.
- Don't talk. You can't listen while you're talking.

- Don't interrupt.
- Don't become flustered by victims' anxieties or repetitions.
- Don't jump to conclusions, assume you know what the speaker is going to say before it's said, or put words in the other person's mouth. You may be wrong.
- Don't react to anger or argue with victims.

Paraphrasing

What someone says and what we hear can be amazingly different. Our personal values, filters, assumptions, judgments, and beliefs can distort what we hear. Paraphrasing is a way of making sure you have correctly understood the victim. It is also a way of identifying distinct issues. Paraphrasing demonstrates that you are trying to understand, to the degree possible, what the victim is feeling. Paraphrasing involves stating back in your own words what you understood the victim to say, not parroting the victim's words. This tests your own comprehension and avoids misunderstandings that could lead to the victim's loss of confidence in you. Paraphrasing enables the victim to feel heard and to clarify anything you may have misunderstood.

Techniques for effective paraphrasing include the following:

- Listen to the speaker carefully. Search for key words, phrases, and concepts.
- Make mental notes.
- Repeat what the speaker has said, using your own words, and being careful not to change the meaning.
- Use paraphrasing before moving on to another subject.

Begin paraphrasing with such words as:

- "So what I hear you saying is ..."
- "In other words ..."
- "What I understand you are saying is ..."
- "If I hear you correctly ..."

Reflective Listening

Reflective listening is similar to paraphrasing, except that the point is not to summarize what the speaker is saying, but to know and show that you understand how he or she is feeling through the words that are being used. When a victim is upset, it is very important for the victim service provider to simply understand the emotions that the victim is feeling. This validates that how the victim is feeling is “normal” and helps victims to feel more connected because they are understood. This does not mean that you should tell victims how they should feel.

To reflect the victim’s feelings, victim service providers can:

- Listen to the speaker carefully.
- Make a mental note of key points.
- Be willing to listen to victims share their experiences if they want to talk about the crime and its effects, and validate that experience with empathy and support.
- Reassure victims that their feelings are quite natural, even though they may seem unusual at the moment. Let them know that feelings of anger, distress, guilt, frustration, fear, etc. are not uncommon and are perfectly justifiable.

Examples of reflections include the following:

- “What you are experiencing is perfectly acceptable, given what you’ve been through.” (NOTE: Many professionals do not like the use of “normalization,” as many victims do not feel normal, and telling them it’s “normal” appears to be patronizing.)
- “That must make you feel ...”
- “It sounds like you are really feeling ...”
- “If I were in your shoes, I might have concerns about that also.”
- “I can see why you’re feeling ...”

Affirmations

Affirmations are statements that recognize and validate a victim’s strengths. They include acknowledgment that the victim has been harmed and help to build the victim’s confidence in his or her ability to persist. Affirmations must be congruent and genuine to be effective and to avoid sounding patronizing. Some examples of affirmations include:

- “You’ve been through something very terrible; I’m so sorry.”

- “I think it is great that you want to do something about this situation.”
- “I appreciate how hard it must have been for you to decide to ...”
- “That must have been difficult for you.”
- “You’re certainly a resourceful person, to have been able to ...”
- “That’s a really good question.”
- “That is a good decision.”
- “You took a big step.”
- “It must be difficult for you to accept a day-to-day life so full of stress.”
- “I must say, if I were in your position, I would find it difficult too.”
- “You certainly have to cope with a lot of problems right now.”

Observations And Nonverbal Communication In Assessing Victim Needs

Victim service providers respond to the needs of the victim in a variety of situations including but not limited to the scene of a crime or shortly thereafter; answering the hot line at a victim assistance center; providing support in the courtroom; or providing corrections-based victim services. In all of these situations, the victim service provider must have the skills required to determine a course of action to respond to the specific needs of the victim. Assessment skills include listening, observing, and asking relevant questions.

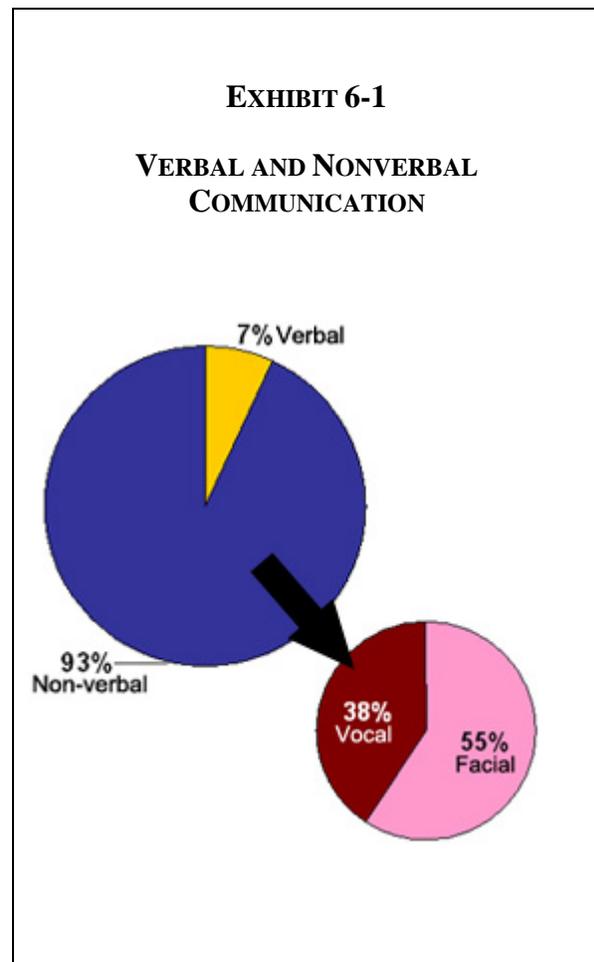
Observations

When observing any situation involving victims of crime, a provider needs to be aware of the entire situation (e.g., is the situation safe? Is the victim coping enough to function?). Much of the information a service provider receives will be through nonverbal communication.

Nonverbal Communication

The words we use are only a small percentage of communication. As Exhibit 6-1 shows, only about 7 percent of all communication is verbal; of the remaining 93 percent, 38 percent is vocal and 55 percent is facial (Mehrabian and Ferris, 1967; Ekman and Friesen, 1969).

Nonverbal behavior can communicate respect and concern and can increase both your comfort level, as well as the victim's comfort level.



Nonverbal communication is important because:

- It affects how we understand others and how they understand us.
- Sometimes there are differences or inconsistencies between verbal communication and nonverbal expression. Victim service providers need to be aware of these inconsistencies in themselves as well as in others.

Some aspects of nonverbal communication include:

Physical space. This describes the specific amount of space with which an individual finds a comfort zone. A person's culture often dictates a preference for less or more space, which can also be affected simply by the impact of victimization.

Many victims prefer a bit of physical space between themselves and the person to whom they are talking. The range of victims' comfort zones can be easily accommodated by having a narrow desk or table that provides clear space but that can be easily reached

across should it be warranted. Many victim advocates and counselors also use chairs on rollers so they can easily move closer to the victim.

Personal touch. A general rule of victim assistance is never to touch a victim unless the victim specifically invites such a gesture, either by physically reaching out to the advocate, putting his or her hand forward, or offering some other clear physical invitation that personal touch is acceptable and even desired.

Culture weighs heavily on a person's comfort with personal touch. For example, many Asian cultures consider personal touching to be aggressive behavior and an invasion of personal space.

Through body language, an advocate can make a victim aware that personal touch is available but only if the victim so desires. A firm and warm handshake upon greeting, physically leaning forward while speaking, and having one or both hands on the table slightly extended forward are all clear nonverbal signs that if the victim wants to initiate personal touch, it will be accepted and welcomed by the advocate.

Position of the bodies and body orientation. Proximity between a victim and advocate is critical to successful communications, both verbal and nonverbal. The most important rule is to seek mutual positions where eye contact, if warranted, can be easily achieved horizontally without either party having to look up or down. A victim should always be given the choice to sit or stand and, if he or she prefers to sit, the option of choosing the seat.

The advocate's physical position (or posture) should promote a clear interest in and receptivity to what the victim is doing or saying. This can include sitting up straight but slightly leaning forward and having one's hands slightly forward in a comfortable position, either on one's lap or on a table.

If a victim is uncomfortable with his or her proximity to the advocate, the advocate can look for physical signs of discomfort or distress: movement of the legs; finger tapping; physical rocking of the body; attempts to create greater physical distance, or aversion of the gaze or direct eye contact. If distress is evident, the advocate can step back, lean back, or slightly move his or her chair back.

Eye contact. A victim's preference or disdain for direct eye contact can be based on personal upbringing and mores, cultural nuances, or simply the emotional impact of victimization, which sometimes precludes direct eye contact in nonverbal communications. While eye contact often helps facilitate effective communications and expresses a strong interest in what the other person is saying, it can also be a strong barrier to personal communications with victims who are uncomfortable with direct eye contact.

One effective approach to determining the parameters of direct eye contact is to look in the direction of the victim's upper body and/or head without forcing direct eye contact. This sends a nonverbal signal that it is within the victim's control to initiate direct eye contact if desired. The choice to initiate direct eye contact then becomes the victim's.

Facial expressions. With human beings, the face is more highly developed and capable of expression than in animals, which can be a benefit or a barrier to effective communications. Some people tend to become creatures of habit with their facial expressions, habitually developing clear, distinct looks for shock, distress, frustration, and disbelief, as well as for empathy and understanding.

Victim advocates can benefit from practicing their facial expressions in the mirror or videotaping themselves in an exercise with another advocate who plays the role of a victim. Either approach promotes self-examination and critique that can eliminate any inappropriate facial expressions and allow practice of expressions that denote respect, empathy, and attention to what is being said.

Gestures. While many hand gestures are culturally driven, some are universally accepted as signs of welcome and respect. For example, holding your hands vertically, facing slightly upwards, shows that you welcome and embrace two-way communications. Holding your hands parallel to your chest, raised upward and slightly forward, emphasizes a point from either the speaker or listener. And the simple act of leaning forward with your hands on your lap or on the table says, "I'm listening to what you're saying."

Appearance. Victim advocates should always strive to look professional, regardless of the work environment. Whether dressed up or completely casual, it's always important to appear professional. This requires attention to details in clothing and basic matters of hygiene, such as clean teeth and fresh breath, manicured hands, neat hair, and clean clothes that are not wrinkled.

Below is a partial list of gestures associated with an emotion or behavior, which have been provided by James J. Messina and Constance M. Messina (2006). This list can give victim service providers some idea of what a victim may be experiencing by observing their gestures. However, it is important for victim service providers to verify their observations by asking victims what they are experiencing (for example, "Are you feeling like your life is out of control?").

- **Openness, confidence:**
 - ♦ Open hands, palms up
 - ♦ Unbuttoning or removing jacket (men)
 - ♦ Eye contact
 - ♦ Smile, leaning forward, relaxed

- ♦ Hands away from face, possibly behind back
- ♦ Standing straight, feet slightly apart, shoulders squared
- **Cooperation, readiness:**
 - ♦ Standing with hands on hips, feet apart, head tilted
 - ♦ Uncrossed legs
 - ♦ A person moves closer to another
 - ♦ Unbuttoned coat (men)
 - ♦ Head cocked, finger to face, blinking or squinting
 - ♦ Welcoming handshake
 - ♦ Open arms or hands (palms out)
 - ♦ Smile (culturally sensitive)
 - ♦ Eye contact (culturally sensitive)
- **Doubt:**
 - ♦ Pacing
 - ♦ Eyes closed
 - ♦ Brow furrowed
 - ♦ Frown
 - ♦ Rubbing eyes
 - ♦ Hand to face gestures (evaluative)
 - ♦ Pacing with head down and hands behind the back or just standing
 - ♦ Scratching head
- **Suspicion, secretiveness:**
 - ♦ Folded arms, moving away from another
 - ♦ Crossed legs

- ♦ Lack of eye contact (culturally sensitive)
- ♦ Hand covering mouth
- ♦ Frown
- ♦ Scrunching in with head down
- ♦ Stolen look, sideways glance
- ♦ Sideways positioning
- ♦ "Poker face"
- ♦ Deception indicated by lack of eye contact
- ♦ Anxiety gestures
- ♦ Looking at floor
- ♦ Frequent swallowing
- ♦ Wetting lips
- ♦ Throat clearing
- **Need for reassurance:**
 - ♦ Clenched hands with thumbs rubbing
 - ♦ Stroking arms
 - ♦ Cuticle picking
 - ♦ Hand pinching
 - ♦ Sucking on pen, glasses, etc.
 - ♦ Touching chair before sitting
- **Anxiety:**
 - ♦ Nail biting
 - ♦ Finger movement
 - ♦ Sighing

- ♦ Hand wringing
- ♦ Rapid, twitchy movements
- ♦ Clearing throat
- ♦ Tremors, especially knees
- ♦ Heavy breathing
- ♦ Voice strained
- ♦ Lips quivering
- ♦ Rapid eye movement
- ♦ Rigidity
- **Frustration, anger:**
 - ♦ Making fists
 - ♦ Hands on hips
 - ♦ Stomping
 - ♦ Sitting on edge of chair (ready for action)
 - ♦ Chin out
 - ♦ Kicking the ground
 - ♦ Lips pressed together, jaw muscles tight
 - ♦ Running fingers through hair
 - ♦ Rubbing back of neck
 - ♦ Hands in pocket
 - ♦ Clenched hands with white knuckles
 - ♦ Pointing or jabbing
 - ♦ Hot under collar
 - ♦ Putting out cigarette, especially if with grinding motion

- ♦ Change in skin color
- ♦ Hostile stare
- **Defensiveness:**
 - ♦ Hands in pocket
 - ♦ Hands behind back
 - ♦ Clenched hands
 - ♦ Men with jackets button up
 - ♦ Folded arms (can be reinforced by making fists)
 - ♦ Crossed legs
 - ♦ Body twisted away, moving away, sitting back
 - ♦ Head tilted forward, possibly squinting
 - ♦ Stalling for time by cleaning glasses, rearranging, etc.
 - ♦ Hand rubbing back of neck.
- **Self-control, inner conflict:**
 - ♦ Hand holding wrist or arm
 - ♦ Arm locked behind back
 - ♦ Locked ankles
 - ♦ Gripping arms of chair as in dentist's chair
 - ♦ Suppressed gestures or displacement activities such as fist clenched hidden in pocket
 - ♦ Hand to mouth in astonishment or fear (suppressed scream)
 - ♦ Hand rubbing back of neck, running fingers through hair (displaced hitting out), "stiff upper lip" or reacting as little as possible
 - ♦ Blowing nose and coughing (disguised tears)

Asking Open-Ended and Closed-Ended Questions

Asking questions is often the best way to assess a victim's needs. Questions let the victim know that you are interested in helping him or her, and they involve the victim in his or her own assessment. This tends to build the connection with the victim that is so critical to the victim service provider's ability to do his or her job and to the healing process for the victim. Because the objective of asking questions is to *gather information* relevant to assessing the situation and *respond to the needs of the victim*, care must be taken to ask the type of questions that illicit the most information. In these circumstances, it is highly inappropriate to ask questions simply out of curiosity.

There are two types of questions: close-ended and open-ended. Both are useful if victim service providers understand what each is and how each is used to obtain the information they are seeking.

Close-ended questions typically require a brief "yes" or "no" response and are best used to find out a specific piece of information or to clarify a specific point of discussion, but rarely anything more. They can also be used to minimize the discussion and focus on a specific fact. Examples of close-ended questions include:

- "Are you in a safe place?"
- "Do you want me to call anyone for you?"
- "Would you like something to drink?"
- "Would you like to attend the parole hearing?"
- "Would you like help filling out the application for victim compensation?"

Open-ended questions cannot be answered with a "yes" or "no" response. They allow the victim assistance provider to get more information and to expand the discussion. Open-ended questions also require the victim to offer a more thorough response that requires deeper consideration and thinking. Typically, they begin with how, when, what, where, why, or with tag lines like, "Tell me about . . ."

A word of caution: questions beginning with "why" tend to denote judgment, so it is best to avoid them when working with victims.

Open-ended questions encourage victims to take the lead in the conversation, to talk about what is important to them, and to share important information. Allowing the victim to take the lead tends to help build trust and rapport because it demonstrates an interest in the victim. Examples of open-ended questions include:

- "How safe are you feeling now?"
- "What would you need to feel safe right now?"

- “Is there anything else you can tell me?”
- “What special concerns do you have that I can help you address right now?”

While observing and carefully asking questions, the responsibility of the service provider is to:

- Elicit information that assesses the victim’s primary needs and concerns and that can help develop an appropriate and effective case plan.
- Provide victims of crime with a measure of safety and security.
- Allow victims to ventilate and have their experiences validated.
- Assist primary and secondary victims to stabilize their lives after victimization.
- Help victims to understand and access supportive services that can help them cope in the aftermath of victimization.
- Help victims to understand and participate in the criminal or juvenile justice system.

The victim service provider must be able to quickly assess the situation and the victim’s needs in order to determine the appropriate course of action to meet those needs, which may include safety and security for the victim and family members, medical care, mental health counseling, family assistance, applications for victim compensation, emergency housing, transportation, translators/interpreters, child care, victim/witness protection, information, or other services.

Some factors for the victim service provider to consider are:

- Is the victim stable? What is the victim’s:
 - ♦ Emotional state?
 - ♦ Current sense of safety and security?
 - ♦ Ability or capacity to cope?
 - ♦ Current level of functioning?
- What does the victim need?
 - ♦ What basic services does the victim need help getting?
- Does the victim have a social support system?
 - ♦ If “yes,” the service provider and victim can work together to engage the victim’s support system, if needed and with approval from the victim.

- ♦ If “no,” the service provider can help the victim develop a social support system through referrals for services, mental health interventions, and victim support groups.

Awareness of Cultural Styles of Communication

The changing demographics in the United States make it incumbent upon victim service providers to know more about the populations that make up the communities they serve. Victim service providers are likely to work with victims from many cultures, which include many different backgrounds and lifestyles. Cultural diversity includes the following demographics:

- Gender.
- Age.
- Ethnicity.
- Race.
- Sexual orientation.
- Educational background.
- Religion.
- Physical/mental ability.
- Military/veteran status.
- Lifestyle.
- Immigrant status.
- Political affiliation.
- Socioeconomic status.
- Geography (urban, suburban, rural, remote, and frontier).

By acquiring an awareness of cultural communication styles (i.e., how people express themselves, how they display emotions, and how they deal with crisis and conflict), victim service providers can adapt their own communication style to accommodate that of the victim.

Suggestions for increasing awareness of cultural styles include the following:

- Learn about different cultures from your clients.
- Take advantage of available resources (i.e., books, articles, films, music, etc.) to learn more about different cultures and their histories. There is much information available on the Internet. A word of caution: be aware that there are many negative stereotypes about cultural groups. Be willing to validate the information you are getting to avoid stereotyping anyone.
- Attend cross-cultural communications training.
- Learn how different cultures deal with crises and acquire support when in crisis (i.e., through elders, nature, spirit, clergy, etc.) to be able to make helpful and relevant referrals.
- Learn how cultures communicate nonverbally. Some cultures do not make eye contact because it is considered disrespectful. In some cultures, a smile communicates that the person is embarrassed or does not understand and is afraid to ask questions. In other cultures, smiles signal superficiality and thoughtlessness.
- Learn how different cultures react to conflict. In some cultures, conflict is dealt with directly, while in others open conflict is experienced as embarrassing or demeaning.
- Listen actively and carefully when interacting with victims from different cultures. Again, check out any assumptions you draw from your observations.
- Build relationships with individuals from different communities that can be used as a resource for learning about cultural norms and nuances and validating any information you are acquiring about their culture. These important contacts can also serve as gatekeepers to diverse communities and promote collaborative efforts that improve victim assistance within all cultures.

Communication Barriers

Victim service providers must do everything in their power to become aware of and overcome any communication barriers that might exist in their relationships with crime victims. Barriers to communication include, but are not limited to:

- Cultural differences between providers and victims.
- Programmatic barriers, such as lack of adequate training.
- Physical barriers, such as the geographical distances some victims must travel to access services.
- Language barriers.

- Barriers due to disabilities.
- Barriers created by a victim's inability to focus because of a high level of emotion or posttraumatic stress.

Cultural barriers that might impede good communication with crime victims include:

- Distrust of certain professions (i.e., law enforcement, clergy, and attorneys).
- The victim service provider's assumptions and judgments due to a lack of understanding of different cultures.
- The role of the family (i.e., sharing intimate information outside of the family about a crime may be frowned on in certain cultures).
- Cultural mores that emphasize loyalty to a group over an individual.
- Cultural indications of shame with respect to victims.
- Variations among cultures in the grieving process.
- Prejudice, either conscious or unconscious, on the part of the helping individual.
- The victim's perception of what is private and must not be shared outside of the culture.
- Distrust of the criminal or juvenile justice system because of culture or previous experiences that members of a culture have had with the system.
- Fear of immigration and deportation issues.
- Differences in the American criminal justice system and the justice system in the victim's country of origin.
- Culture of gender-based passivity.
- Different religious beliefs (e.g., burial practices and rites, choices to seek counseling).
- Disenfranchisement for various reasons (e.g., extreme poverty, illness, isolation).

Efforts that victim service providers can make to address **cultural** barriers that impede communication with crime victims include:

- Participate in inclusiveness training.
- Be aware of your own values and biases. Learn to recognize your own "hot spots" and develop ways to manage them so they won't affect your communications.

- Pay attention to your nonverbal communication. Many times, people communicate one thing verbally and another thing nonverbally. Often, someone will react not to what you say, but to how you say it and convey it.
- Pay attention to your words. Words convey values, judgments, and biases. Try to choose words that are neutral. Learn about words that are unique to specific cultures, as well as words that are culturally-appropriate and culturally-offensive.
- Avoid false assumptions that you have qualities or attitudes in common with victims (e.g., a victim service provider who has been victimized in a similar way assuming that the victim is having the same experience).
- Always show respect for victims even though you may not agree with their norms, values, and perspectives.

Programmatic barriers that might impede good communication with crime victims include:

- Lack of diversity among victim services staff.
- Language barriers.
- Absence of outreach to different populations about victims' right and services.
- Lack of training and cultural competence to develop skills and preparedness so victim service providers can address the needs of populations served.
- Poor understanding of service providers' roles.
- Agency policies that are in conflict with specific cultures or neglectful of specific needs.

Efforts that victim service providers can make to address **programmatic** barriers that impede communication with crime victims include:

- Develop a culturally diverse staff.
- Identify populations in the community that are challenging to serve.
- Assess and address the general needs of victims from populations in the community that are challenging to serve (for example, make sure that space is available in secure victim/witness waiting rooms for victims from family-oriented cultures who might want to involve a large number of family members in court proceedings).
- Evaluate the staff's cultural competence for assisting underserved victim groups.
- Determine ways in which agency policy can change to better serve target groups.

- Form a partnership with culturally diverse individuals and agencies to engage their assistance in serving victims from their communities.

Physical barriers that might impede good communication with crime victims include:

- Location of service providers.
- Geographic barriers that prevent victims from seeking or accessing services due to the distance they must travel or lack of public transportation.
- Victims' isolation and lack of awareness of services in rural or highly urban areas.
- Victims' lack of transportation.
- Victims' lack of a telephone.
- Poor access to service providers' offices for people with disabilities, such as lack of a TTY or wheelchair ramps.
- Elderly and child victims who are dependent on others for access to services.

Efforts that victim service providers can make to address **physical** barriers that impede communication with crime victims include:

- Assess transportation needs for victims in rural communities and explore alternate ways to communicate where possible.
- Increase awareness of your agency's service in communities that are highly rural, remote, frontier, or urban.
- Make sure that a TTY is available and that victim service providers are trained to use it.
- Consider outreach to victims that brings services directly to them where they live or work, using both professionals and volunteers.
- Promote use of videoconferencing for parole hearings that allows victims to participate and give a victim impact statement from a remote location (that is often selected because it is close to their homes).

Language barriers that might impede good communication with crime victims include:

- Victim assistance literature and information that is available only in English.
- No translator available for non-English-speaking victims.
- Victims whose first language is not English.
- Victims using a child, other family member, or friend to translate.

- Terminology used in the criminal or juvenile justice system that does not translate accurately to the language of the victim.
- Victims speaking English with a heavy accent.
- Victim service providers not addressing the victim directly, speaking instead to a translator or a third person.
- Literature, forms, and other victim assistance resources not available in other languages.

Efforts that victim service providers can make to address **language** barriers that impede communication with crime victims include:

- Make efforts to translate victim assistance literature into any languages other than English that are predominant in the community.
- Make sure a skilled professional translator is available.
- Never use child victims or other family members to translate.
- Listen carefully and patiently to victims who speak with a heavy accent. Ask for clarification when needed.
- Speak directly to the victim, not the translator.
- Hire staff with different language skills.

Barriers **due to disabilities** that might impede good communication with crime victims include:

- No ASL interpreter available for hearing-impaired victims.
- Victim service providers not facing a victim who relies on lip-reading for information.
- Brochures and other information not available in Braille.
- Buildings and related facilities (such as transportation and parking) that are not in compliance with the Americans with Disabilities Act (ADA).
- Transportation not available for victims with physical disabilities.
- Victim service providers and others who shout to sight-impaired victims or victims with other disabilities.
- Victim service providers not addressing a victim with a disability directly, speaking instead to an interpreter or a third person.

- A victim service provider who displays obvious discomfort with the victim's disability.
- Difficulty understanding victims with speech impairments.

Efforts that victim service providers can make to address barriers **due to disabilities** that impede communication with crime victims include:

- Assess your agency's compliance with the Americans with Disabilities Act (ADA). The ADA Web site, which includes many resources that can help with such an assessment, can be accessed at: www.usdoj.gov/crt/ada/adahom1.htm.
- Make sure an interpreter is available.
- Speak directly to the victim, not the interpreter.
- Make sure that facilities and transportation services can accommodate people with disabilities.
- Be sure your mouth is clearly visible when speaking to victims who lip-read. Do not eat, smoke, chew gum, turn away, or cover your mouth when speaking.
- Be aware that lip-reading and listening are tiring for many persons. Avoid long monologues.
- Make sure that literature and forms are available in Braille.
- For victims who use guide dogs, do not touch, feed, pet, or play with the dog.
- Listen carefully to victims with speech impairments. Don't try to rush them. If you don't understand, ask for clarification. Repeat key pieces of information to make sure you understand.

Barriers to communication arising from a victim's **inability to focus** due to a high level of emotion or posttraumatic stress include:

- Victims expressing anger, distress, frustration, or fear.
- Victims experiencing high levels of anxiety.
- Victims reexperiencing the trauma in the telling of their victimization or its effect on them.
- Victims' lack of trust in you and/or the criminal or juvenile justice system.
- Victim service providers' emotions triggered by the stress of the victim.

Efforts that victim service providers can make to address barriers created by a victim's **inability to focus** due to high level of emotion or posttraumatic stress include:

- Recognize that strong emotions are often a direct result of a victim's level of trauma.
- Allow the victim to select the time and place of the interview or meeting.
- Attempt foremost to communicate trust, support, and confidence.
- Calm and comfort the victim.
- Allow victims time to tell what happened and describe how they are feeling in their own words.
- Give the victim back the control the offender took away by letting him or her decide when and where to talk.
- Reassure the victim that his or her feelings are acceptable (except any feelings that include revenge or suicide ideation).
- Let the victim know that any feelings of anger, distress, frustration, and fear are not uncommon and are justifiable.
- Be willing to repeat information several times, as well as to listen to a victim who repeats information or questions.
- Be willing to listen to victims who share their experiences if they want to talk about the crime and its effects, and validate their experience with empathy and support.
- Have an information and referral system—with names, addresses, telephone numbers, e-mails, and Web sites and pages—to determine appropriate referrals.
- Offer to make referral calls and contacts for further information and victim support to help facilitate connections between the victim and appropriate services.
- Don't avoid the victim or avoid listening to his or her reactions to a crime. Listening and validating those experiences and emotions are critical to victims' reconstruction after a crime.
- Don't expect to be a psychotherapist or to know all the "right" answers.

Many communications with victims occur by telephone or in writing through mail or e-mail. Techniques for effective telephone communications include the following:

- Use a proper greeting to the victim, asking how he or she would like to be addressed.
- Maintain a friendly, calm tone of voice.
- Listen without interrupting or assuming you know what the victim is going to say.

- Do not attempt to multitask. Give the victim your full attention.
- Check to make sure you clearly understand the victim's key concerns or problems.
- Ask questions for clarification.
- Provide as much detail as the victim requires.
- Avoid technical jargon.
- Match the victim's communication style in tempo and tone.
- Give the victim choices of several actions or solutions and help him or her understand possible outcomes or consequences of those choices.
- Close the conversation by asking if anything further can be done.
- Thank the victim for taking time to speak with you.

Techniques for effective written communications include the following:

- Inform the victim of how written communications will be delivered to them:
 - ♦ Ensure that delivery of written information will not jeopardize the victim's safety.
 - ♦ Arrange for an alternate delivery address if there are any safety or privacy concerns.
 - ♦ Describe or show the envelope in which such information will arrive so the victim will not fear or avoid opening it.
- Use the proper spelling of the victim's name.
- Use clear, concise words, and avoid technical jargon.
- Provide an appropriate level of detail. Too little information is not useful, while too much information can lead to confusion.
- End each written communication by providing your contact information for further assistance and by thanking the victim.
- With e-mail communications, it is important to maintain the same level of formality and professionalism that is used for other forms of written communication.

Communication With Children

- Realize that children tend to regress emotionally during times of stress and act younger than their age. For example, eight-year-old child victims may suck their thumbs.
- Use language appropriate to the victim's age and cognitive development and the language that the child victim has used. For example, use the language a child sexual assault victim has used to describe what happened to him or her. Avoid baby talk.
- Because young children often feel they may be blamed for problems, assure preschool and elementary school-age children that they have not done anything wrong and they are not in trouble.
- Be consistent with the terms you use, and repeat important information often.
- Ask open-ended questions to make sure child victims understand you.
- Use care in discussing sexual matters with preadolescent and adolescent children, as their embarrassment and limited vocabulary can make conversation difficult for them. At the same time, do not assume that victims, including elementary school-age children, are as knowledgeable about sexual matters as their language or apparent sophistication might indicate.
- Maintain a nonjudgmental attitude and empathize with young victims. Because elementary school-age children are especially affected by praise, compliment them frequently on their behavior and thank them for their help.
- Remember the limited attention span of children. Be alert to signs that victims are feeling tired, restless, or cranky. When interviewing preschool-age children, consider conducting a series of short interviews rather than a single, lengthy one. Also, consider postponing the interview until the victim has had a good night's sleep. However, do not wait too long before interviewing preschool-age children, because victims at this age may have difficulty separating the events of the victimization from later experiences.
- Encourage preschool-age children to play, as it is a common mode of communication for them. You may find that as children play, they become more relaxed and thus more talkative.
- Limit the number of times that child victims must be interviewed. Bring together for interviews as many persons from appropriate public agencies as possible, including representatives from the prosecutor's office, child protective services, and the medical/health care community.
- Include victims, whenever possible, in decision making and problem-solving discussions. Identify and patiently answer all their questions. You can reduce victims'

insecurity and anxiety by explaining the purpose of your interview and by preparing them, especially elementary school-age children, for what will happen next.

- Show compassion to victims. Children’s natural abilities to cope are aided immensely by caring adults.
- In sexual abuse cases, although the immediate victim is the child, do not forget to comfort the nonoffending parent(s). Provide referrals regarding how they can cope and what they can expect, as well as suggestions on how they can talk to their child.
- Use professionals such as forensic interviewers and other child advocates from local child advocacy centers. Information about more than 500 Children’s Advocacy Centers is available from the National Children’s Alliance at: www.nca-online.org/pages/page.asp?page_id=4028

Written Resources for Crime Victims

It is important for agencies and organizations that serve victims to have written resources readily available that are clear, concise, and easy to understand. Written resources include forms, brochures, fact sheets, and other materials that are available in both paper and electronic formats (on Web sites and through listservs and discussion groups).

When providing victims with written resources, it is important to recognize that they may not read them immediately; even if they do, their level of trauma may prevent them from fully comprehending the written word. It is essential to explain the contents of all written resources verbally and to follow up with victims to see if they have any questions or require additional explanation or information.

Some basic guidelines for developing written resources include the following:

- The resources should be written at a sixth-grade level.
- Avoid jargon or acronyms that are confusing to victims.
- It is helpful to have available:
 - ♦ A list of “Frequently Asked Questions” (and answers) that contains basic information that correlates to victims’ most common concerns.
 - ♦ A description of criminal or juvenile justice processes, as well as the range and types of victim assistance services that are available.
 - ♦ A glossary of terms that explains terminology, jargon and acronyms most commonly used in victim assistance and justice processes.

PARTICIPANT TEXT
National Victim Assistance Academy Track 1: Foundation-Level Training

- ♦ Written materials that include a list of toll-free telephone numbers for victim assistance and Web sites that victims can access to obtain more information.
- ♦ Efforts should be made to provide written resources in the languages that are most prevalent in an organization's community, as well as in Braille.

The victim service provider works foremost to lessen the impact of the victimization by identifying the needs of victims and their families and helping them meet those needs. To achieve this, an accurate assessment must be made of the victim's safety, functionality, and coping skills. Observing nonverbal cues and assessing the victim's physical environment are important ways of gathering information, however much of the information will be obtained through asking effective questions.

Good communication and assessment skills, as they apply to victim services, are learned over time. Every situation, every crime, and every crime victim is different. As long as the victim service provider's goal is to assist the victim and to ensure that victims' rights are enforced so that the victim can move toward healing, the victim service provider's skills will improve over time and with each victim encountered.

The Office for Victims of Crime has produced a 13-minute educational videotape entitled "Listen to My Story: Communicating with Victims of Crime." It includes a detailed discussion guide about how to identify and overcome barriers to communicating with victims. For information about how to order the videotape and discussion guide, please visit www.ovc.gov/publications/infores/other.htm.

References

Ekman, P., and W. V. Friesen. 1969. "The Repertoire of Nonverbal Behavior: Categories, Origins, Usage, and Coding." *Semiotica* 1: 49–98.

Fowler, K. 2006. "Active Listening, Hear What People Are Really Saying." Retrieved November 2, 2006, from www.mindtools.com/CommSkill/ActiveListening.htm.

Mehrabian, A., and S. Ferris. 1967. "Inference of Attitudes from Nonverbal Communications in Two Channels." *Journal of Consulting Psychology* 31: 3, 248-252.

Messina, J., and C. Messina. 2006. *Tools for Coping Series*. Retrieved November 2, 2006, from www.coping.org.

Murray, M., M. Hook, and A. Seymour. 2005. *Listen to My Story: Communicating with Victims of Crime, Video Discussion Guide*. Retrieved October 20, 2006, from www.ojp.usdoj.gov/ovc/pdftxt/listen_to_my_story_vdguide.pdf.

CHAPTER 7

DIRECT SERVICES

Eidell Wasserman and Jeannette Adkins¹

No one is useless in this world who lightens the burdens of others.

Charles Dickens

This chapter gives a brief outline of the evolution of direct services, describes the range of services, and suggests a variety of techniques of crisis intervention. The chapter offers basic information for assisting victims with their compensation claims. Restorative justice programs are also discussed as another means of having the voices of victims heard.

NVAA Module 7 Learning Objectives

- Demonstrate the use of key steps in providing effective crisis intervention services.
- Identify three services that victim service providers provide during the phases of the justice system process.
- Discuss strategies to identify resources and services to meet victim needs.

Overview of Direct Services

In the mid-1980s, the U.S. Justice Department, responsible for administering the Justice Assistance Act (JAA), commissioned program models for each of the criminal justice innovations named by Congress as eligible to receive JAA funding. These models were to serve as guides to applicants, grantees, and grant administrators. Of the nearly 20 such program models prepared this way, by far the most elaborate was the one on victim assistance. The Model Victim Assistance Program has played an interesting role in the history of the victims' movement, serving as an evolving tool to help define and describe a major service innovation and, indeed, a new profession.

The overall goal of the Model Victim Assistance Program was *to improve the treatment of all victims of crime by providing victims with the assistance and services necessary to speed their recovery from a criminal act, and to support and aid them as they move through the criminal justice process* (Young, 1993).

¹ Authors of this chapter are Eidell Wasserman, Ph.D., Sebastopol, CA; and Jeannette Adkins, National Organization for Victim Assistance (formerly), Alexandria, VA.

This historical document set the stage for direct services as we know them today and continues to evolve as the scales of justice become more balanced with the passage of significant victims' rights laws at the state and federal levels.

Direct services are provided to victims immediately after a crime occurs and over a period of time. A continuum of services is available to the victim from the offender's arrest all the way through the criminal justice process, including postconviction services provided by correctional agencies and state Attorneys General. These direct services include the following:

- Responding to the immediate emotional and physical needs of crime victims.
- Providing crisis intervention, in person or via crisis telephone lines.
- Accompanying victims to hospitals and medical professionals for medical examinations and treatment.
- Providing (or providing referrals to) emergency shelter, food, clothing, and transportation.
- Conducting a comprehensive needs assessment to identify and try to meet victims' most important needs.
- Providing transportation to medical and/or court appointments.
- Providing direct advocacy with agencies and individuals (e.g., landlords, employers).
- Providing liaison services.
- Referring the victim to or providing mental health counseling or group support.
- Referring the victim to legal services or social services.
- Preparing victims and accompanying them as they navigate through the criminal justice system.
- Advocating on behalf of victims to ensure recognition of victims' rights.
- Assisting with victim compensation.
- Providing postconviction support, information, and notification and escorting victims to witness executions, as requested.
- Following up to provide any additional support or referral as needed.

A national needs assessment was conducted in 2004 to identify the core skills that victim service professionals need to provide services. The assessment included input from an advisory committee composed of national experts in the field of victim services, focus groups with victim service providers and managers, and a national needs assessment

survey. Based on the information from the needs assessment, the core skills of a victim service professional include:

- Communication skills.
- Engaging clients and establishing rapport.
- Assessing needs and identifying resources.
- Providing referrals.
- Conflict management and negotiation.
- Documentation.
- Problem-solving.
- Crisis intervention.
- Advocacy.

This chapter addresses skills required to provide the following direct services:

- Provide crisis intervention services
- Assess victim needs.
- Identify resources and provide referrals.
- Assist with compensation and restitution programs.

Additional information on the other core skills of victim service providers can be found in the Victim Assistance Training Online (VAT *Online*) training. VATOnline is a Web-based training program funded by the Office for Victims of Crime. The training is a basic, fundamental program that combines core information and basic skills needed by victim service providers to assist victims of crime effectively and sensitively. This training can be accessed by going to www.ovcttac.gov/vatonline.

Provide Crisis Intervention Services

Some victim advocates may accompany or be called in by first responders to provide immediate assistance to victims of violent crimes. One of the most common services provided by victim advocates in these circumstances is crisis intervention. Anyone who comes into contact with a crime victim soon after the crime has occurred could be called on to provide crisis intervention. It is important to be familiar with the basics of crisis

intervention to both assist the victim and to limit additional trauma that can be prevented by effective, immediate interventions.

A crisis is an unexpected event that calls for the mobilization of additional resources beyond those necessary for everyday life. When people encounter unexpected challenges and traumas, they may have difficulty mobilizing their resources to meet these challenges. The victim service provider's role is to help crime victims recognize and use their strengths to meet the challenges of victimization. This assistance often begins with crisis intervention.

Crisis intervention skills are based on our knowledge of how people tend to respond to crisis situations and trauma. While the following discussion of crisis intervention focuses on how to assist victims in the immediate aftermath of a trauma, it is important to remember that many factors can trigger reactions to victimization—hours, days, or weeks after the traumatic event. Additionally, the victim's family members and friends may need crisis intervention services. As discussed in Chapter 6, "Impact of Crime on Victims," victimization affects people on many levels: physically, psychologically, cognitively, emotionally, and spiritually. Crisis intervention services should attempt to address the victim's needs in as many of these dimensions as possible. When it is not possible or appropriate for the victim service provider to address a victim's needs, referrals should be available for relevant services. Whenever possible, these referrals should be made to professionals who specialize in dealing with victims of crime (for example, nurses who are specially trained in examining victims of sexual assault).

Victims in crisis do not think clearly. They may experience shock resulting from going through an event that is far beyond their ordinary experience—an event that may involve physical pain, loss, emotional abuse, and interactions with criminal justice personnel. Difficulty in concentration is one of the normal reactions to victimization. Successful crisis intervention includes helping victims deal with their immediate needs and begin to plan for the future.

It is important to provide accurate information to victims. If victim service providers do not know the answer to a victim's question, they should inform the victim that they don't know the answer but will try to obtain the correct information and then follow up.

It is also important to recognize that every victim is unique and every case is unique. While victim service providers cannot know exactly what will happen in each case, their experience with similar situations allows them to prepare victims for the types of events that are likely to occur. In addition, victim service providers can help victims prepare for the range of possible psychological and emotional reactions they may experience, both in the immediate future and weeks, months, or even years later.

Phases of Crisis Intervention

When first meeting a person in crisis, it is important to establish a relationship of trust and respect. Some basic, commonsense activities can be very important, such as introducing yourself to the victim and explaining your role. Since the person may not be processing information clearly, it is helpful to provide him or her with a business card to refer to later. You may not have much time to develop rapport, but it is important to attempt to connect with the victim. The National Center for Victims of Crime (NCVC) suggests these statements to develop rapport with victims (NCVC, 2004):

- I am so sorry that this happened to you.
- This must be a very difficult time for you right now.
- I can tell you are having a hard time with this.
- You don't have to handle this on your own.

Many victims have reported that no one ever said to them, "I'm sorry this happened to you." This simple expression of concern can have a large impact, and advocates should make sure that the victim hears those words.

In some agencies, the victim service provider may provide crisis intervention over the phone rather than in person. In these cases, the advocate cannot see whether the victim is suffering from physical injury. Victims themselves may be unaware of internal injuries or may be in shock and not feel pain from an injury. It is important for advocates who are interacting with victims solely over the phone to encourage them to seek safety, including accessing medical treatment.

There are a number of different descriptions of the phases of crisis intervention and several different approaches to the intervention itself. No single approach has been shown to be better than another. It is important for victim service providers to find an approach that feels comfortable to them. The National Center for Victims of Crime (2004) has identified three phases of crisis intervention: immediate crisis intervention, needs assessment, and recovery intervention. Immediate crisis intervention focuses on ensuring that the victim's immediate medical, mental health, and personal needs are met. The needs assessment includes identifying the victim's needs for emotional support, identifying how the crisis has affected the victim, and developing a plan for the future. The third phase, recovery intervention, represents the victim's movement toward regaining psychological equilibrium and moving forward with his or her life. The victim service provider's role may include helping victims to avoid secondary trauma through their interaction with the criminal justice system or other agencies and professionals.

Dixon (1987) has described a nine-step crisis intervention model that can be used with families in any type of crisis:

1. Rapidly establish a constructive relationship.

2. Elicit and encourage expression of painful feelings and emotions.
3. Discuss the precipitating event.
4. Assess strengths and needs.
5. Formulate a dynamic explanation.
6. Restore cognitive functioning.
7. Plan and implement treatment.
8. Terminate.
9. Follow up.

Victim service providers often provide services beyond the initial crisis intervention stage, so Step 8 may not be relevant for them. However, Step 4 is an important aspect of crisis intervention. Both victims and their family members (including extended family and clan members) have strengths, but it can be difficult for them to focus on these strengths when they are in the middle of a crisis.

Another approach to crisis intervention focuses on three phases: safety/security, vent/validate, and prepare/predict (Young, 1993). This method has gained wide acceptance in the victim services field and will be discussed in greater detail.

Phase 1: Safety/Security. The first phase focuses on ensuring that victims feel they are safe from additional harm. The victim service provider can aid victims by having them identify their need for safety and security and providing options and resources that may fill these needs. For example, a domestic violence victim in a small tribal community may not feel safe staying at the tribal shelter because her abuser knows the shelter's location. The victim service provider may be able to provide information about other domestic violence programs and arrange for transportation to the alternate shelter.

The need for safety is one of the most basic human needs. It is very difficult to focus on any other issue until a person feels safe. In many situations, the victim service provider's first role is to help a crime victim feel safe and secure. Some victims may need little to feel safe, while others may not be able to feel secure no matter how many resources are provided. The victim service provider should explore with the victim as many options as possible to help the victim feel safe, both physically and psychologically.

Physical safety may include locating a safe place for a victim to stay or arranging for a medical examination to ensure there are no bodily injuries. Psychological security can be provided by supplying favorite items, such as a child's favorite stuffed animal, or contacting a support person to come and stay with the victim. It is critical to remember, however, that the victim must define what safety and security means. **Never make assumptions about what a victim wants, and always ask and clarify to ensure that you understand the victim's needs.** Some people, for example, might want a family

member to stay with them following a traumatic event. Other people may not be close to members of their family, or might prefer to be alone. Sexual assault victims, for example, often fear that family members will find out about their assault (Kilpatrick, 2000), so contacting a family member may further traumatize the victim.

Victims may also make choices that the victim service provider feels will not provide adequate safety or security. In most cases, the victim service provider has no right or ability to force the victim to seek safety. An elder physical abuse victim who desires to stay in her own home alone, even though the perpetrator has not been apprehended, might be making a choice that seems unsafe. However, the trauma of leaving the familiarity of her home may cause more psychological distress than remaining in the home. A victim service provider may be able to help get additional police patrols or arrange to provide the victim with a cellular phone to make it easier for the victim to call for help in an emergency.

Phase 2: Ventilation and Validation. Ventilation refers to victims being able to tell their story, in their own time and in their own way. It is important for victims to talk through their experiences, no matter how long it takes and how disconnected or unimportant the information seems. Child victims may want to tell stories or draw pictures. Victim service providers who work with child victims may want to have a kit on hand that includes Play-Doh, crayons, paper, markers, and other art items. If the victim service provider will be traveling to meet the child victim onsite, he or she should have a mobile kit to take on calls. Remember that adults, as well as children, may benefit from having art supplies available. Having something to do with their hands, such as kneading play dough or squeezing a stress ball, may help victims alleviate stress.

Victim service providers should also be aware of how members of different cultural and ethnic groups express themselves. Native Americans, for example, may begin a story and go off on what sounds like many tangents to the non-Native person. The story may sound circuitous, often going off target. However, this is a common way of describing events, through interlacing related activities over a period of time. The victim service provider needs to be patient and allow victims to complete their stories without trying to get them back on topic. Since victims are telling the story in their own terms, they may use words or concepts with which the victim service provider is unfamiliar. It is appropriate to ask for clarification of such terms or concepts to avoid misunderstandings. By becoming familiar with a victim's style of communicating, the victim service provider may be able to explain unfamiliar terms and concepts to investigators and prosecuting attorneys.

Even when the victim and the victim service provider share a common language, it is important to clarify the language the victim uses. In sexual assault cases, for example, victims may use various words to describe what they have experienced (e.g., using "attacked" as a way of describing being raped). Various communities have words that they commonly use and that are easily understood within their peer group but have a different meaning outside that group. Lesbian, gay, bisexual, and transgender (LGBT) people, for example, may refer to "the community." Often they are referring to the LGBT community, rather than the area that they live in. People with disabilities, ethnic

minorities, members of religious minorities, or other groups all tend to have their own language and unique terminology.

Both children and adults may need to work through their trauma through re-telling the experience. Often, victims will remember additional details as they go through their experience (Young, 1993). Victims gain control or mastery over their experience by reliving the details through the process of talking about what happened. This process can also improve their capacity as witnesses in criminal cases.

Validation is the process of helping victims understand that their reactions are part of a normal process, if this is true. Victims who experience reactions that are life-threatening or are well beyond the “normal” range should be referred for psychological assessment. While each victim’s reactions are individual, victim service providers should be cautious when a victim appears to be experiencing physical, psychological, and/or spiritual problems outside the usual reactions. In these cases, the victim service provider should make the appropriate referrals. Victims may develop mental health issues as a result of their victimization (e.g., clinical depression, anxiety, or posttraumatic stress disorder). These reactions develop over time. A diagnosis of PTSD requires that symptoms have persisted more than 4 weeks. However, for people with pre-existing mental health conditions, their victimization may exacerbate symptoms that may require professional treatment. Any victims’ statements or actions suggesting suicide ideation must be taken seriously and appropriate interventions undertaken.

The goal of validation is to help people realize that the physical, psychological, cognitive, behavioral, and spiritual reactions they are having are often typical of the reactions experienced by crime victims, even when those reactions are very intense and uncomfortable. Many crime victims may experience intense anger. This may be a frightening experience for the person who has never had such an intense feeling. Victims can benefit from understanding that crime victims can experience feelings that they have never had before or experience these feelings more intensely than ever before.

It is important to remember that every victim’s experience is unique and that each person will want to have his or her experience regarded in that manner. Rather than telling victims that their reactions are normal, Young (1993) suggests telling them that their responses are not uncommon. Nothing about the victimization experience is normal.

Phase 3: Predict and Prepare. Following a criminal victimization, a victim often enters a whole new world—a world filled with unfamiliar people who are talking an unfamiliar language and often want something that the victim may not be able to provide. Victims of violent crime may be subjected to uncomfortable physical examinations by unfamiliar medical personnel. Law enforcement officers are focused on identifying and apprehending the suspect(s), and the legal jargon they often use may be confusing or intimidating to victims. Investigators may appear to demand that victims provide more and more detailed information about their victimization, forcing them to relive the worst event of their lives over and over. Victims may feel that they have entered an alien environment, and the victim service provider is their guide through this environment.

The victim service provider can provide a road map, explaining to the victim what is going on and what is likely to happen in the future. For example, victim service providers can prepare a victim for a sexual assault examination by explaining the procedures to be performed and the purpose for each procedure. They can also explain what will happen to the evidence collected, how long it will take to get test results, and what will happen if there is or is not any evidence that can be used to identify the perpetrator.

A child who has been removed from home due to physical abuse will be confused about why he or she is being taken away from the family and will have many questions, such as the following: Am I going to jail? Where will I live? What will happen to my pets? Where will I go to school? What will happen to my parents? Have I done something wrong? Why are the police here? The victim service provider can help to answer these questions by talking to the child in language that is commensurate with his or her age and cognitive development, explaining who the people at the scene are and their jobs, as well as what will happen in the short term and the long term.

Possible Reactions to Crisis

After a crisis, short-term reactions may include physical, emotional, financial, or spiritual reactions. These reactions are discussed in Chapter 6, “Impact of Crime on Victims.”

Many victims experience reactions to specific events that may serve as triggers for intense responses. Typical triggers include the anniversary of the crime, seeing someone who looks like the perpetrator, smelling a scent that is a reminder of the crime or crime scene, the birthday of a homicide victim, media coverage of the event, and visual cues that bring back memories of the crime. Victims of child sexual abuse may have psychological reactions to the abuse years later, such as when they enter puberty, when they first become sexually active, when they get married or pregnant, or when their own child turns the age they were at the time of the abuse. Victim service providers can help people prepare for the possibility of these reactions, while informing the victim that these later responses may or may not occur in his or her case.

Techniques and Guidance in Crisis Intervention

While there are different theories of the phases of crisis intervention, the basic skills needed to provide effective crisis intervention are consistent. One of the goals of crisis intervention is to instill hope in the victim (U.S. Department of Health and Human Services, 1994). Individuals and families need to believe that they can get through the current crisis. Helping victims to recall past situations in which they were able to overcome difficulties is one way to help inspire hope. Another tactic is to help victims develop a variety of responses, including trying new and different solutions to problems.

Effective Listening Skills. To provide effective crisis intervention, a victim service provider needs to develop effective listening skills. It is important to remember that every person is an individual, with unique reactions to all situations, a unique belief system, and a highly personal worldview. It may be difficult for victim service providers to work with victims who have a different worldview. Chapter 10, “Cultural and Spiritual Competence,” may help victim service providers work effectively with victims from different cultural backgrounds. In order to provide effective services, victim service providers must put aside their personal beliefs and values and focus on their client’s needs.

Effective listening skills form the basis of crisis intervention and are described in detail in Chapter 5, “Communication with Victims and Survivors.” Some examples of active listening skills are shown in Exhibit 7-1.

EXHIBIT 7-1

LISTENING TECHNIQUES

Types of Listening Techniques	Purpose	Examples
USE THESE TECHNIQUES		
Probing	To seek additional information. To help the person explore all sides of their problem. To explore a certain point in greater depth.	<ol style="list-style-type: none"> 1. “Could you tell me a little bit more about...” 2. “What was that like?” 3. “Can you recall anything else?”
Restatement	To check your understanding. To show you are listening and understanding.	<ol style="list-style-type: none"> 1. “You would like to know...” 2. “You say that you are feeling...” 3. “Then your plan is ...”
Neutral	To convey that you are interested and listening. To encourage the person to keep talking.	<ol style="list-style-type: none"> 1. “I see.” 2. “Uh-huh” 3. Nodding your head
Reflective	To show that you understand how the person feels about something. To help the person deal with his or her own feelings. To move the conversation to a different topic.	<ol style="list-style-type: none"> 1. “It still hurts a lot, doesn’t it?” 2. “In other words, you feel that...” 3. “It’s frightening, isn’t it?”
Supportive	To reassure the person. To reduce the person’s intensity of feeling. To deal with the immediate problem.	<ol style="list-style-type: none"> 1. “Have you thought about...” 2. “You might consider...” 3. “It’s not uncommon.”
Summarizing	To bring the discussion into focus by summarizing. To move to a new aspect of the problem.	<ol style="list-style-type: none"> 1. “If I understand, you feel...” 2. “So the alternatives seem to be...” 3. “Then what you feel you need to do is...”

DO NOT USE THESE TECHNIQUES		
Evaluative	Judgmental. To imply what the person should or should not do.	<ol style="list-style-type: none"> 1. “I don’t think you should...” 2. “Haven’t you heard anything I’ve said?” 3. Gestures and expressions
Interpretive	To go beyond what the person is telling you. To add meaning to a statement.	<ol style="list-style-type: none"> 1. “You are denying...” 2. “Aren’t you really feeling...?” 3. “I believe you’re feeling guilty and...”
Shallow	Responding only to a small portion of what the person said. Denying the feelings expressed.	<ol style="list-style-type: none"> 1. “You don’t really mean that you hate him.” 2. “Certainly you don’t really feel...” 3. “Why can’t you just put up with it?”

Reactions of Family Members. In many situations when a crime occurs or is disclosed, family members are notified. When the victim is a child, the parents or guardians will usually be notified. In a mass victimization situation, such as a school shooting or a shooting at a workplace, family members may gather to check on the safety of their loved one. Or a victim may choose to disclose his or her victimization to family members. Family members are often referred to as “secondary victims,” in acknowledgment of the impact that crime has, not only on the person who was victimized, but also on those close to the victim. The Tribal Law and Policy Institute (unpublished, 2005) has outlined some of the common reactions and feelings of family/friends of victims of crime, included in Exhibit 7-2.

EXHIBIT 7-2

**COMMON REACTIONS AND FEELINGS OF FAMILY/FRIENDS
OF VICTIMS OF CRIME**

Anger

- At assailant for committing the crime.
- At victim for “putting herself in vulnerable situation,” e.g. for being with a violent partner.
- At system for not keeping our communities safe, for not responding expeditiously, for letting the perpetrator go and not holding him accountable.
- At self for not protecting family/friend from the perpetrator.

Concern

- For the victim’s well-being and safety.
- For the victim’s rights.
- About how the victimization will affect their own life.
- About how the relationship will change.

Guilt

- For not having prevented the assault.
- For not having been there to protect the victim.
- For not believing the victim.

Embarrassment

- Worry about gossip in the community.
- Embarrassed for the victim.

Vulnerability

- Realization that it can happen to them too.
- May become overprotective of the victim.

Psychological First Aid. The National Child Traumatic Stress Network (NCTSN) and National Center for PTSD have developed a guide to offering psychological first aid to victims of disasters (Ruzek, Brymer, Jacobs, Layne, Vernberg, and Watson, 2006). While psychological first aid is aimed at mental health providers, there are many useful concepts that can be applied by all first responders, including victim assistance providers, particularly those responding to terrorism or mass victimization situations. The following

paragraphs include excerpts from this guide. Participants are encouraged to read the entire guide for additional information. The guide can be found at www.nctsnet.org.

The NCTSN and National Center for PTSD (2005) describe psychological first aid as follows:

Psychological First Aid is designed to reduce the initial distress caused by traumatic events, and to foster short- and long-term adaptive functioning. Principles and techniques of Psychological First Aid meet four basic standards. They are: (1) consistent with research evidence on risk and resilience following trauma; (2) applicable and practical in field settings; (3) appropriate to developmental level across the lifespan; and (4) culturally informed and adaptable.

The basic objectives of psychological first aid are similar to the objectives for any type of crisis intervention or first response. The NCTSN and National Center for PTSD describe these objectives as follows:

- Establish a human connection in a nonintrusive, compassionate manner.
- Enhance immediate and ongoing safety, and provide physical and emotional comfort.
- Calm and orient emotionally overwhelmed or distraught survivors.
- Help survivors to articulate immediate needs and concerns, and gather additional information as appropriate.
- Offer practical assistance and information to help survivors address their immediate needs and concerns.
- Connect survivors as soon as possible to social support networks, including family members, friends, neighbors, and community helping resources.
- Support positive coping, acknowledge coping efforts and strengths, and empower survivors; encourage adults, children, and families to take an active role in their recovery.
- Provide information that may help survivors to cope effectively with the psychological impact.
- Facilitate continuity in response efforts by clarifying how long the psychological first aid provider will be available, and (when appropriate) linking the survivor to another member of a disaster response team or to indigenous recovery systems, mental health services, public-sector services, and organizations.

The NCTSN and National Center for PTSD guidelines also offer useful suggestions for behaviors to avoid, including the following:

- Do not make assumptions about what the person is experiencing or what he or she has been through.
- Do not assume that everyone exposed to a disaster will be traumatized.
- Do not pathologize. Most acute reactions are understandable given what people exposed to the disaster have personally experienced.
- Do not label reactions as “symptoms” or speak in terms of “diagnoses,” “conditions,” “pathologies,” or “disorders.”
- Do not talk down to or patronize the survivor, or focus on his or her helplessness, weaknesses, mistakes, or disability. Focus instead on what the person has done that is effective or may have contributed to help others in need, both during the disaster and in the present setting.
- Do not assume that all survivors want to talk or need to talk to you. Often, being physically present in a supportive and calm way helps affected people to feel safer and more able to cope.
- Do not debrief by asking for details of what happened.
- Do not speculate or offer erroneous or unsubstantiated information. If you don’t know something that you are asked, do your best to learn the correct facts.
- Do not suggest fad interventions or present uninformed opinion as fact. (NCTSN and National Center for PTSD, 2005, p. 7)

It is important to be aware of the needs of at-risk populations. Individuals who are at special risk after a terrorism attack or mass victimization include the following:

- Children (especially children whose parents have died or are missing).
- Those who have had multiple relocations and displacements.
- Medically frail adults.
- The elderly.
- Those with serious mental illness.
- Those with physical disabilities or illnesses.
- Adolescents who may be risk-takers.
- Adolescents and adults with substance abuse problems.
- Pregnant women.

- Mothers with babies and small children.
- Professionals or volunteers who participated in response and recovery efforts.
- Those who have experienced significant loss.

Those exposed firsthand to grotesque scenes or extreme life threat. (NCTSN and In some instances crime victims may need mental health interventions. People who are victims of crime may have pre-existing mental health issues or may develop psychological or psychiatric problems as a result of their victimization. It is appropriate to refer victims to professional therapists if their level of psychological distress is beyond what the victim service provider is capable of handling. It is also appropriate to develop a network of mental health professionals who have special training or skills in the trauma of victimization. As a victim service provider, it is vital to recognize one's own limitations. Victims who are seriously depressed and/or suicidal need professional assistance that is beyond the capability of the victim service provider to provide.

Common Pitfalls To Avoid. It is important to avoid common pitfalls when providing crisis intervention. Many victim service providers enter the field because they are natural helpers; they take great satisfaction in helping other people. However, there is a danger that in trying to help others, victim service providers will make the situation worse instead of better. Here are some things to avoid (Young, 1993).

Avoid:

- Giving advice (“If I were you, I would...”).
- Being judgmental (“That is the worst thing I’ve ever heard...”).
- Trying to change someone’s values or beliefs (“If you would only accept that...”).
- Telling the person that you know how he or she feels.
- Telling the person that he or she will “get over it.”
- Making promises you can’t keep (“He will never hurt you again.”).
- Getting in over your head.

Avoid Saying:

- “I understand.”
- “I’m glad you can share those feelings.”
- “You’re lucky that. . .”
- “It’ll take some time but you’ll get over it.”

- “I can imagine how you feel.”
- “Don’t worry; it’s going to be all right.”
- “Try to be strong for your children.”
- “I know how you feel.”
- “Calm down and try to relax.”

Critical Incident Debriefing

Crisis intervention is not the same as critical incident debriefing (also called psychological debriefing, critical incident stress debriefing, and single session debriefing). Crisis intervention services may be offered in person or over the phone. While crisis intervention is initiated as close as possible to the traumatic event, intervention services are often offered over a period of time, during follow-up services. Several years ago, a great deal of interest developed in critical incident debriefing as a means of immediate intervention after a traumatic event aimed at preventing the development of long-term problems such as PTSD.

Typically these approaches use a group format and have participants go through several stages in a 1- to 3-hour session held within 1 month of the traumatic event. The three most commonly used techniques are critical incident stress debriefing (CISD), also known as the Mitchell model; the Raphael model; and process debriefing (van Emmerik, Kamphuis, Hulsbosch, and Emmelkamp, 2002).

Hammond and Brooks (2001, p. 315) describe CISD as designed to promote emotional health through verbal expression, cathartic ventilation, normalization of reactions, health education, and preparation for possible future reactions. The debriefing technique consists of reviewing the traumatic experience, encouraging emotional expression, and promoting cognitive processing

Recent studies, however, have cast doubt on the efficacy of these single debriefing sessions as a means of preventing future problems, such as PTSD. Rose, Bisson, Churchill, and Wessely (2002), for example, performed a meta-analysis of the impact of one session psychological debriefing on the later development of PTSD. They found that single-session individual debriefing had no protective impact compared to control groups. One of the studies in their analysis even reported an increase risk of developing PTSD among those that had received debriefing. No decrease in the severity of PTSD was found at 1-4 months, 6-13 months or three years. The explanation for these results is unclear. It could be that people who received a single debriefing session believed that they did not need further help and did not seek any additional treatment. Whatever the reason, this research suggests that a single session debriefing is not sufficient to prevent later psychological problems.

Similarly, a meta-analysis of studies assessing the efficacy of single-session debriefing in preventing PTSD and other psychopathologies was undertaken in 2002 by van Emmerik, Kamphius, Hulsbosch, and Emmelkamp. They assessed only studies in which a single-session debriefing was conducted within 1 month of the traumatic event; psychological distress or symptomology had been assessed with a widely accepted psychological measure; and before and after data were collected. In their analysis of 29 such studies, they found “that CISD has no efficacy in reducing symptoms of post-traumatic stress disorder and other trauma-related symptoms”; in fact, the data suggested “that it has a detrimental effect” (van Emmerik, Kamphius, Hulsbosch, and Emmelkamp, 2002, p. 769).

Hammond and Brooks (2001) and others have argued that the studies showing that CISD does not work are flawed and point to studies that do support the efficacy of this approach. Because several models of single session debriefing are used in a wide variety of ways, it may be very difficult to effectively assess the effectiveness of this approach. It is likely that some type of immediate intervention along the CISD model is helpful for a certain subset of individuals. Further research in this area may help to identify who is most likely to benefit from this type of immediate intervention, as well as identifying the critical aspects of the intervention strategy that is most effective. It appears that currently, if CISD is offered to victims, this offer should be made within the context of encouraging victims to seek additional mental health services as needed.

Assess Needs

Victim service providers must know how to assess the victim’s needs, link the victim to the appropriate services to meet those needs, and ensure that the victim’s rights are known and upheld. The following is a list of issues to consider in conducting a basic victim needs assessment (Seymour, n.d.).

- **Really Basic Issues:**

- ♦ Medical and mental health services.
- ♦ Housing (both emergency/temporary and long-term, and possible relocation).
- ♦ Transportation (personal automobile or access to and payment for public transportation).
- ♦ Food for self and family.
- ♦ Clothing.
- ♦ Employment and/or job training.
- ♦ Education (such as school attendance).

- ♦ Assistance with basic issues relevant to the victim's children, such as school, child care, and medical services.
- **Assistance and Services**
 - ♦ Crisis intervention.
 - ♦ Crisis counseling.
 - ♦ Emergency financial assistance.
 - ♦ Services to enhance protection.
 - ♦ Home safety check with physical reinforcements (such as locks).
 - ♦ Safety planning (see Appendix H).
 - ♦ Advocacy or intervention with employers.
 - ♦ Development or enhancement of the victim's social support system.
 - ♦ Physical health and medical issues.
 - ♦ Mental health counseling (for self and family).
 - ♦ Support group participation.
 - ♦ Legal advocacy.
 - ♦ Referrals for social services.
 - ♦ Assistance as needed with immigration status.
 - ♦ Alcohol or other drug counseling as needed.
 - ♦ Information regarding what to do in cases of emergencies.
 - ♦ Translation or interpreter services.
 - ♦ Follow-up contact, as needed or on request.
- **Implementation of Rights**
 - ♦ Provision of information about victims' rights.
 - ♦ Information about and assistance with filing a victim compensation claim.

- ◆ Information about protection rights.
- ◆ Notification of the status and location of the offender.
- ◆ Information about participation in key justice proceedings.
- ◆ Accompaniment to court-related and other hearings involved in the case.
- ◆ Information about and assistance with completing a presentence investigation (PSI) interview and/or victim impact statement.
- ◆ Information about and assistance with documenting restitution.
- ◆ Notification of the outcome of criminal or juvenile justice proceedings.
 - *For cases involving incarceration or detention:* Notification of the location of the offender and any movement (including release or escape)
 - *For cases involving community supervision:* Input into conditions of community supervision; the right to protection (including assistance with obtaining protective orders); the right to financial/legal obligations owed by the offender (such as child support, restitution, payment of house payments or rent, etc.); the right to be notified of any violations, be given input into any violation hearings; to be notified of the outcome of any violation hearings; and to be provided with contact information for the agency/ professional who will be supervising the offender.

Identify Resources and Provide Referrals

The majority of victim assistance programs are administered locally. Victims can access services through a variety of agencies, including private nonprofit organizations, faith-based organizations or churches, tribal governments, local criminal justice agencies, and public agencies (such as hospitals and mental health agencies). A significant portion of funding for these programs comes from VOCA funds administered by OVC.

- In 2001, states made more than 5,400 awards using Victims of Crime Act (VOCA) funds to programs providing assistance to victims of crime.
- These programs provided services to 3.5 million victims.
- Approximately 75 percent of these funds were used by victims of child abuse, sexual assault, or domestic violence (Newmark, 2004).

Other offices within the Office of Justice Programs, U.S. Department of Justice provide funding for a number of programs related to crime victims.

- The Violence Against Women Office provides funding for federal, state, tribal, and local programs that assist victims of family violence and sexual assault.
- The Bureau of Justice Statistics (BJS) provides funding to improve the collection of data on crime and victimization, as well as statistics on crime
- The National Institute of Justice (NIJ) is the “research arm” of the U.S. Department of Justice. NIJ has funded evaluation projects to assess the efficacy of victim assistance programs.

In addition to the provision of funding for services related to crime victimization, many federal agencies have developed resources for victims of crime during the past decade. Victims of crime that occur on federal lands or where there is federal jurisdiction (such as Indian country, federal parks, federal offices, and military installations) may be able to access services from federal law enforcement and criminal justice agencies. The Federal Bureau of Investigation has victim assistance coordinators. United States citizens who are victimized overseas can use services available through the U.S. State Department. The Department of Homeland Security (DHS), Customs and Border Patrol (CBP) also has services for victims of crime. The idea of providing services to victims of crime is relatively new for some of these agencies, with programs slowly being developed as a result of increased awareness of the need for services.

Each U.S. Attorney’s Office has a victim/witness coordinator, who works with victims and witnesses. Victim service providers who work with victims of federal crime will find these federal victim/witness coordinators to be an invaluable asset. Similarly, victim service providers or victim coordinators based in the State Attorney’s or District Attorney’s Office can provide important services for crime victims.

Assist With Compensation and Restitution Programs

One of the most common types of assistance offered to victims of violent crime is help with applying for compensation, which is available to victims of crime in all 50 states, the District of Columbia, tribal communities, Puerto Rico, Guam, and the U.S. Virgin Islands. The purpose of these programs is to reimburse victims of crime for expenses that they incur because they have been the victim of a crime.

State Compensation Programs

Each state establishes its own guidelines for crime victim compensation. The programs have many common elements, however. To be eligible for compensation crime victims **MUST:**

- Report the crime to law enforcement in a timely manner.
- Cooperate with the law enforcement investigation of the crime.
- File a timely application.
- Not be involved in illegal activity at the time of the crime.
- Have an expense that is not covered by another source, such as insurance, Indian Health Service, or the Veterans Administration.

The key aspects of victim compensation are described in Chapter 3, “Basic Victims’ Rights.” However, there are a few important considerations for victim service providers to understand relevant to helping victims apply for compensation:

- Violent crime victims should be advised that they “have the right to apply for victim compensation.” Victim service providers should not offer any assurances or guarantees about “the right to compensation” or that victims “will” receive an award.
- Any agency that receives VOCA funding is required by statute to help violent crime victims apply for victim compensation.
- It is important for victim service providers to be familiar with the crime victim compensation application procedures and forms in their respective states. Most states now have online applications, and many offer compensation information and forms in Spanish and other dominant languages in the jurisdiction.
- Not all applications for crime victim compensation will be approved. Each jurisdiction has an appeals process. Victim service providers can be helpful in finding out why an application was denied and helping victims file an appeal.
- All state compensation programs offer free training and technical assistance to victim service providers and allied professionals to improve their capacity to help victims complete the application process.
- Generally, crime victim compensation cannot pay for property damage. The exceptions to this prohibition on payment for property are medical devices (e.g., eye glasses and hearing aids) and property that is necessary for security (e.g. locks and windows).
- Many states also reimburse for culturally appropriate services, such as use of a traditional healer. As new needs are identified, states have begun to include services such as crime scene clean up as allowable reimbursable expenses.
- States will reduce the amount of the payment to a victim if the victim was found to be involved in “contributory conduct” that resulted in his or her victimization. The state compensation program may determine that a victim was 50 percent responsible for his or her victimization and reduce the reward by that percentage.

For obvious reasons, if the victim was involved in illegal conduct at the time of the crime, he or she is not eligible for compensation. Even if the illegal activity is not directly related to the crime, the victim is still not eligible for compensation.

Restorative Justice

Restorative justice is a general term to describe approaches to justice that focus on making the victim whole following a crime, as opposed to merely punishing the perpetrator. Indigenous cultures throughout the world have traditionally used restorative justice in dealing with crime. These communities recognized that the best response to a crime was not always punishment. If a woman's husband was murdered, for example, she might have no one to plant the family's field or harvest the crops. A restorative solution to this problem might be to have the offender plant the field, harvest the crops, chop firewood, and perform other tasks that were performed by the murdered husband. This solution is in sharp contrast to the more "traditional" American approach of life imprisonment or death.

Restorative justice is so named because these approaches attempt to restore the victim to previctimization status and to restore balance and unity within the community. Some American Indian communities currently use peace-making courts or other traditional approaches to deal with criminal offenders. Usually, these approaches are limited in use, with certain types of crimes being ineligible for restorative justice courts. Victims should never be forced or coerced into participating in restorative justice. Restorative justice approaches must be victim-centered. If the victim is not ready or does not wish to participate in a restorative approach, then the victims' wishes must be respected.

In the 1980s and 1990s, there was increased interest in restorative justice approaches, especially in dealing with juvenile victims. This new incarnation of restorative justice is based on the following values and assumptions (Bazemore and Umbreit, 1994):

- All parties, offenders, victims, and the community should be included in the response to crime.
- Government and local communities should play complementary roles in that response.
- Accountability is based on offenders understanding the harm caused by their offenses, accepting responsibility for that harm and repairing it.
- Crime is fundamentally a violation of people and interpersonal relationships.
- Violations create obligations and liabilities.
- Restorative justice seeks to heal and put right the wrongs.

One of the most commonly used types of restorative justice is restitution. Although restitution is often used in connection with punishment (in the form of probation or incarceration), the basis for offenders paying restitution is found in the values of restorative justice.

Wallace (1998) defines restitution as “a court-ordered sanction that involves payment of compensation by the defendant to the victim for injuries suffered as the result of the defendant’s criminal act” (p. 309). Restitution may be monetary or may involve community service. If the restitution is monetary, it may be paid directly to the victim or to the state compensation fund. In many cases, the court may order a convicted perpetrator to pay the victim restitution, or restitution may be arranged as part of a pretrial agreement (Center for Child and Family Studies, 2000). Restitution may also be ordered as a part of probation. Some states allow crime victims to change restitution orders into civil judgments. In some states the restitution orders are automatically converted into civil judgments (Office for Victims of Crime, 2002).

There are four purposes of restitution (Wallace, 1998):

1. To establish a relationship between the victim and perpetrator in order to make the offender aware of the financial consequences of their crime on the victim.
2. To advance the concept of personal responsibility and accountability to the victim.
3. To assist the victim financially and emotionally, as well as educating the offender regarding the impact of their crime.
4. To punish the offender.

Restitution serves as a means to make the offender directly responsible to the victim by attempting to remediate the harm done to the victim.

Victims may benefit psychologically from receiving financial compensation from the perpetrator. Restitution may be ordered for expenses (including insurance deductibles), property loss or damage, lost wages, and child care but not for pain and suffering. Victims who receive both compensation and restitution must pay back the amount they received in restitution to the crime victim’s fund.

References

- Bazemore, Gordon, and Mark Umbreit. 1994. *Balanced and Restorative Justice: Program Summary*. Washington, DC: U.S. Department of Justice.
- Center for Child and Family Studies. 2000. *Victim Assistance Institute Basic Training Curriculum*. Columbia, SC: University of South Carolina.
- Dixon, S.L. 1987. *Working With People in Crisis*, 2nd ed. Columbus, OH: Merrill.
- Hammond J., and J. Brooks. 2001. "Helping the Helpers: The Role of Critical Incident Stress Management." *Critical Care* 5: 315–317.
- Kilpatrick, D.G. 2000. "The Mental Health Impact of Rape." Retrieved May 26, 2006, from www.musc.edu/vawprevention/research/mentalimpact.shtml.
- National Center for Victims of Crime. 2004. *Crisis Intervention*. U.S. Department of Veterans Affairs. Retrieved May 29, 2006, from www.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentID=32346.
- Newmark, Lisa. 2004. "Crime Victims' Needs and VOCA-Funded Services: Findings and Recommendations from Two National Studies, Report to the National Institute of Justice." Retrieved August 3, 2007, from www.ncjrs.gov/pdffiles1/nij/grants/214263.pdf.
- Office for Victims of Crime. 2002. *National Victim Assistance Academy Textbook*. Washington, DC: U.S. Department of Justice.
- Tribal Law and Policy Institute. 2005. unpublished text.
- Wallace, H. 1998. *Victimology: Legal, Psychological, and Social Perspectives*. Boston, MA: Allyn and Bacon.
- U.S. Department of Health and Human Services. 1994. *Crisis Intervention in Child Abuse and Neglect*. Washington, DC: U.S. Department of Health and Human Services.
- van Emmerik, A., J. Kamphuis, A. Hulsbosch, and P. Emmelkamp. 2002. "Single Incident Debriefing After Psychological Trauma: A Meta-Analysis," *Lancet* 360(9335): 766–771.
- Young, M. 1993. *Victim Assistance: Frontiers and Fundamentals*. Washington, DC: National Organization for Victim Assistance. Dubuque. IA: Kendall /Hunt.

Resources

OVC sponsors an award-winning Online Directory of Crime Victim Services, which includes contact information for thousands of state and local programs. Victims and victim service providers can identify victim services by location, type of victimization, type of services that is needed, and/or agency type. The directory can be accessed at <http://ovc.ncjrs.gov/findvictimservices>.

The National Association of VOCA Assistance Administrators (NAVAA) maintains a “links” page on its Web site that is regularly updated. It provides direct links to the URLs of the following programs in each state:

- VOCA administrators.
- Crime victim compensation programs.
- Attorneys General victim services.
- General statewide victim coalitions.
- Domestic violence coalitions.
- Sexual assault coalitions.
- State MADD chapters.
- Parents of Murdered Children chapters.
- State adult correctional agencies.
- Adult corrections victim assistance programs.
- State juvenile justice agencies.
- Juvenile justice victim services.

The page can be accessed at www.navaa.org/links.html.

An Abuse, Rape and Domestic Violence Aid and Resource Collection (AARDVARC) is for victims of violence, their families and friends, and the agencies and programs which serve them. Issues addressed here include domestic violence, stalking, sexual assault, child abuse and adult survivors of child sexual assault. The site provides general educational and reference material, a nationwide directory of services, and program resources to help cut costs, increase effectiveness, train staff and volunteers, seek funding, build or improve a Web site, and network with peers for maximum problem-solving impact. This site is located at www.aardvarc.org.

The National Prison Rape Elimination Commission (NPRECC) is a bipartisan panel created by Congress as part of the Prison Rape Elimination Act of 2003. The

PARTICIPANT TEXT
National Victim Assistance Academy Track 1: Foundation-Level Training

Commission is charged with studying federal, state and local government policies and practices related to the prevention, detection, response and monitoring of sexual abuse in correction and detention facilities in the United States. Go to www.nprec.us.

The Criminal Justice/Mental Health Consensus Project, coordinated by the Council of State Governments Justice Center, is an unprecedented, national effort to help local, state, and federal policymakers and criminal justice and mental health professionals improve the response to people with mental illnesses who come into contact with the criminal justice system. The site houses the Criminal Justice/Mental Health Information Network (Info Net), a new online database that provides a comprehensive inventory of collaborative criminal justice/mental health activity across the country and serves as a platform for peer-to-peer networking. More about the project can be found at <http://consensusproject.org>.

CHAPTER 8

CULTURAL AND SPIRITUAL COMPETENCE

Brian Ogawa, D. Min.*

Given the changing face of America and its growing cultural and spiritual diversity, it is essential for victim service providers to be increasingly sensitive to the beliefs, attitudes, and values of the victims they serve. This chapter describes best practices in cultural and spiritual competence as well as a number of barriers that service providers and victims face in communication and understanding. Also offered here are some strategies for self-development and growth in cultural and spiritual awareness and sensitivity.

Overview of Cultural and Spiritual Competence

The nature and extent of trauma and its aftermath for victims are never simplistic, ordinary, or universal. Each victim's experience intertwines with a number of variables, including intervening circumstances, relation to the offender, availability and timeliness of support, and racial, ethnic, and spiritual background. Humans in the midst of struggle share the bond of a search for well-being. Notwithstanding, this bond is experienced through a prism replete with "cultural and spiritual colorations." Every criminal justice and crime-related issue is thus fundamentally multicultural (OVC, 1998, p. 157).

America Is Changing

W.E.B. Dubois (1919) observed that *the* problem of the twentieth century was the problem of the color line. Race relations in the United States were historically marked with the successes and failures of blacks and whites to share equality in our nation. Population changes from 1990 to 2000 (U.S. Bureau of the Census, 2001), however, reveal a new dynamic in demographics as the result of an immigration boom. The foreign-born population increased 57.4 percent during that decade with the addition of

NVAA Module 8 Learning Objectives

- Define cultural and spiritual competence.
- Recognize the multidimensional nature of culture.
- Explain the importance of cultural considerations in providing victim services.
- Describe common barriers to providing culturally and spiritually competent services.
- Identify specific skills, strategies, and resources required to serve diverse crime victims effectively.

* The author of this chapter is Brian Ogawa, D. Min., Washburn University, Topeka, KS.

about 10 million immigrants. The color line became color *lines*. As Molefi Asante has observed, “Once America was a microcosm of European nationalities. Today America is a microcosm of the world” (Henry, 1990, p. 29).

EXHIBIT 8-1
U.S. POPULATION 1990-2000 (U.S. CENSUS)

Race/Ethnicity	Population (Millions)	Growth (%)
Hispanic	35.5	57.9
Asian	11.9	48.3
American Indian	4.1	26.4
Black	36.4	15.6
White	216.9	5.9

Since the turn of the century, the United States has become even more pluralistic, with the white population decreasing proportionately. This new demographic is fueled by both immigration patterns and differential birthrates.

In the United States in 2005, 12.4 percent of the U.S. population was foreign-born, compared with 11.2 percent in 2000 and 7.9 percent in 1990. Within that 12.4 percent,

- 53.5 percent were born in Latin America.
- 26.7 percent were born in Asia.
- 13.6 percent were born in Europe.
- 3.5 percent were born in Africa.
- 2.3 percent were born in other North American countries such as Canada, Greenland, Bermuda, etc. (Migration Information, 2007).

According to the PEW Hispanic Center (Passel, 2006) there are now more than 37 million legal immigrants in the United States; more than a million became citizens every year during the 2000s. More than half of them are change-of-status immigrants already within the United States. The total unauthorized population is estimated to be 11.5 to 12 million.

Looking at one state, Texas, the population has doubled since 1970; since 2004, less than half the population has been Anglo. Projections are that 65 percent of the state will be Hispanic in 2010. Between 1990 and 2030, the state will grow at the rate of 20.4 percent for the Anglo population, 62 percent for blacks, 257.6 percent for Hispanics, and 648.4 percent for others, primarily Asian. This means that 87.5 percent of the change will be

due to growth in minority populations. Almost 75 percent of this growth will be due to immigrants and their first-generation descendants (Murdock et al., 1997).

New immigrants, as contrasted with those whose families immigrated generations ago, are usually still closely tied to their own cultural and spiritual practices. Without at least some understanding of these practices, not to mention language itself, victim service providers will be unable to offer significant and meaningful services. After a generation or two, immigrants tend to become more “Americanized,” and our more standard services may be more appropriate, even though they still need to be culturally and spiritually sensitive.

Culture

What is culture and, consequently, cultural competency for victim assistance? A straightforward definition of culture is “the shared values, beliefs, and traditions that guide and structure a certain people’s lifeway.” The “glue” that holds a group or community together (Poindexter and Valentine, 2007) includes specific attitudes and behaviors, communication styles, relationship matrices, religious practices, and paradigms of spirituality. Every aspect of living has some cultural underpinning to help ensure the health, cohesiveness, and continuation of the group. Cultures are also inherently diverse within themselves. People within a given culture may vary in how they approach and cope with victimization and trauma, but this does not mean that a particular perspective or method is “strange,” “primitive,” or useless. It is therefore important to understand and appreciate the ways dissimilar cultures view suffering and healing, relate to the criminal justice system, and are best served by victim assistance.

The more we understand the nature and purpose of culture, the more we become effective in serving across cultural differences. All people desire the same things in life but may take different paths to reach those outcomes. It is the hallmark of any culture to sustain its essential elements while at the same time carefully adapting to changing needs. Culture is not static. Victim assistance providers must be aware of specific cultural rubrics without assuming that they are fixed in time and place. What is considered traditional culture for some may be different for others.

Is there then an American culture? Have successive immigrant cultures been reduced to a singular “melting pot?” We may speak about American freedoms as the attributes that attract immigrant groups to our shores, but these very same freedoms allow and encourage the fruition of a multifaceted American culture. Newcomers change society even as society changes its newcomers. Culture in America, therefore, will always be progressive and open as to what “real Americans” look like, how they act, and how they speak.

Unfortunately, we are most often peripheral observers and dabblers of cultural expressions that are commercialized for entertainment and amusement. We too casually examine cultures through music, dance, arts, and food. Attending a Cinco de Mayo

festival, watching an American Indian powwow, or enjoying Chinese noodles do not in and of themselves make us knowledgeable about the underlying historical and spiritual meanings of these cultural forms. We are prone to dismiss their significance for these respective peoples. There is, however, a deeper culture that has been described by Cushner (1996, p. 215) as the overwhelming mass of the iceberg below the surface. It is here where values, norms of behavior, and world view must be examined “if interactions across cultural boundaries are to be effective.”

It is also critical to note that race is not synonymous with culture. An example is the identifying term “Black Portuguese,” indicating a person who is racially black African but culturally Portuguese as a result of colonization. This is one reason why the mere portrayal of a variety of races in victim assistance materials and media does not ever suffice as evidence of cultural competence. These depictions are important (Ogawa, 1997), but only in that they apparently make victim assistance available to all people. In reality, those within a certain racial group can be more culturally varied than those between races. There are, for example, common threads woven into the African American experience. Residents of St. Thomas in the U.S. Virgin Islands, however, may have more in common with non-African Americans in Hawaii than their racial counterparts in Chicago because of the peculiarities of urban and island cultures.

Social Constructs and Subcultures

Although racial background reasonably persists in being the social construct that captures our attention the most, myriad others factors infuse what we generally accept as culture. These subcultures include:

- Generation and age.
- Region or locale of residence.
- Socioeconomic status.
- Gender and sexual orientation.
- Occupation or profession.
- Developmental and chronic disabilities.
- Language.
- Politics.
- Nationality.

All of these areas, and others, directly affect our lives and influence our response to personal and societal challenges. We tend, for example, to coalesce with others according

to familiarity and commonality. Recent immigrants and refugees often cluster for mutual support and develop their own living, business, and social communities. The existence of a Little Saigon, Koreatown, Chinatown, or Islamic neighborhood is highly visible in cities where these groups have settled. Recent arrivals, however, may have tenuous relationships with those of their same racial/ethnic background who have been Americans for generations because of differences in acculturation, facility in native languages, and adherence to ancestral customs. Mexicanos and their Chicano predecessors, for example, may have noteworthy differences that victim assistance providers must respect. Although there is usually some cultural stream through generations, not all Mexican Americans are fluent in Spanish or live in barrios.

The age of the victim/survivor may or may not be helpful in sorting out these variations. There are nuances based upon immigration/citizenship standing and generational place and role that trump other attributes. It is thus helpful to listen to how people refer to themselves.

Regions in the United States also seemingly have cultural markings. For example, we speak matter-of-factly about Southern hospitality. We may wholly accept this description of Alabamans, Georgians, and Mississippians while at the same time recognize that living in Atlanta is unlike living in Savannah. *Where* we live helps mold *how* we live. Residents of farming communities on the Midwestern prairie may seem like extraterrestrials to retirees in resorts on the Florida peninsula. Transplants to Las Vegas may have only minimal resemblance to diehard Milwaukeeans.

Culture, moreover, is linked to a person's socioeconomic position and occupation or profession. Former Virginia Gov. Douglas Wilder, the first African American governor in the United States, has persuasively stated that *class difference* is the key issue for the 21st century. The cultural divide may be more determined by poverty and wealth than other conditions and identifiers. How does victim assistance take into account a victim's situation of "concentrated disadvantage" (Sampson and Raudenbush, 2001)—poverty, absence of social resources, high unemployment—in providing services? Are outreach and transportation, for example, key to being culturally competent for this population?

Occupational culture structures the lives of many Americans. Law enforcement, for example, organizes itself by a uniform code of conduct, in-group jargon and terminology, and loyalty that strongly exists among the ranks. The Los Angeles Police Department, accordingly, once adopted as its minority recruiting slogan "We are one color—blue" (Ogawa, 1999, p. 142). Law enforcement indeed serves cross-culturally to the civilian population. That stereotypes about law enforcement and misunderstandings with the general public exist is not surprising (Bickham and Rossett, 1993, p. 43).

Gender and sexual orientation also have cultural implications. Do women and men, in fact, think, act, and relate differently from one another? Is there an ideal of "womanhood" and another for "manhood" that is perpetuated in America and affects how we provide and receive assistance? Do female victims experience their victimization through issues and concerns different from those of men? Gender may, in fact, influence how we

perceive the seriousness of crimes themselves. Male assault victims may constitute a very large number but infrequently either seek or receive services.

Seelau and Seelau (2005) found that perceptions about the severity of domestic violence do adhere to gender-role stereotypes. Violence perpetuated by men and against women, no matter the sexual orientation of the relationship, was regarded as more serious than violence perpetuated by women and against men. In other words, offending heterosexual or gay males were considered more dangerous than heterosexual females or lesbians regardless of their victims. The assignment of any group to the role of “outsider” or “misfit” does not lend itself to forthright and effectual service.

Persons with developmental and chronic disabilities, moreover, constitute a large subculture. Numbers for the noninstitutionalized civilian population (U.S. Census, 2000) indicate that one-fifth of the American population has some type of disability. Disabilities can include physical, sensory, or mental impairment, or a combination of these conditions.

EXHIBIT 8-2
PROPORTION OF THE POPULATION WITH A DISABILITY

Population 5 years and over	Total (n=257,167,527)	Males (n=124,636,825)	Females (n=132,530,702)
With a disability	49,746,248	24,439,531	25,306,717
Percent with a disability	19.3	19.6	19.1

Mobility assists, facility accessibility, caregivers and interpreters, vulnerability to abuse, and independent living choices occupy the lives of those with disabilities. Services to persons with disabilities (as with all cultural groups) must, therefore, be approached in a comprehensive manner (Nosek and Howland, 1998; Ivey et al., 2002). After all, as advocates sometimes point out, people without disabilities are TABs—temporarily able-bodied. There is the possibility that anyone may acquire a disability at some time in life (Poindexter and Valentine, 2007, p. 270).

Spirituality and Religion

In most cases, it is impossible to totally separate cultural concerns from spiritual concerns because they are so tightly interwoven. Spirituality and religion provide a person of faith’s worldview and way of life.

The Japanese culture, for example, is heavily based on Buddhist holistic concepts and Shinto veneration of the human-nature connection. These elements are vital to the very being of the Japanese people (Ivey et al., 2002, pp. 254–255). A holistic philosophy also shapes life for American Indians. Everything that happens is part of a whole. This means,

according to Melton (1995), that for offenders and victims, restoring spirituality and cleansing one's soul are essential for them to be able to return to their natural, circular way of understanding life. Prayer occurs throughout the healing process. Sweat lodge ceremonies, fasts, and purification are also employed.

Spirituality and religion, however, are not equivalent. Religion attempts to sustain and embody spirituality but does not circumscribe it. Spirituality is *personal*, an individual's need to connect with and harmonize with meaningful reality. Religion is *communal*, an attempt to render spirituality public and institutional. Victimization dramatically affects, alters, prompts, and challenges both spirituality and religion. Competency in victim assistance thus requires an appreciation for the dynamic of spirituality and religion in people's lives, partnerships and networking with appropriate church bodies, and responsiveness to the spiritual impact of victimization.

As the Catholic Church, for example, continues to labor with child sexual abuse by clergy, some Mexican American parishioners are faced with a dilemma. Does disenchantment with the church and thoughts about leaving its fold also mean departing from those aspects of Mexican culture (such as community festivals and family customs) that the church has helped to define? The betrayal of the priesthood has tremendous ramifications for the interlocking identities of religion and culture for some Mexican Americans.

The coming together of culture and religion is also seen in the strong religious orientation of many African Americans. The church has historically been the only institution outside the family to be trusted. It provided a salve for the pain of slavery, a safe social gathering place, and a seedbed for leadership (Ogawa, 1999, pp. 176–177). The guidance of the church should therefore not be minimized in providing victim assistance for many African Americans.

Providers must also be careful how their own religious/spiritual views affect their work with victims (Ivey et al., 2002, p. xviii). Of the more than 300 million people in the United States, religious affiliation is estimated (ARDA, 2006) to be Christian (84.12 percent), Jewish (1.92 percent), Muslim (1.55 percent), Buddhist (0.91 percent), and Ethnoreligionist (0.39 percent). The strong heritage of the less widespread religions in the United States should, however, be measured by their numerical position and therefore cultural impact in the world as a whole. For example, Muslims are recorded as approximately 4.7 million in the United States but 1.3 billion internationally. American Buddhists number about 2.7 million, but adherents globally total 379 million. These approaches to spirituality constitute major forces in the lives of their believers. Religious teachings and communities are a reality for the majority of Americans and will never be neutral in their effects upon victims (Fortune and Enger, 2005).

Barriers to Effective Assistance

Before being able to incorporate best practices in cultural and spiritual competence, it is important to recognize some of the barriers to effective assistance and begin to develop strategies to overcome them. In the course of our daily interactions, we intentionally or unintentionally relate to others in the manner we perceive them to be “comparable” to us. At times we may deny any differences or globalize them into overbroad statements of a group’s cultural norms. Some of the barriers can be provider-based, and some may reside in the victim’s own cultural and spiritual experience. Even so, victims who are unserved, underserved, or misserved are not responsible for culturally insensitive or incompetent services. The responsibility lies with providers. It is never the victims’ fault even if they do not avail themselves of assistance readily offered. The provider must always strive to overcome barriers, whatever their source.

Provider-Based Resistance

Some victim assistance providers see little value in developing cultural and spiritual competency. Williams and Becker (1994), in a national survey of domestic partner abuse treatment programs, found that “little or no special effort is being made to understand or address the needs of minority populations.” More recently, Donnelly et al. (2005) found the situation no better, likewise reporting in a study of battered women’s shelters in several Southern states that three themes emerged regarding shelter policy: (1) race was not considered important so that all women were treated the same; (2) “othering” women of color based upon stereotypes to explain why they were different from white women and thus not receptive to or in need of services; and (3) normative practices based on the needs and experiences of white women. Lack of understanding and response to the concerns of battered women of color thereby deprived them of critical services.

Such color blindness, Tello (n.d., p. 3) warns, subverts needed services:

Typically, one may hear service providers...minimize cultural differences by stressing the similarities between ethnic groups. Statements such as, “We all have feelings, the same emotions, want the best for our children and therefore are all alike,” or “You really just have to look at each family or person on an individual basis rather than looking at their culture and community,” are often heard Although these and other such remarks merit discussion, these points cannot and should not negate cultural differences based on traditions, customs, history and socio-economic experiences. What it does demonstrate is the service provider’s inability to understand and articulate these differences. When this occurs, the service provider may attempt to further justify his own position by minimizing the role of culture.

A provider’s rigid ethnocentricity and the adherence to routine models of service may also foster hostility to accommodate minorities. One of the drawbacks of designating cultural minorities as special populations is that some people disdain giving such groups

special attention. This “ethnoprison,” as Ridley (1989, p. 61) insightfully points out, is the behavioral essence of racism:

Mistakenly, racism is often equated with prejudice, and solutions to the problem are generally limited to attitude change and consciousness raising. Certainly, these concerns are important. However, such a focus distracts from the more basic problems of identifying and modifying the specific types of behavior that systematically produce adverse consequences for ethnic minorities.

Direct services and rendering of justice to victims are also complicated by misleading stereotypes and victim blaming. Attitudes of superiority by providers, for example, have been noted in Native American communities (Hamby, 2004). In a survey of sexual assault agencies, Wgliski and Barthel (2004) also found that underrepresentation of minority clients was partly due to their “negative experiences with community agencies operated by majority representatives.”

Lafree (1989, p. 290), moreover, studied 38 rape trials in Indiana and found that “jurors were less likely to believe in a defendant’s guilt when the victim was black.” Interviews with jurors suggested that stereotypes of the sexual behavior of black women had an influence. A rape victim, in general, is judged by her part in what occurred, the intensity of her resistance, or the credibility of her character. For women of color, this screening may be compounded by degrading myths. As Hawkins, a sociologist in the Black Studies Department of the University of Illinois-Chicago states, “Society has this outdated notion that good girls don’t get raped and most Black girls are not good girls” (O’Brien, 1989, p. 9; Madriz, 1997).

Stereotypes of Cultures That Are Not Real

When aspects of a culture are exaggerated or misinterpreted, effective cross-cultural interaction is threatened. Generalizations about “violent cultures,” for example, persist, despite the fact that no culture, for its own survival, can actively promote violence.

Similarly, when the Mexican value of *machismo* is popularized to portray an overaggressive male who is domineering, jealous, and explosive, it distorts a valuable element of Mexican family life. The *macho*, according to Rodriquez and Casaus (1983, p. 42), is a “man who meets his family responsibilities by providing food, shelter, and protection for his wife, children and, in some cases, other relatives living with the family.” The husband must show respect (*respeto*) for his family and not commit selfish and outrageous acts. The wife shows respect by supporting her husband as provider and protector. Mexican culture is thereby not pathological, as has been postulated by those who have seen machismo as promoting wife-battering. Such a false culture may serve to justify excess by Mexican males themselves (cultural birthright) and eventually destroy the best in the culture itself (T. Martinez, personal communication, January 8, 1998). Machismo, in fact, safeguards *against* domestic abuse.

Pronouncements concerning female passivity and male power in other cultures (Kasturirangan et al., 2004), in other words, must be cautious so as not to label certain groups as fostering domestic abuse. Yick (2000) points out, for example, that traditional gender role beliefs in Chinese American families were not related to physical intimate violence. Acculturation, on the other hand, was a significant predictor. Kim and Sung (2000) also noted that absence of egalitarian decision-making and high level of stress are important variables related to violence in Korean American families. Immigration burdens certain Korean American husbands who have unproductive coping skills. This precipitates the need to forcefully dominate. As Blackman (1996, p. 15) summarizes, “Violence in the family is no basis for cultural distinction.”

Condemning an entire race or ethnicity as being violence-prone can lead us to minimize the victimization experience of entire communities. Some time ago, for example, the newspaper headlines announced: “Just Another Day in South Central Los Angeles.” Yet another gang-related slaying involving drug dealers, automatic weapons, and bullet-ridden bodies in this besieged neighborhood. The shooting did involve the notorious Eight-Trey Gangster Crips, but this time two innocent teenage girls were murdered in a case of mistaken identity. This was not just another day for the mothers, loved ones, and classmates of these two girls. Because they live in an area where violence is prevalent does not mean that they are immune to pain. A high incidence of homicide does not mean absence of hurt and suffering (Ogawa, 1999, pp. 70–71).

Practitioner Fears about Discussing Religion or Spirituality

Spiritually sensitive victim assistance is not religious counseling or pastoral care. Yet, because some victim service providers think it is, they conclude that they are incompetent to address victims’ spiritual concerns as they would address their physical, mental, emotional, financial, and justice-related concerns. Thus, they fail to address the whole person by avoiding inquiry about how the victim’s faith and religious perspectives may be affected by trauma.

Some victim assistance providers who are in agencies that receive government funding may have been told that they should not concern themselves with victims’ spirituality because of First Amendment restrictions. The First Amendment issue is confusing to many providers.

The First Amendment states:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Before the 1947 case of *Everson v. Board of Education* (330 U.S. 1 (1947)), the Court’s attention to religion focused primarily on ensuring that no single denomination would be established as the national religion (the Establishment Clause) and that no one would be denied the right to freely exercise the religion of his or her choice (the Exercise Clause).

The intent was not to limit religious expression or activity but to limit the power of government to prohibit or interfere with that expression.

In 1971, *Lemon v. Kurtzman* (403 U.S. 602 (1971)), provided more specific standards for the passage of laws. Even though this decision addressed laws rather than individual practitioners, its influence may have caused many practitioners to believe that they cannot react to the spiritual concerns of clients. The decision states that laws:

- Must create no excessive entanglement between government and religion.
- Must have a predominately secular purpose.
- Must neither advance nor inhibit religion.

The U.S. Department of Justice Office for Victims of Crime has never questioned the ability of the victim services field to respond sensitively and appropriately to the spiritual concerns of crime victims. In fact, the landmark 1982 Presidential Report on Victims of Crime pointed out that “The victim, certainly no less than the victimizer, is in need of aid, comfort, and spiritual ministry” (OVC, 1982). When that document was updated and revised in 1998, *New Directions from the Field: Victims’ Rights and Services for the 21st Century* offered eight additional recommendations to bring faith communities and crime victim services agencies together (OVC, 1998). For several years, the Office for Victims of Crime has supported projects and programs that address the spiritual needs of victims.

Negative Influence of Some Faith Communities

Religion can be a source of hope and solace for many victims. Clergy and fellow believers can form a profound matrix of support and healing. On the other hand, religious leaders who conclude that religion is the answer to everything can constitute a major roadblock to victims as they seek understanding, counseling, and justice (Fortune and Enger, 2005). Perspectives on family life and the role of women and children, for example, can impede disclosure or thwart assistance in situations of family violence and sexual assault. Giesbrecht and Sevcik (2000), for example, noted that because the church (in their study, conservative evangelical) functioned as an extended family, it could “minimize, deny, and enable abuse.”

Fortune and Enger (2005) summarize how certain renderings of three world religions—Christianity, Judaism, and Islam—have constituted barriers to assistance. They cite the following Christian scripture as an example of “proof texting” (selective use of text out of context to support one’s position) to erroneously justify male violence: “Wives be subject to your husbands as you are to the Lord” (Ephesians 5.22-24 NRSV). Either by silence or instruction, the church has thereby communicated to battered women to accept “discipline” by their husbands and to “forgive and forget.”

In Judaism, likewise, the Jewish value of *shalom bayit* (peace in the home) has been misused to burden women with the sole responsibility of maintaining the perfect home, in

which abuse and other problems are covered up as shameful. In Islam, Ayah 34 of Surah 4 of the Qur'an has been mistranslated to state: "Men are the protectors and maintainers of women because Allah gave more to the one than the other." This has been taken by some to condone hitting a disobedient wife. Hassouneh-Phillips (2001), for example, studied the lives of American Muslim women and the effects of one particular *hadith*: "Marriage is half of faith and the rest is fear Allah." Abused wives found themselves in the predicament of inner conflict and negation of the self when they believed they must submit to their husbands because of strongly held religious tenets.

For Catholic Latinas, Destito, Santiago, and Darder (1985/1986) describe a similar internal conflict among those who have been raped. These Latinas are caught between the moralistic extremes of madonna and whore. The marriageability of a single woman who has been raped is placed at risk because her virginity is lost and reputation tarnished. The only acceptable reason for not being a virgin is motherhood. The married woman who has been raped by someone not her husband is therefore disgraced. The church in its attempt to sanction sexual mores and family life has, in effect, brought confusion to the Latina's formation of self-concept as women (Ogawa, 1999, p. 174).

The preservation of marriage is vital in most religions. However, this union must be viewed within the context of mutual respect and mercy. As Fortune (1995, p. 267) emphasizes:

The crisis of family violence affects people physically, psychologically, and spiritually. Each of these dimensions must be addressed, both for the victims and for those in the family who abuse them. Approached from either a secular or a religious perspective alone, certain needs and issues tend to be disregarded... Thus, the importance of developing a shared understanding and cooperation between secular and religious helpers to deal with family violence cannot be emphasized too strongly.

Impediments to this collaboration include a religious leader's presumption that domestic violence advocates are intent on "breaking up families" or "undermining a woman's faith" (Fortune and Enger, 2005). Secular advocates, on the other hand, may distrust clergy as sexist or endangering a woman's life. If both religious leaders and secular advocates truthfully focus on the well-being of the abused woman, she may be guided to safety and strength rather than sentenced to peril and endurance.

Experiences of Immigrant and Refugee Victims That Cause Them to Fear Government-Supported Programs

Many victims come from countries where their rights and freedoms were not honored. Government and criminal justice authorities may have exercised brutal, callous, or arbitrary authority. Political corruption, internal warfare, and social instability may have contributed to this situation. A distrust and avoidance of officials is an understandable result of pervasive injustice, lack of due process, and unresponsiveness to needs.

Since 1993, in Ciudad Juarez, Mexico, for example, hundreds of young women who worked in the *maquiladoras* (manufacturing plants) have died violently (Knox, 2001). They came to the border (across from El Paso, Texas) from poverty-stricken towns farther south, drawn by the promise of steady work and a more exciting life. Many were sexually assaulted, murdered, mutilated, and left in desolate areas. Activists and family members of the victims say that authorities have shown little concern and have made little effort to identify or even find bodies—a task mostly undertaken by concerned private citizens. Although several individuals have been charged and prosecuted, activists and families believe this was through coerced confessions and little hard-nosed forensic work.

That Mexico's justice system is deeply flawed is no secret. That many Mexican immigrants initially do not trust the criminal justice system in the United States should therefore be no surprise. As Davis et al. (2001) report, mistrust of authorities, coupled with language difficulties, denies access to a "uniform system of justice." Given the unsettled nature of current U.S. immigration policies, moreover, especially in the wake of homeland security measures, numerous undocumented workers are even more reluctant to seek the involvement of criminal justice authorities and victim assistance in their lives. The stark reality of the vulnerability of immigrant and refugee women is particularly revealed by the plight of low-income and foreign-born Latinas who are abused by their partners. As explained by AYUDA (1997, p. 3), a community-based advocacy group in the Washington, DC, area,

They are new arrivals in a foreign country, traumatized by the life-threatening experiences that caused them to flee their homelands, separated from their families, living under the threat of deportation, and often dependent upon the financial resources and language abilities of an abusing spouse. Fearful of seeking legal or other assistance, they remain marginalized and alone, with no traditional cultural support.

A wide range of predators, in fact, are known to victimize undocumented immigrants. According to the National Institute of Justice (McDonald, 1997, p. 4),

Guides and organized gangsters have robbed, raped, and killed them; abandoned them in the desert; tossed them overboard at sea or out of speeding cars under hot pursuit; or forced them to work in sweat shops or prostitution rings to pay off the cost of the trip. Bandits prey upon them during their journeys. Xenophobes and hatemongers terrorize them. Some employers cheat them of their earnings. The fact that illegal immigration is a crime makes the immigrants particularly vulnerable because they are unlikely to seek the protection of the law.

The entire circumstance of undocumented residents does, in fact, involve complex issues of racial prejudice, international politics, cross-border economics, and antiterrorism initiatives. The discussions concerning state and local criminal justice agencies having supplementary jurisdiction in arresting and detaining illegal aliens, and the prospect that service providers will be outlawed or restricted in providing assistance to undocumented

resident victims, erect a substantial barrier to services not only for victims but also for providers (Ogawa, 1999, pp. 58–63).

Some of this barrier has been overcome by the need for federal prosecution of trafficking through special assistance to victims, including residency and services (Victims of Trafficking and Violence Protection Act of 2000). U.S. Government estimates indicate that approximately 800,000 to 900,000 people annually are trafficked across international borders worldwide (Clawson, Small, Go, and Myles, 2003). Their destinations are industrialized nations and countries with higher standards of living, including 18,000–20,000 trafficked into the United States, primarily from Southeast Asia, Middle America, and the former Soviet Union (Clawson et al., 2003, p. 3).

These victims do not know how to escape the violence or where to go for help. They generally avoid authorities out of fear of being jailed or deported, especially if they have fraudulent documents. A backdrop to this barrier to seeking assistance is the relatively high degree of collusion between officials and organized crime in trafficking. Corruption provides the lubricant that allows criminal organizations to operate with maximum effectiveness and minimum interference. Assistance to victims willing to cooperate with criminal justice authorities is critical to breaking this pattern.

Group Survival Concerns That May Affect Reporting of Crime

Between 1992 and 2001, American Indians experienced violence at rates more than twice that of blacks, two and a half times that of whites, and four and a half times that of Asians (Perry, 2004). Many Native American tribal communities face the possibility of extinction (Hamby, 2004, p. 4). Only 11 tribal groups have more than 50,000 members. Victims may be unwilling to report crime or participate in the prosecution of tribal members because it reduces community size, including the limiting of intraracial couplings (Hamby, 2000). The power of this motivation may not be fully appreciated by non-Native Americans, but decimation is both a historical reality and a future prospect for a culture that thrives on ancestral lineage. Native Americans are a kinship network whose strength is interdependence and group affiliation. This is more than genealogy. Among the Sioux, for example, it is an abiding contract with *wakan tanka*, the Great Spirit that unites all forms of being into an unbroken network of relationship (DeMaille, 1994). Everything must therefore lend itself to ensuring continuity.

In 1997, African American males comprised 38 percent of the U.S. correctional population. This meant that about 9 percent of the black population was under some form of correctional supervision, compared to 2 percent of the white population and over 1 percent of other races. An estimated 12 percent of black males, 3.7 percent of Hispanic males, and 1.7 percent of white males in their late 20s are in prison or jail (Harrison and Beck, 2006). Furthermore, in 2002, 39 percent of all felons convicted of violent offenses in state courts were African American. Of these, 24 percent were sentenced to incarceration, compared to 21 percent of whites (Durose and Langan, 2005).

This means that a highly disproportionate number of black males have been at least temporarily removed from their communities. This “shrinking pool of marriageable men” results in the stark and enormous reality of single-parent households (Wilson and Neckerman, 1987, p. 258). For some victims, particularly in domestic violence cases, the reporting of crime and cooperation with criminal justice authorities has thus been regarded as an act of treason. As Boyd (1990, p. 227) writes,

Generational teachings regarding trusting others outside the ethnic and cultural community have been strongly enforced by family and respected community members. From early childhood, black women have been taught that personal disclosure outside the community is synonymous with treason. This strong devotion to non-disclosure has for many years silenced black women in personal crisis.

The view, coupled with the historical reinforcement of the fact that “whites enslaved the blacks” (Ogawa, 1999, pp. 148–151), persists and appears to be confirmed by incarceration rates. Supporting such an intractable trend is presumed by some to, in effect, betray the African American family life and community. It is an exceedingly sad form of victim blaming that tragically has some measure of fact. Out of every 1,000 persons in a particular racial group, 26 blacks, 21 whites, and 13 persons of other races were victims of a violent crime (Bureau of Justice Statistics, 2004). Nevertheless, according to Kingsnorth and MacIntosh (2004), a study of 5,272 domestic violence cases processed through the prosecutor’s office in a certain California county revealed that African Americans, although no less likely to call for assistance and support arrest, are “significantly less likely to support prosecution.” Until socioeconomic situations seriously change, this barrier for a significant number of victims may continue to haunt the African American community.

Cultural and Spiritual Competence Strategies for Victim Services Agencies

Parson (1985, p. 315) states that the “client’s ideas, feelings, beliefs, values, gestures, intonations, perceptions, and evaluations can only be understood within the patient’s ethnocultural context.” At the same time, the ethnocultural context never exactly matches for everyone within a culture. In the process of seeking to enhance cultural and spiritual competence within an agency, what constitutes appropriate service may have to be redefined. Each agency, for example, should scrutinize its policies, programs, and protocols for unwitting blocks to service. The following are some important guidelines:

- Acknowledge that there are different and equally valid cultural definitions of personal well-being and recovery from traumatic events.
- Include cultural awareness training that gives staff the capacity and skills to serve victims whose thinking, behavior, and modes of expression are culturally different.

- Develop multiethnic teamwork (and advisory committees) for implementing and monitoring effective services, including referrals and community networking.

Consider Key Findings on Cultural and Spiritual Competence

Much of victim assistance has centered upon the individual victim. Although the social consequences of victimization have been addressed, the focus has been on the effects, strain, and detriment to the victim. Interventions, for example, have thus been based upon individual well-being. Many cultures, however, focus on a more ecological framework. This includes the “being-in-relation” orientation found particularly in cultures that are grounded in religion and spirituality.

Self-in-Relation

In many cultures, instead of focus on the individual self (I suffer), more attention is brought to bear on the self-in-relation (my family or community suffers). The impact of victimization is primarily a disharmony in core relationships. Mary, for example, was a 6-year-old Vietnamese girl who was raped by her 26-year-old male cousin in the bathroom of the apartment in which their family lived (Ogawa, 1999, pp. 76–77). Her cousin warned her not to tell anyone and bribed her by giving her a new box of crayons. In the days that followed, Mary had nightmares and would awaken screaming. She then began to have severe pain in urinating. Her mother took Mary to a medical clinic, not realizing the cause of her daughter’s suffering. The doctor found a gonorrhea infection and a criminal investigation followed. The cousin was the only son of Mary’s father’s brother. Her father had allowed the boy to live with the family so that the money he earned in the United States could be sent back to Vietnam for his parents. The father felt badly for his daughter but also had a strong sense of obligation that he did not guide his nephew firmly enough. He did not want the nephew imprisoned—otherwise the family in Vietnam would suffer.

A Vietnamese social worker was able to explain the circumstances sufficiently for the court to order probation with strict conditions of employment, treatment, and residence elsewhere. This allowed the father to fulfill his promise to his brother and also provided for Mary’s safety. This may not seem like a good outcome if we take into account only the welfare of the child. Undoubtedly, attending to Mary’s physical and emotional trauma was paramount. The outcome, however, did reflect the cultural context. Mary would have suffered from extreme (though unwarranted) self-blame for her family’s hardship. The cousin, of course, deserved all the blame. The dire social consequences for Mary’s relatives were also, nevertheless, a major concern. Fortunately, in this case, these were addressed in the sentencing.

The impact of social disconnection is tragically seen among trafficking victims. Traffickers often move victims from their home communities to other areas—within their country or to foreign countries—where the victim is often isolated, unable to speak the language, and unfamiliar with the culture. Most importantly, trafficking victims lose their

support network of family and friends, thus making them more vulnerable to the traffickers' demands and threats. Direct physical threat to the safety of the victim's family is a large controlling factor. Victim assistance must offer some assurance to trafficking victims not only that they will be protected but that every effort will be made so that their families will not be harmed. Young women who are forced or coerced into servitude in brothels and sex clubs are also regularly moved so as not to form ties. Traffickers intentionally and cruelly sever family ties and meaningful associations. The consequences of escape from trafficking, disclosure to authorities, and cooperation with prosecution can be exceedingly severe.

Self-in-Context

Criminal victimization may be the immediate matter, but the historical experience of the victim's cultural group should not be disregarded. Self-in-context refers to the collective experience (My people suffer). The salient point for African Americans is the summation by some that the heightened consciousness brought about by the black identity movement in America has done more for the mental health of African Americans than all counseling theories combined (Ivey et al., 2002). For Native Americans, it means that the intergenerational "soul wound" or traumatic suffering (Duran and Duran, 1995) from centuries-long genocide and assault on culture must be incorporated into victim assistance. This is done by avoiding condescension and paternalism, networking with credible resources, and accepting culturally relevant ways of coping.

The Sioux, for example, practice a form of self-treatment called *wacinko*, usually translated as "pouting" (Trimble and Fleming, 1989, p. 187). *Wacinko* is a sort of time-out by which nonproductive activity is purposefully set aside. This practice has frequently been misdiagnosed by non-Native American psychiatrists as a reactive depressive illness and a maladaptive form of withdrawal. As Blue and Blue (1993) report, however, the Sioux are simply waiting out the circumstances of an intransigent problem because they trust a resolution will naturally occur. This is a culturally expressive form of healing, a passivity that is not hopelessness but hopefulness. To discredit its use would be yet another form of cultural destruction.

Self-in-Environment

The attainment of home as a place of security, acceptance, and peace is fundamental for meeting whatever life brings to us. When victimization robs us of that comfort and belonging, there can be serious disorientation. Home invasions, residential burglary, domestic violence, and intrafamilial child abuse leave victims feeling unattached and dislocated. Although change of residence, including moving to other cities and states, is now relatively common in the United States, for some cultural groups the meaning of a particular place remains important. The forceful removal of Native Americans, for example, has meant displacement from not only their lifeways but also from the places of their life source. As a Karok shaman lamented, without a land, the children of the creator are left in darkness and all will become like the "off-colored white people" who are lost in their wanderings (Buckskin, 1990). Crime on reservation lands has meant not only a violation of space but also the reminder of alienation from historic areas where healing

ceremonies and practices were developed. The practice of shamanistic powers is usually reserved for specific locations because tribal identity is rooted to a particular space and topography (Ogawa, 1999, p. 181).

Some cultures also believe that crime pollutes and desecrates the place where it occurs. In Stockton, California, on January 17, 1989, Patrick Purdy, a white 26-year-old drifter, unleashed a murderous assault on the playground of Cleveland Elementary School. In less than 2 minutes, five children were dead and 29 children and one teacher were wounded. A compelling explanation for the shooting was that Purdy blamed all minorities for his failings and selected Southeast Asians as his particular target (Kempsey, 1989, p. 2). Most of the Cleveland schoolchildren were Cambodian. Their families had fled their country during the murderous reign of the Khmer Rouge. They settled in the San Joaquin Valley in the late 1970s because of the area's mild climate and delta landscape, not unlike their homeland (Ogawa 1999, p. 116–119). A father whose daughter was killed wept and said, "I feel like I try to escape the killing fields in Cambodia, but here is only more killing field for my family" (Fitzgerald, 1989, p. A-10).

The United States was no longer the safe haven for which these refugees had hoped. They had been out of sight in housing projects but were now the center of intense media attention and crisis intervention. Mental health treatment was offered but politely refused. What proved to be most important in terms of victim assistance was facilitating the Cambodian families' request that the school playground be formally blessed according to their religious practices. Because the children had died unnaturally and violently, their spirits were not at rest. The purification of the playground by a venerable Buddhist monk provided the major source of comfort for the Cambodians in their very painful loss.

Recognize Natural Helpers as Appropriate Interveners

Eurocentric helping is said to depend on professionals (Ivey et al., 2002, p. 302). In cultures that emphasize self-in-relation and group life, however, there is more reliance on "natural helpers." It is not uncommon for Mexican Americans, moreover, to consult *curanderos* (folk healers). This does not mean that Latinos shun all formal professional help, but such assistance may occur simultaneously with help from other sources (West, 1988, pp. 139–140). Native Americans are also apt to use help from Western health and human service providers as well as indigenous healers (Hamby, 2004).

Because of the cultural moorings in collective identity and spirituality, the counsel and guidance of ancestral spirits is often sought. This openness to the spirit realm may seem puzzling, superstitious, or delusional to some victim assistance providers. Reliance on deceased ancestors, however, is celebrated through various festivals and rituals, including *Dia de Los Muertos* (Mexican), *obon* (Japanese), and powwows (Native American). Dreams, visions, and visits by ancestral spirits also play an important role. These are all "expressions of a greater universe of sharing and belonging" (Coyote, 1988, p. 7). Victim service providers must strive to honor and work in concert with all these sources of intervention to be culturally competent.

Respect Diversity Within Diversity

Cultural differences obviously endure between groups of people, but their nature and extent need to be clarified beyond misleading stereotypes and over-generalizations. People are basically both similar *and* dissimilar from one another. No person is solely what we label or classify him or her. We are “multidimensional beings” (Ivey et al., 2002, p. xxiii). Categorizations are, accordingly, *part logic and part insult*. The term Hispanic, for example, tries to encompass Puerto Ricans, Guatemalans, Mexicans, Cubans, and others. It promotes the linguistic and historical ties of these peoples but blurs the “finer distinctions” (Hecht, Andersen, and Ribeau, 1989, p. 178). Not all Mexicans, that is, have Spanish as their first language. Those of Mayan and Aztec descent living in remote mountainous regions speak their native languages and, consequently, are not Hispanic. There are, admittedly, ways that any particular Mexican American is like all other Mexican Americans. But there are also ways in which any particular Mexican American is like no other Mexican Americans (Roll, Millen and Martinez, 1980, p. 165). These within-group differences may be even more notable than between-group ones.

The same is true for those members of the 562 federally recognized Native American tribes. Native Americans speak languages from many different linguistic groups, including Algonquian, Athapascan-Eyak, Hokan, Iroquoian, Penutian, and Siouan (U.S. Census, 2000). Within these large categories, there are also numerous subsets. For example, the Algonquian cluster includes Arapaho, Blackfoot, Cheyenne, Cree, Delaware, Fox, Kickapoo, Miami, Ojibwa, Ottawa, Potawatomi, Shawnee, Yurok, and other languages. Almost half of Native Americans also do not live on reservations (National Institute of Justice, 2005).

Another example of sometimes unacknowledged diversity is the Islamic American population. Muslims are not all Arab. Only 25 percent of American Muslims are of Arab descent; 33 percent are South-Central Asian; and 30 percent are African American. Likewise, not all Arabs are Muslims. The first Muslim communities in America were in the Midwest. Cedar Rapids, Iowa, is the home of the oldest mosque still in use. Dearborn, Michigan, has long been home to both Sunni and Shi’ite Muslims from many parts of the Middle East. Many were initially drawn by the opportunity to work at the Ford Motor Company plant, and having formed a community, they have been joined by other Muslims. Together with Middle Eastern Christians, these Detroit area Muslims form the largest Arab-American settlement in the country (Smith, 2006).

There are, in other words, many variables among individuals, just as there are between cultures. People are inseparable from their cultural backgrounds but not strictly determined by them. All crime victims deserve to be treated as individuals even as race and culture (and degrees of acculturation) are taken into account. This becomes even more important as we include interracial marriages and those persons with biracial or multiracial backgrounds. The U.S. Census now seeks to delineate, through self-reporting, a person’s racial and ethnic identity. It allows “check all that apply” for this self-identification. How much of what heritage is dominant should thus be evaluated before too many assumptions are made. If the information is not readily available through other trustworthy sources, a brief inquiry into a victim’s cultural self-identification—prefaced

by an explanation of the desire to be aware of the victim’s cultural preferences—might be useful. Making false assumptions is more risky than announcing an effort to understand what matters to the victim.

Anticipate Unique Service Needs

Given the present population trends in the United States, providers cannot assume that the victim populations they have dealt with in the past will remain the same. Shifting economies, variable markets, and mobile labor forces, have created unexpected community demographics. When chicken processing plants in northern Arkansas needed a new labor pool, for example, large numbers of Mexican workers were recruited. Almost overnight, communities were faced with a new cross-cultural reality. Most providers, including law enforcement, were not prepared. Immigration does not cause crime, but it does alert criminal justice and human service providers to the need to adopt culturally appropriate ways to respond and serve resulting new victim populations.

In El Paso, Texas, a slightly different scenario has occurred. El Paso has been a primarily Latino city. It is very difficult to be a service provider there without the ability to speak at least some Spanish and value Mexican culture. Almost everyone embraces a bicultural identity. However, when thousands of Koreans from South Korea, New York, and Los Angeles settled in the area because of the many business opportunities, providers were confronted with a new foreign culture. Korean crime victims, including merchants who were robbed, posed a unique test to customary approaches. Fortunately, the already existing commitment to and practice of cross-cultural services provided the will and framework to respond.

Recognize Varying Perspectives of Trauma, Suffering, and Healing

Cultural groups have developed numerous ways to meet and recover from hardships. These include determining when to ask for help, whether to trust helpers, and what is acceptable behavior. Service providers also have “cultures of helping” (Poindexter and Valentine, 2007, p. 38) that may coincide or conflict with various victim cultures. These may include the provider perspectives that there are “rational” causes of distress, experts know what is best for those seeking help, and maintaining formal settings and personal detachment from clients are important. But what types of services are, in fact, most important to different cultural groups? Do service providers have viable and available alternatives so that diverse victims are respected for their choices and preferences?

About 49 percent of murder victims are white, 47 percent are black, and 3 percent are Asians, Pacific Islanders, and Native Americans (Federal Bureau of Investigation, 2004). Victim assistance to homicide survivors has often emphasized death notification, supportive counseling, and emotional recovery. These provide undeniable valuable assistance to many survivors. Nevertheless, other services may be even more critical for

some groups. African American communities, for example, are especially sensitive about personal identification of their deceased loved ones. Tangible evidence and the need to physically confirm death are important. Support before and during victim identification, being able to actually touch and caress their loved ones, and the manner in which the deceased are addressed are important. As a long-time advocate in Los Angeles' 77th Precinct describes (Ogawa, 1999, p. 72), responding to a mother whose daughter was murdered required being prepared with "practical suggestions and straightforward answers."

Norma (the advocate) offered emotional support and information on mortuaries that had designed funerals to match the state criminal injuries compensation guidelines...She then escorted Cheryl (the mother) to select a casket and plan the services...Cheryl wanted to know if her daughter's face had been badly disfigured by her injuries. She was also concerned how Jeanine's (her daughter's) body would be treated during the autopsy. Norma promised her that she herself would go to the coroner's office to witness the autopsy while it was being performed. She knew that the only way Cheryl would continue to trust law enforcement authorities was if someone she trusted could provide her with first-hand knowledge.

For an advocate to lend support by attending funerals and burial services may also be warranted. Moreover, most cultures have some "place of remembrance" in the home for a deceased family member. These places may be elaborate Asian family shrines, Catholic religious icons, or simply photos and flowers. No matter what their nature, they are the focus of a family's mourning and honoring. Proper attention and respect to these sites by the advocate when visiting homes help generate trust. Disregard of the sites may jeopardize survivors' belief in the sincerity of the provider's expressions of concern.

Service providers, counselors, or therapists trained in Western/European modalities adhere to mental health perspectives on trauma and recovery. The basic model has been the psychological interpretation of suffering, with the therapeutic goals of healing emotional wounds and regaining a healthy state of mind. The techniques for accomplishing these goals have relied on verbalizing worries and fears and providing symptom relief through prescribing medications (Eth, 1992, p. 105; Lee and

At the shelter everyone is supportive and helpful. On the top of food, clothing and a place to live, they were always there whenever I needed help. While I worked, the volunteers and staff helped with my children. Asian Women's Shelter helped me find permanent housing, a child care center and more. It is just like an extended family (Yamamoto, 1991, p. 1).

Armstrong, 1995, pp. 447-448). This emphasis in much of Western psychotherapy can be related to the Judeo-Christian tradition (Ivey et al., 2002, p. 9).

In other cultures, however, trauma is seen as affecting the whole person. There is no dichotomy between the mind and body. There are accordingly unique "idioms of distress" to communicate hurt and discomfort. Southeast Asian refugees often complain about bodily ailments such as headaches or chest pains when experiencing depression (Nishio and Bilmas, 1987, p. 343). Asians in general experience and report stress psychosomatically (Root, 1985). When Western approaches minimize these complaints

as hypochondria, important information influencing treatment can be lost. Working toward achieving insight may, accordingly, be less essential than concentrating on other aspects of living.

Kim, for example, a Southeast Asian refugee, was told by a therapist that she needed to “heal the child within” (Ogawa, 1999, pp. 190–192). Kim became very nervous and agitated. She wondered how this white woman would know that she was pregnant when Kim herself was unsuspecting. Even more, she did not want to be pregnant with another child from the abusive husband she was attempting to flee. Noticing the anguish in Kim’s face, the therapist hurriedly explained that the term “child within” was not to be taken literally. It was an expression in Western therapy that meant the spirit of a child within someone. After the session, Kim returned to the battered women’s shelter and cried to a staff member that the spirit of the child she had lost through miscarriage several months earlier was distressed and trapped inside of her. It was many hours before Kim could be reassured that her fears were not necessary. She still could not understand what the therapist meant but was less upset with it.

What Kim was most anxious about was the stigma and loss of connection she now faced in the community. She no longer had her primary identity from her husband and his family. She was an oddity. The service providers helping Kim had to meet this sense of isolation by providing an especially strong base of support. Kim’s cultural moorings did not stem from empowerment through independence as a woman but from finding interdependence and social esteem within her community. This search for a “sense of belonging” helped her to offset the previous lonely and silent endurance of abuse and establish a network of support and broad ties to the community.

Some have criticized this approach as too protective and fostering dependency. This criticism, however, reveals a cultural bias and does not appreciate the cultural context for Kim and other Asian women. Self worth is not arrived at through psychological processes but through a rebuilding of social acceptance.

Provide Communication Methods Based on Client Need

In a baseline study of victim services in Texas, the Crime Victims Institute (CVI) confirmed that the methods of serving crime victims varied greatly depending on the type of agency and its role (CVI, 1999, p. 48). More than 1,400 agencies were surveyed as to their primary means of communicating with crime victims: face-to-face, telephone, or written correspondence. Exhibit 8-3 summarizes the findings, with the greatest percentages shown in bold italics.

EXHIBIT 8-3

COMMUNICATION METHODS

	Face-to-Face	Written correspondence	Telephone
Law Enforcement	52.5%	32.5%	15%
Prosecutors	11.1%	48.1%	40.8%
Family Violence/Sexual Assault	30.7%	0.4%	68.9%
Probation/Community Service	2.7%	59.8%	37.5%

It is readily apparent that victim assistance relies on assorted means to have contact with victims and that the skills needed to work with diverse cultural populations must be refined for each agency category. Rape crisis counselors, therefore, must be specially trained to assist victims with whom they have no direct in-person contact. Since many Asian Americans are not accustomed to verbalize problems but rely on direct example and guidance by someone respected, it is important to establish a trusting relationship as soon as possible. This can be accomplished through intonation, repetition, and word choice. Referrals that are sensitive to privacy and confidentiality matters in Asian American communities help relate the caller to supportive providers. A carefully constructed list of culturally competent providers is therefore crucial.

In face-to-face interactions, communication styles differ. The manner of greeting often sets the course of the exchange. While a firm and vigorous handshake is expected by many Americans, a softer offering of the hand of friendship for Native Americans is more customary. In Muslim cultures, moreover, touching between males and females who are not related is not acceptable. The ability and willingness to listen is critical to any culture, but indicators of listening differ. For many white Americans, direct and unwavering eye contact indicates attentiveness and interest. For Mexicans, Asians, Pacific Islanders, and Native Americans, contrastingly, such eye contact might indicate discourtesy, defiance, and disrespect.

Furthermore, written correspondence must be adapted and generalized for a larger population group than is usually the case. For most recipients, legal terminology is unfamiliar and confusing. Correspondence translated into other languages may be necessary, although there are pitfalls to this approach. Hamby (2004, p. 4) points out, for example, that languages other than English do not have as extensive terms for victimization:

The U.S. social movements against rape and intimate violence have influenced American English. English-speakers have many terms for sexual victimization, including “rape,” “sexual assault,” “date rape,” “sexual abuse,” “incest,” and “molestation.” There are also many terms for physically and psychologically abusive behavior. For purposes of both intervention and prevention, it can be hard to identify

comparable words in other languages. Even English speakers who are not immersed in addressing these social problems may not appreciate the subtle distinctions between these terms.

Offer Appropriate Translations and Translators

The emphasis in American society on English as the commanding language compromises communication and reassigns roles by using children or staff members from other agencies as interpreters and fostering negative self-esteem in people who are not bilingual (Szapocznik, 1995; Rodriquez and Casaus, 1983). Although the “English only” movement is rife in parts of the United States, this approach is far too inflexible to be adopted by victim assistance providers. Language is a purveyor of culture, and the degree of respect one has for other ethnic groups is shown in one’s attitudes toward proficiency in English. It is undoubtedly practical for immigrants to learn English, but it is equally important to retain elements of one’s heritage.

No one can be conversant or fluent in all the hundreds of languages spoken among U.S. residents. Victim assistance providers, however, can learn at least some key words that convey the provider’s concern and help demystify courtroom and other processes. As the number of foreign-born residents increases, raising the percentage of languages other than English that are spoken in the home, reliance on translations and translators obviously grows. The California Penal Code, for example, mandates that translation services be made available for the non-English-speaking populace in comprehensive victim service centers and at certain court proceedings.

EXHIBIT 8-4
ENGLISH AND OTHER LANGUAGE PROFICIENCY

Population 5 Years and Over by Language Spoken at Home and Ability To Speak English	U.S. Census 2000	%
Population 5 years and over	262,375,152	100.0
Speak only English	215,423,557	82.1
Speak a language other than English	46,951,595	17.9
Foreign born	31,485,018	12.8

Translations do not necessarily produce material that is culturally meaningful. Providing directions to the courthouse is fine, but explaining the impact of crime and recommending coping skills must be adjusted to the victim’s experience and perspective and not just the provider’s bias. As Tello (n.d., p. 6) argues regarding the ubiquitous translating of materials into Spanish,

Agencies typically offer translations of materials, information, and articles that are based on conventional theory. The idea being promoted is that a linguistic translation alone makes the information culturally appropriate. Clearly, this is a false assumption. All it does is make the information readable to those literate in Spanish. Frequently, mere translations have done more harm than good.

Written materials, in other words, must reflect cultural symbols, practices, concerns, and needs. Ideally, these materials should be written first in the languages of the various groups to help ensure cultural relevance. They can then be translated into English so that English-speaking providers can better understand the victim's culture.

Using translators poses interesting issues of confidentiality, accuracy, and trust. For example, translators have been known to alter what is said because of bias or difficulty in conveying what was intended (Ivey et al., 2002, p. 42). The interpreter may also be either too far removed from or too familiar with the victim's personal history and situation. Translators may miss nuances but may also be valuable sources of cultural interpretation. All providers that rely on translators must therefore be properly trained in the optimum use of their services.

The following strategies can help to improve a victim assistance provider's cultural competency.

Know the Principal Cultural Values of Your Own Community Groups

First, become increasingly knowledgeable about various cultures, especially those within your agency's demographic area. You can avail yourself of the growing number of written materials and conference trainings on the subject (www.ojp.usdoj.gov/ovc/ovcres/welcome.html), but you can also learn from each person you serve who is from a different background. Spending time in different communities when you are not responding to criminal activity or crises provides a more balanced experience. Crime represents only a fraction of a community's daily reality.

Remember, however, that it is impossible to understand all the idiosyncrasies of any culture. Providers are "tentative learners" (Poindexter and Valentine, 2007) of another culture. Therefore, do not compile and memorize a set checklist of cultural do's and don'ts. Victims are never well served by formulaic or methodical responses. Instead, learn some of the principal values of a culture. A key cultural value among Asian Americans, for example, is not to be overly oppositional or confrontational. As Ivey et al. (2002, p. 184) state, "What is assertive for European-American cultures may be considered intrusive and aggressive by those from other cultural groups." This is frequently expressed in the tendency to be very agreeable in conversation, to not demand (deserved) services, and to not burden someone (e.g., a victim assistance provider) with one's troubles.

A Chinese American sexual assault victim, for example, found it difficult to schedule pre-trial meetings with the victim advocate because of the advocate's busy schedule (Ogawa, 1999, pp. 67–68). The victim would apologize each time for disturbing the advocate. She made less use of what was available to her in order not to inconvenience or impose upon the advocate, who was quite willing to help. If the advocate better understood this victim's reluctance, she might have offered more encouragement to meet. This may require asking several times. A victim's initial decline of help may reflect culturally-based humility rather than flat refusal.

Practice Sincerity and Respect

Even if you are not familiar with a victim's prevailing culture, sincerity is the greatest communicator. Victims sense insincerity. Sincerity is a matter of character. Therefore, the more we grow in character, the more we grow in cultural competency. One facet of character is respect for others. "Respect" means, literally, to "look again." That is, we do not minimize, quickly dismiss, or superficially address the concerns of those different from us. Respect leads us to be more observant and willing to adjust our routine approaches.

A lieutenant in a certain city's police department, for example, arrived at a Laotian community meeting to unexpectedly find "a whole pile of shoes outside" (Ogawa, 1999, pp. 145–146). Although taken by surprise, but without undue hesitation, he removed his own shoes before entering. The purpose of the meeting was to discuss the recent surge in vandalism and intimidation directed at the Laotian residents in a subsidized housing project. The lieutenant's removal of his shoes was an important gesture of courtesy to the Laotians. It was a sign that he came respecting their customs and feelings—a crucial step toward working jointly to find solutions. A custom may seem odd, but leaving our prejudices/biases (literally) at the door as we enter into service to others communicates that we are viewing their victimization from their perspective as we offer our help.

Include Spirituality in Assessments for Long-Term Services

Not all victim services roles are appropriate for spiritual assessment. It may feel intrusive to victims who are meeting with a provider for one specific purpose, such as to fill out a Crime Victims Compensation form or to learn about the justice system. Spiritual assessment is suggested only for providers who expect a reasonably long-term relationship with a victim.

Conducting a brief spiritual assessment may be all that is required for many victims of crime. When being asked a few simple questions, some victims will make it clear that they do not wish to include spiritual concerns in their services. Those who do, however, may feel validated because their provider has inquired in a respectful manner.

Some unassuming questions that may encourage victims to begin talking about their spiritual concerns include:

- What is most important to you in your life right now?
- What has been meaningful and helpful to you as you have coped with your victimization?
- What has strengthened you as you deal with this?
- Do you have a support system as you go through this experience?

If the responses to these questions are not spiritually oriented, that's fine. You may not want to explore spirituality any further.

If the victim's responses are spiritually oriented, continue to explore their answers as you would any other information that helps you assess their strengths and resources as well as stressors.

Establish Personal Integrity in Your Professional Surroundings

Even if we do not feel the same about all peoples and cultures, we are called upon to base our behavior on our professional responsibilities and not on our personal likes and dislikes. We are called upon to treat others equally and fairly even as we find it impossible to feel the same way about everyone. We must of course assess and eliminate our own discriminatory practices, whether individual or institutional. Self-development in cultural competency ultimately, however, depends upon personal integrity in the victim assistance field. The ethical treatment of victims mandates cultural competency.

References

- Association of Religion Data Archives (ARDA). 2006. *United States: Largest Religious Groups and Religious Adherents*. Retrieved July 20, 2006, from www.thearda.com/internationalData/countries/Country_234.
- AYUDA. 1997. *AYUDA Means Help to Thousands of Refugees, Immigrants, Children and Battered Women*. Washington, DC: AYUDA.
- Bickham, T., and A. Rossett. 1993. "Diversity Training: Are We Doing the Right Thing Right?" *The Police Chief* 43(4).
- Blackman, J. 1996. "Race Matters: Culture, Negative Culture and Family Violence." *Domestic Violence Report* 1(5): 4, 15.
- Blue, A., and M. Blue, 1983. "The Trail of Stress." *White Cloud Journal* 3(1): 15–22.
- Boyd, J. 1990. "Ethnic and Cultural Diversity in Feminist Theory: Keys to Power." In *The Black Women's Health Book*, E.C. White, ed E.C. White. Seattle, WA: Sage Press.
- Buckskin, F. May 12, 1990. "Pit River Reaction to New Age Shamanism." Paper presented at the Scholar's Conference on California Indian Shamanism, California State University, Hayward, CA.
- Bureau of Justice Statistics. 2006. *Victim Characteristics*. Washington, D. C.: U. S. Department of Justice. Retrieved August 16, 2007, from www.ojp.usdoj.gov/bjs/cvict_v.htm#race.
- Clawson, H., K. Small, E. Go, and B. Myles. October 2003. *Needs Assessment for Service Providers and Trafficking Victims*. Washington, DC: U.S. Department of Justice, National Institute of Justice. Retrieved July 19, 2006, from www.ncjrs.gov/pdffiles1/nij/grants/202469.pdf.
- Coyote, D. September/October 1998. "Ask Dr. Coyote: Dear Stephen." *News for Native California*, 1(4): 7.
- Crime Victims Institute. 1999. *The Impact of Crime on Victims: A Baseline Study on Program Service Delivery*. Austin, TX: State of Texas Office of the Attorney General.
- Cushner, K. 1996. "Culturally Specific Approaches to Knowing, Thinking, Perceiving, and Understanding." In *Advanced Methodological Issues in Culturally Competent Evaluation for Substance Abuse Prevention*. eds. A. Bayer, F. Brisbane, and A. Ramirez. Rockville, MD: U.S. Department of Health and Human Services, Center for Substance Abuse Prevention.
- Davis, R., E. Erez, and N. Avitabile. September 2001. "Access to Justice for Immigrants who are Victimized: The Perspective of Police and Prosecutors." *Criminal Justice Policy Review* 12(3): 183–196.

- DeMalle, R. 1994. "Kinship and Biology in Sioux Culture." In *North American Indian Anthropology: Essays on Society and Culture*, eds. R.J. DeMalle and A. Ortiz. Norman, OK : University of Oklahoma Press.
- Destito, C., S. Santiago, and T. Darder. 1985/1986. "Medical Protocol for the Latina Survivor." in *Protocol for the Treatment of Rape and Other Sexual Assaults*. Los Angeles, CA: Los Angeles County Commission for Women.
- Donnelly, D.A., J.A. Cook., L. Foley, and D. Van Ausdale. January 2005. "White Privilege, Color Blindness, and Services to Battered Women." *Violence Against Women* 11(1): 6–37.
- DuBois, W.E.B. 1919. Speech at the Pan-African Congress. Amherst, MA: University of Massachusetts. Retrieved August 25, 2006, from www.library.umass.edu/spcoll/exhibits/duboius/page10.html.
- Duran, E. and B. Duran. 1995. *Native American Postcolonial Psychology*. Albany, NY: State University of New York.
- Durose, M. R., and P.A. Langan. May 2005. *State Court Sentencing of Convicted Felons, 2002*. Washington, D C: U. S. Department of Justice, Bureau of Justice Statistics.
- Eth, S. 1992. "Ethical Challenges in the Treatment of Traumatized Refugees." *Journal of Traumatic Stress* 5(1): 103–110.
- Federal Bureau of Investigation. 2004. *Uniform Crime Report*. Washington, DC: U.S. Department of Justice.
- Fitzgerald, M. April 27, 1989. "100 Days of Mourning." *The Stockton Record*.
- Fortune, M. 1995. "A Commentary on Religious Issues in Family Violence." *Family Violence and Religion*. Volcano, CA: Volcano Press.
- Fortune, M. and C. Enger. March 2005. "Violence Against Women and the Role of Religion." National Resource Center on Domestic Violence, VAWnet. Retrieved July 19, 2006, from www.vawnet.org/DomesticViolence/Research/VAWnetDocs/AR_VAWReligion.php.
- Giesbrecht, N., and I. Sevcik. September 2000. "The Process of Recovery and Rebuilding Among Abused Women in the Conservative Evangelical Subculture." *Journal of Family Violence* 15(3): 229–248.
- Hamby, S.L. 2000. "The Importance of Community in a Feminist Analysis of Domestic Violence Among American Indians." *American Journal of Community Psychology* 28(5): 649–669.
- Hamby, S.L. May 2004. "Sexual Victimization in Indian Country: Barriers and Resources for Native Women Seeking Help." Retrieved July 7, 2006, from VAWnet,

www.vawnet.org/SexualViolence/Research/VAWnetDocuments/AR_SVIndianCountry.php.

Harrison, P. M. and A. J. Beck. May 2006. "Prison and Jail Inmates at Midyear 2005." *Bureau of Justice Statistics Bulletin* (NCJ213133). Washington, DC: U.S. Department of Justice, Office of Justice Programs.

Hassouneh-Phillips, D.S. August 2001 "Marriage Is Half of Faith and the Rest is Fear Allah: Marriage and Spousal Abuse Among American Muslims." *Violence Against Women* 7(8): 927–946.

Hecht, M.L., P.A. Andersen, and S.A. Ribeau. 1989. "The Cultural Dimensions of Non-verbal Communication." In *Handbook of International and Intercultural Communication*, eds. M.K. Asante and W.B. Gudykunst. Newbury Park, CA: Sage.

Henry, W.A. III. April 9, 1990. "Beyond the Melting Pot." *Time*.

Ivey, A., M. D'Andrea, M.B. Ivey, and L. Simek-Morgan. 2002. *Theories of Counseling and Psychotherapy: A Multicultural Perspective, 5th ed.* Needham Heights, MA: Allyn and Bacon.

Kasturirangan, A., S. Krishnan, and S. Riger. October 2004. "Impact of Culture and Minority Status on Women's Experience of Domestic Violence." *Trauma, Violence, and Abuse: A Review Journal* 5(4): 318–332.

Kempsky, N. October 1989. *A Report to Attorney General John K. Van de Kamp on Patrick Edward Purdy and the Cleveland School Killings*. Sacramento, CA: Office of the Attorney General.

Kingsnorth, R.F. and R.C. MacIntosh. 2004. "Domestic Violence: Predictors of Victim Support for Official Action." *Justice Quarterly* 21(2): 301–328.

Kim, J.Y. and K. Sung. December 2000. "Conjugal Violence in Korean American Families: A Residual of the Cultural Tradition." *Journal of Family Violence* 15(4): 331–345.

Knox, P. November 2001. *Globe and Mail*, A17.

Lafree, G. D. 1989. *Rape and Criminal Justice: The Social Construction of Sexual Assault*. Belmont, CA: Wadsworth.

Lee, C. and K. Armstrong. 1995. "Indigenous Models of Mental Health Intervention." In *Handbook of Multicultural Counseling*, eds. J.G. Ponterotto, J.M. Casas, L.A. Suzuki, and C.M. Alexander. Thousand Oaks, CA: Sage.

Madriz, E.. 1997. *Nothing Bad Happens to Good Girls: Fear of Crime in Women's Lives*. Berkeley: University of California Press.

McDonald, W.F. June 1997. "Crime and Illegal Immigration." *National Institute of Justice Journal* 2–10.

Melton, A.P. November/December 1995. "Indigenous Justice Systems and Tribal Society." *Judicature* 79(3): 126–133.

Migration Information. Retrieved June 13, 2007, from www.migrationinformation.org/datahub/state.cfm?ID=US.

Murdock, S. H., Hogue, M. N., Michael, S. White, and B. Pecotte. 1997. *The Texas Challenge: Population Change and the Future of Texas*. College Station, TX: Texas A&M University Press.

National Institute of Justice. 2005. *Public Law 280 and Law Enforcement in Indian Country—Research Priorities*. Washington, D. C.: U. S. Department of Justice.

Nishio, K., and M. Bilmas, 1987, "Psychotherapy with Southeast Asian American Clients," *Professional Psychology: Research and Practice* 18: 3452–3486.

Nosek, M.A. and C.A. Howland. February 1998. *Abuse and Women with Disabilities*. Harrisburg, PA: National Resource Center on Domestic Violence, VAWnet. Retrieved , July 19, 2006, from www.vawnet.org/DomesticViolence/Research/VAWnetDocs/AR_disab.php.

O'Brien, E.M. December 7, 1989. "Black Women Additionally Victimized by Myths, Stereotypes." *Black Issues in Higher Education* 8:9.

Office for Victims of Crime. December 1982. *President's Task Force on Victims of Crime*. Washington, DC: U.S. Department of Justice.

Office for Victims of Crime. August 1998. *New Directions From the Field: Victims' Rights and Services for the 21st Century*. Washington, DC: U.S. Department of Justice.

Ogawa, B. 1997. *To Tell the Truth*. Volcano, CA: Volcano Press.

Ogawa, B. 1999. *The Color of Justice: Culturally Sensitive Treatment of Minority Crime Victims*. Needham Heights, MA: Allyn and Bacon.

Parson, E. 1985. "Ethnicity and Traumatic Stress: The Intersecting Point in Psychotherapy." In *Trauma and its Wake: The Study and Treatment of Traumatic Stress Disorder*, ed. C. Figley. New York: Brunner/Mazel.

Passel, J. S. March 7, 2006. "The Size and Characteristics of the Unauthorized Migrant Population in the U. S." *Research Report*. Washington, DC: Pew Hispanic Center.

Perry, S. W. December 2004. *American Indians and Crime: A BJS Statistical Profile, 1992-2002*. Washington, D C: U.S. Department of Justice, Bureau of Justice Statistics.

- Poindexter, C.C. and D.P. Valentine. 2007. *An Introduction to Human Services: Values, Methods, and Populations Served*, 2nd ed. Belmont, CA: Thomson Brooks/Cole.
- Ridley, C. 1989 “Racism in Counseling as an Adversarial Behavioral Process.” In *Counseling Across Cultures*, 3rd ed, eds. P.D. Pedersen, J.G. Draguns, W.J. Lonner, and J.E. Trimble. Honolulu: University of Hawaii Press.
- Rodriguez, A.M. and L. Casaus. 1983. “Latino Family Issues.” In *Latino Families in the United States*. New York: Planned Parenthood Federation of America.
- Roll, S., L. Millen, and R. Martinez. 1980. “Common Errors in Psychotherapy with Chicanos: Extrapolations from Research and Clinical Experience.” *Psychotherapy: Theory, Research and Practice* 17: 158–168.
- Root, M.P.P. 1985. “Guidelines for Facilitating Therapy with Asian American Clients.” *Psychotherapy* 22: 349–356.
- Sampson, R.J. and S.W. Raudenbush. February 2001. *Disorder in Urban Neighborhoods: Does it Lead to Crime?* National Institute of Justice. Retrieved July 19, 2006, from www.ncjrs.gov/txtfiles1/nij/186049.txt.
- Seelau, S.M. and E.P. Seelau. December 2005. “Gender-Role Stereotypes and Perceptions of Heterosexual, Gay and Lesbian Domestic Violence.” *Journal of Family Violence* 20(6): 363–371.
- Smith, J.I. 2006. “Islam Comes to America. Hartford Seminary, Duncan Black McDonald Center for the Study of Islam and Christian Muslim Relations. Retrieved , July 30, 2006, from <http://macdonald.hartsem.edu/smithart3.htm>.
- Szapocznik, J. 1995. *A Hispanic/Latino Family Approach to Substance Abuse Prevention* (CSAP Cultural Competency Series 2). Rockville, MD: U.S. Department of Health and Human Services, Center for Substance Abuse Prevention.
- Tello, J. n.d. “Cultural Competency in Working with Latinos.” Unpublished manuscript. Los Angeles: California Mexican Child Abuse Council.
- Trimble, J., and C. Fleming. 1989. “Providing Counseling Services for Native Americans: Client, Counselor, and Community Characteristics.” In *Counseling Across Cultures*, 3rd ed., eds. P.D. Pedersen, J.G. Draguns, W.J. Lonner, and J.E. Trimble. Honolulu: University of Hawaii Press.
- U. S. Bureau of the Census. April 2, 2001. *Rankings and Comparisons*. Washington, DC: U. S. Government Printing Office.
- West, J.O. 1989. *Mexican-American Folklore*. Little Rock, AR: August House.

Wgliski, A. and A.K. Barthel. July-August 2004. "Cultural Differences in Reporting of Sexual Assault to Sexual Assault Agencies in the United States." *Sexual Assault Report* 7(6): 84, 92–93.

Williams, O.J., and R.L. Becker. Fall 1994. "Domestic Partner Abuse Treatment Programs and Cultural Competence: The Results of a National Survey." *Violence and Victims* 9(3): 287–296.

Wilson, W.J. and K.M. Neckerman. 1987. "Poverty and Family Structure: The Widening Gap Between Evidence and Public Policy Issues." In *Fighting Poverty: What Works and What Doesn't*, eds. S.H. Danziger and D.H. Weinberg. Cambridge, MA: Harvard University Press, 232–259.

Yamamoto, J.K. June 1, 1991. "AAs Not Dealing with Violence Against Women, Activist Says." *Hokubei Mainichi*.

Yick, A.G. September 2000. "Predictors of Physical Spousal/Intimate Violence in Chinese American Families." *Journal of Family Violence* 15(3): 249–267.

Resources

Black Church and Domestic Violence Institute

www.bcdvi.org
1-770-909-0715
bcdvorg@aol.com

First Response to Victims of Crime Who Have a Disability

www.ojp.usdoj.gov/ovc/publications/infores/firstrep/2002/welcome.html

This handbook for law enforcement officers (NCJ 195500) describes how to approach and help victims who have Alzheimer's disease, mental illness, or mental retardation or who are blind, visually impaired, deaf, or hard of hearing. It is designed as a field guide for personnel who respond first to crime victims and includes contacts for assistance.

Incite! Women of Color Against Violence

www.incite-national.org

Institute on Domestic Violence in the African American Community

1-877-NIDVAAC
nidvaac@umn.edu

MADD

www.madd.org

Minority Community Victim Assistance

www.ojp.usdoj.gov/ovc/publications/infores/minor/welcome.html

This handbook (NCJ 170148) prepared by the National Association of Black Law Enforcement Officers offers minority community residents a practical approach to assisting crime victims in their communities and neighborhoods.

National Gay and Lesbian Task Force

www.thetaskforce.org

This is a civil rights organization dedicated to promoting freedom and equality for all lesbians and gay men. Its Antiviolence Project was initiated to promote appropriate response to antigay violence, improve treatment by the criminal justice system, and assist local communities in organizing against prejudice and violence. It reports annually on antigay/lesbian victimization.

National Network to End Violence Against Immigrant Women

www.immigrantwomennetwork.org

The National Network to End Violence Against Immigrant Women is a coalition of survivors, immigrant women, advocates, activists, attorneys, educators, and other professionals committed to ending violence against immigrant women by (1) working with diverse immigrant communities to prevent violence against women; (2) building capacity for immigrant women to become leaders against all forms of violence; (3) promoting an understanding of the complex realities of immigrant women facing violence; (4) providing technical and training support to service providers, attorneys, community advocates, and other professionals (both governmental and nongovernmental) working with immigrant women at the local, state, federal, and international levels; and (5) promoting law and public policy reforms at the local, state, and national levels that benefit immigrant women facing violence.

Needs Assessment for Service Providers and Trafficking Victims (2003, October) (OJP-99-C-010)

Prepared by Caliber Associates for the National Institute of Justice, U.S. Department of Justice, it is the first-ever assessment of the needs of trafficking victims and the domestic service providers who work with them. The report, complete with survey instruments and focus group protocols, will help educate the field at large on meeting the specialized and complex needs of trafficking victims.

Southern Poverty Law Center

www.splcenter.org

Through its Klanwatch project, this group monitors hate crimes and groups across the nation. It also provides training for law enforcement and community groups.

Trafficking in Persons: A Guide for Non-governmental Organizations (2002)

www.dol.gov/wb/media/reports/trafficking.htm

This brochure (BC 000674) from the U.S. Department of Justice is intended for nongovernmental organizations, such as service providers and other community-based organizations, to use as a reference guide to help trafficking victims.

CHAPTER 9

ETHICS IN VICTIM SERVICES*

Dana DeHart and Melissa Hook†

The purpose of this chapter is to encourage the use of ethical standards to further the evolution of victim assistance as a professional discipline. The chapter includes four sections:

Introduction to ethics and ethical standards provides a brief history of ethics and the professional development of victim service professional standards through the National Victim Assistance Standards Consortium.

Values and response to crime victims describes the distinction between personal and professional values and helps participants understand the impact of both on the victim service provider's response to crime victims.

Ethical decisionmaking and ethical dilemmas describes the steps of an ethical decisionmaking model and considers them in relation to common ethical dilemmas.

Educating yourself about legal and policy issues provides guidelines to research and reflect upon ethics in the victim service provider's own jurisdiction, discipline, and place of employment.

NVAA Module 9 Learning Objectives

- Describe ways that their own attitudes, beliefs, and values influence their response to victims of crime.
- Find appropriate ethical standards in the NVASC Standards for Victim Assistance Programs and Providers relative to common professional situations.
- Use a standard decisionmaking process when faced with an ethical dilemma.

* This chapter is largely excerpted or paraphrased from writings authored by Melissa Hook with funding provided by the U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, under grant #95 MU-GX-K002. These materials were subsequently published in a text, *Ethics in Victim Services*, (Baltimore: Sidran Institute Press and Victims' Assistance Legal Organization, 2005) and are used here by the Office for Victims of Crime with acknowledgment to the text's publisher. For more information about the book, visit www.sidran.org/store. Discounts are available for NVAA participants. Contact orders@sidran.org for details.

† The authors of this chapter are Dana DeHart, Ph.D., University of South Carolina, Columbia, SC; and Melissa Hook, District of Columbia Office of Victim Services, Washington, DC.

Introduction to Ethics and Ethical Standards

This section provides an introduction to the concept of ethics and to the *Ethical Standards for Victim Assistance Providers* developed by the National Victim Assistance Standards Consortium (NVASC). NVASC is a multidisciplinary group of victim service experts formed for the express purpose of creating standards of competency and credentialing in the victim services discipline.

The Evolution of Ethics

For thousands of years, philosophers, scientists, and teachers have contemplated matters such as the meaning of life, what behaviors are most valued, and the distinction between right and wrong behavior. Perhaps the tendency to pursue such matters is just part of being human or necessary for surviving peacefully. Aristotle in the neo-Greek era taught that leading a virtuous life was the path to happiness and life satisfaction.

As humankind evolved, societies developed their own systems of moral principles based on values. Values are ideals that society upholds as reflective of the way the world should be and how people should act toward one another. It is interesting to note that many of these moral principles are nearly universal regardless of culture or historical time period. For example, most societies expect members to refrain from murder, rape, theft, assault, slander, and fraud. The standards almost always reflect the virtues of honesty, compassion, and loyalty.

Moral principles are the foundation of ethics, which is the professional discipline dealing with standards of right and wrong that serve as a guide for human behavior. Ethics are usually stated in terms of obligations, benefits to society, fairness, or specific virtues. Developing a code of ethics has been an essential part of all professional disciplines since the ancient professions of medicine and law were established. The earliest known professional code, for instance, was developed in ancient Greece in the fourth century B.C. when Hippocrates initiated a movement calling for all physicians to exhibit a high level of professional and ethical behavior. As a guide for this behavior, the Hippocratic Oath was adopted by medical doctors throughout the ancient and medieval world and continues to serve as the inspiration for modern codes of ethics in the field of medicine.

Victim assistance began as a grassroots movement in the late 1960s but is now evolving as an established profession. As such, there exists the need for ethical principles to guide the practice of victim services. When a profession establishes a code of ethics, it serves several purposes. It safeguards the reputation of the profession, protects the public from exploitation, and furthers competent and responsible practice. The victim assistance ideals of *do no harm*, *care for others*, *eliminate injustice*, and *treat others as one wishes to be treated* are all rooted in centuries of ethical reasoning and inform most ethical codes in the helping professions.

Standards in Victim Services

The professional evolution of victim services has given rise to a wide diversity of organized community- and systems-based organizations whose service to crime victims range the entire gamut of the justice experience. As this evolution has continued, there has been a call on many levels for greater accountability by victim assistance providers, with many victim assistance organizations and coalitions drafting codes of ethics for use by their memberships. This is a natural progression paralleled in other disciplines and is well-founded for a movement increasingly recognized by the juvenile and criminal justice systems, academia, and the public at large as a credible and much-needed service. To facilitate use of such ethical codes and to promote consistency and quality of standards, the National Victim Assistance Standards Consortium (NVASC) developed a set of model program, competency, and ethical standards for the field of victim assistance.

NVASC was created in 2000 by the Office for Victims of Crime at the U.S. Department of Justice with the express purpose of creating model standards of conduct for the field of victim assistance. To do this, NVASC researched existing standards in victim assistance and similar professions, polled the field of victim assistance, and utilized the expertise and experience of a representative and diverse core of victim assistance professionals. The result of this work is the NVASC *Standards for Victim Assistance Programs and Providers* published by The Center for Child and Family Studies, College of Social Work, at the University of South Carolina. The document can be accessed at: www.sc.edu/ccfs/training/consortium.html.

The book *Ethics in Victim Services* is based on the NVASC model of ethical standards. It is designed to help victim assistance professionals identify, analyze, and resolve the many ethical dilemmas they face in their work on a daily basis. A CD-Rom by the same name is a full training based on that text.

NVASC Ethical Standards

The foundation for the NVASC code of ethics consists of underlying values such as client autonomy, privacy, and self-determination; objectivity and abstention from abuse; honesty and equity of service; compassion and respect for individuals; social responsibility; confidentiality; and working within one's range of competence. This set of guiding values represents the foundation from which the NVASC developed the following 19 standards of professional conduct to guide victim assistance providers in resolution of common ethical challenges.

Section 1: Scope of Services

Ethical Standard 1.1: *The victim assistance provider understands his or her legal responsibilities, limitations, and the implications of his/her actions within the service delivery setting and performs duties in accord with laws, regulations, policies, and legislated rights of persons served.*

Many agencies do not provide this type of training and expect service providers to gain this knowledge on their own or on the job. A victim assistance provider who has an insufficient knowledge of the specifics of the legal authority under which he or she works may unintentionally follow unethical practices, violate the law, and/or cause harm to the victim. The final section of this chapter contains more information on educating oneself about legal and policy issues.

Ethical Standard 1.2: *The victim assistance provider accurately represents his or her professional title, qualifications, and/or credentials in relationships with persons served and in public advertising.*

The professional and educational credentials of victim assistance providers that pertain to their positions should be disclosed in order to avoid misconceptions about their role in the context of service to the victim or their responsibilities to the agency and their colleagues. Victim assistance providers should exercise discretion in terms of self-promotion or advertisement. For example, they should not represent themselves as counselors, therapists, or specialists in a specific type of advocacy if they have not received the training and accreditation that the discipline requires. They are discouraged from using victim testimonials or descriptions of the uniqueness of their services as a means of self-promotion.

Ethical Standard 1.3: *The victim assistance provider maintains a high standard of professional conduct.*

This means that providers must not only avoid improper behavior, but avoid even the *appearance* of impropriety. In maintaining a high degree of professional conduct, providers must not use their positions to obtain special favors, privileges, advantages, gifts, or access to services that are unrelated to agency interests or that serve them personally. Moreover, providers must distinguish between agency and personal points of view, and refrain from communicating a personal viewpoint as if it were agency opinion or policy.

Ethical Standard 1.4: *The victim assistance provider achieves and maintains a high level of professional competence.*

Achieving and maintaining professional competence serve the interests of the victim, the field of victim services, and the victim assistance provider. Victim assistance providers must keep informed of new and pertinent developments within the field, including research findings, newly enacted statutory guidelines, and policy changes. Being competent also means recognizing the need for supervision or consultation and providing

appropriate referrals when task demands fall beyond the provider's defined role and responsibilities. Providers must also be aware of the signs of severe stress and burnout and refrain from providing services if impaired. More information on self care is provided in Chapter 11, "Developing Resilience."

Ethical Standard 1.5: *The victim assistance provider who provides a service for a fee informs a person served about the fee at the initial session or meeting.*

Full and accurate information concerning when payment is expected, whether insurance may cover any expenses, how payment is handled, and the policy regarding missed or canceled appointments must be clearly communicated before services are delivered. Bartering—that is, the trading of goods or services for victim assistance services—is not appropriate except in situations wherein the victim's culture provides for such customs, when it would be offensive to the victim to refuse such an arrangement, when the bartering creates no potential conflict of interest, and with the full knowledge of the provider's supervisor.

Section 2: Coordinating within the Community

Ethical Standard 2.1: **The victim assistance provider conducts relationships with colleagues and other professionals in such a way as to promote mutual respect, public confidence, and improvement of service.**

Since the field of victim services is one of public service, it is important for providers to contribute, whenever possible, to public confidence and betterment of victim services. When engaged in professional communication or public speaking, providers should clarify that they are speaking on their own behalf, as a representative of their agency, or on behalf of all victim assistance providers.

Ethical Standard 2.2: **The victim assistance provider shares knowledge and encourages proficiency in victim assistance among colleagues and other professionals.**

Knowledge sharing in the field of victim assistance should be carried out in the spirit of continuing improvement of the quality of victim services. Victim assistance providers must be ready, willing, and eager to share their knowledge and skills with other practitioners both in and out of the workplace, including both paid and volunteer workers. In the case of volunteer workers, victim assistance providers should do everything within their power to ensure that volunteers have access to the information, training, and resources they need to do their jobs properly and effectively. Particularly in the field of victim assistance, service to victims involves a team approach and the willingness to share with and listen to colleagues from various cultures, disciplines, and philosophies.

Ethical Standard 2.3: **The victim assistance provider serves the public interest by contributing to the improvement of systems that impact victims of crime.**

Providers are expected to take part in professional or community activities that support the goals of their own program or of victim services more generally, including the improvement of justice system(s), victim services, and/or access to such services.

Section 3: Direct Services

Ethical Standard 3.1: The victim assistance provider respects and attempts to protect the victim's civil rights.

In addition to basic civil rights, many state statutes and guidelines provide for the protection of other rights, including rights around confidentiality (discussed further in Ethical Standard 3.5) and the right to nondiscrimination (Ethical Standard 3.9).

Ethical Standard 3.2: The victim assistance provider recognizes the interests of the person served as a primary responsibility.

The provider should advocate for what the victim desires (see Ethical Standard 3.4) and for what is in his or her best interests within the limits of ethical standards, program policy, and state and federal laws. It is never appropriate for a provider to offer a service only if a victim agrees to a particular course of action. A provider may deeply disagree with a victim's proposed course of action, but the only ethical response is to provide as much information as possible so that the victim can make a fully informed choice. If a conflict develops between the provider and the victim over these choices, the provider should explain the situation, make a referral for an alternative provider, and/or seek outside assistance to resolve the issue.

Ethical Standard 3.3: The victim assistance provider refrains from behaviors that communicate victim blame, suspicion regarding victim accounts of the crime, condemnation for past behavior, or other judgmental, anti-victim sentiment.

To maintain professional trust with the victim and effectively advocate on his or her behalf, a victim assistance provider must be vigilant to avoid doing or saying anything that might communicate suspicion, blame, doubt, or condemnation of the victim's actions, nonactions, feelings, beliefs, and so on, about the crime.

Ethical Standard 3.4: The victim assistance provider respects the victim's right to self-determination.

Victims have the most informed perspective regarding their personal history, victimization, and risk, and therefore they have ultimate authority over their interests. If the provider's perceptions of what is best for a victim are at odds with that victim's point of view, information can be presented to enhance the victim's perspective, but ultimately, the provider should encourage victims to make their own decisions. If there is a conflict between what the victim wants and the applicable state, federal, or agency authority, then the provider must take steps to resolve that conflict, including disclosure of the conflict to the victim and possible referral to an outside professional.

Ethical Standard 3.5: The victim assistance provider preserves the confidentiality of information provided by the person served or acquired from other sources before, during, and after the course of the professional relationship.

A violation of confidentiality can be extremely harmful to the victim; it can also potentially leave the victim assistance provider and/or his or her agency open to legal liability. Since confidentiality is a complex area of ethical consideration, due care should be taken by all providers to be fully informed and continually current regarding any and all legal, statutory, policy, and agency authority. Information about confidentiality should be provided to the victim at the first meeting, or at least at the first available opportunity if exigencies of the first meeting do not allow it. In disclosing information regarding confidentiality or in communicating to a victim the fact that certain confidential information may need to be disclosed, the provider should be prepared to address the victim's reaction to this disclosure. While a provider or agency cannot provide specific confidential information for statistical purposes, it is appropriate to provide it without identifying its source. Exceptions to confidentiality are discussed later in this chapter.

Ethical Standard 3.6: The victim assistance provider avoids conflicts of interest and discloses any possible conflict to the program or person served, as well as to prospective programs or persons served.

Conflicts of interest can arise as the result of past professional relationships, either within the current position or through some past employment. Previous relationships, be they familial, professional, personal, or business, with individuals who come to a victim assistance provider for services create potential conflicts of interest. Providers who have survived a crime and, as a result, have entered the field of victim services may at times be tempted to refer to their own victimization during the counseling relationship with another victim. The transfer of focus from the client victim's experience to the provider's experience can be considered another kind of conflict of interest. Victim assistance providers must be rigorous in their efforts to discern potential conflicts of interest and step down from any job where the conflict will lessen the quality of service they deliver.

Ethical Standard 3.7: The victim assistance provider terminates a professional relationship with a victim when the victim is not likely to benefit from continued services.

The provider should prepare the victim for the eventuality of termination of services, particularly if the victim is unusually vulnerable and/or derives a great deal of support from their relationship. If referral to another professional is indicated, the provider should obtain as much information as possible and provide this to the victim in a timely manner. Providers are strongly discouraged from terminating a relationship with a victim in order to pursue a business or personal relationship with the victim.

Ethical Standard 3.8: The victim assistance provider does not engage in personal relationships with persons served which exploit professional trust or which could impair the victim assistance provider's objectivity and professional judgment.

Dual relationships are sometimes difficult to avoid, particularly in small communities. The application of the standard to avoid dual relationships is therefore explored in the context of the potential to cause harm. Whenever there is the potential for loss of objectivity, conflict of interest, or the exploitation of a victim seeking help, the mixing of personal and professional roles is not appropriate. When a provider cannot avoid a personal or business relationship with a client, the provider should seek counsel and supervision from colleagues regarding his or her objectivity regarding the case and best interests of the client. Under any circumstance, sexual relationships with victims are the most serious violations of this ethical standard. Further, a provider should not behave in a way that verbally or physically indicates sexual interest toward current or former clients. It is the provider's responsibility to act appropriately with clients and maintain appropriate boundaries regardless of the client's attempts to initiate a personal or business relationship.

Ethical Standard 3.9: The victim assistance provider does not discriminate against a victim or another staff member on the basis of race/ethnicity, language, sex/gender, age, sexual orientation, (dis)ability, social class, economic status, education, marital status, religious affiliation, residency, or HIV status.

If there is any doubt about a provider's ability to offer judgment-free and objective assistance, the provider should seek consultation and/or supervision. More information about personal values and responses to victims is provided later in this chapter.

Ethical Standard 3.10: The victim assistance provider furnishes opportunities for colleague victim assistance providers to seek appropriate services when traumatized by a criminal event or client interaction.

It is common for victim assistance providers to “process” traumatic events or other difficulties experienced in the course of their everyday jobs. Because of limited resources, it may be difficult—if not impossible—for providers to pursue outside intervention or support. However, if possible, providers who are in need of formal support in the wake of trauma should try to seek assistance from allied professions or providers in other jurisdictions, so as to minimize the possibility of potential professional conflicts of interest.

Section 4: Administration and Evaluation

Ethical Standard 4.1: The victim assistance provider reports to appropriate authorities the conduct of any colleague or other professional (including oneself) that constitutes mistreatment of a person served or that brings the profession into dishonor.

A victim assistance provider must report clear violations of ethical standards to the appropriate authorities. This would include governing boards, funding entities, administrators, and supervisors. The victim assistance provider should never knowingly

participate in actions that violate ethical standards. Furthermore, providers are encouraged to self-report violations that require a written report be filed.

Since the classical Greek era, ethicists have contemplated codes of human behavior that manifest their values and belief systems. As societies expanded and grew more complex, ethical theories increased in scope from rules of behavior for individuals to rules that addressed societal well-being. Professional ethics have grown out of a need to set performance standards within specific disciplines. The field of victim assistance has now matured to the point where a code of ethics has become useful to establish standards of excellence in the delivery of services to crime victims.

Values and Response to Crime Victims

This section is intended to raise awareness of personal attitudes, biases, and beliefs and how these may affect the victim service provider's responses to victims.

Personal and Professional Values

Providing quality services to the victims of crime depends on many factors, but begins with the personality, moral orientation, and subjective beliefs and opinions of the victim service provider. Victim services are about relationships between providers and crime victims. Therefore, the personal values of the provider and the ethical codes that support these values will directly influence his or her interactions in the relationship.

Before beginning, consider the following terms and their definitions:

- *Values* are the ideals or beliefs to which an individual or group aspires.
- *Morals* relate to making decisions between right and wrong.
- *Ethics* is the articulation of standards of behavior that reflect those values or morals.

Victim assistance providers should remember that, when ethical challenges arise, they may have little time to distinguish between right and wrong before they are required to act. Inaction is often the fallback position when stressful events happen too quickly to think through the appropriate response. Socrates' advice to "know thyself" is a reminder of the importance of undertaking a serious moral inventory. Few know the strength of their moral fiber or the depth of their character until it is tested. Victim assistance providers sometimes have only a minute to decide what is right or wrong.

Knowing oneself ethically requires self-awareness. It is important that providers understand their own definition of a morally good person. They must understand how their personal values may influence their response to challenging situations, how their

religious beliefs may influence their judgments, and how their attitudes toward the rights of individuals may come into conflict with the broader principles of justice.

As important as it is to understand their own moral orientation, providers must also understand how willing they are to act on their values and to uphold their personal ethics if they are challenged. Being aware of the need for action, determining the right course of action, and having the emotional and intellectual commitment to follow through are all important factors when assessing personal values.

Professional values grow from the same basic desire as personal values (to do no harm, help others, and make the world a better place), but they are different in focus and content. Any conflict between a provider's personal and professional values could affect the ethical decisionmaking process and compromise the capacity to serve effectively in a particular circumstance. Therefore, personal values must be recognized and dealt with appropriately. A provider's character and commitment, motivation, and personal viewpoint are all authentic components of their ethical decisionmaking process. Searching for ethical self-knowledge is necessary if they are to understand their innate reactions when value conflicts appear.

When providing services to victims of crime, it is providers' professional values (i.e., ethical code) that must be the key determinants in the ethical decisionmaking process. Their competency, integrity, responsibility, respect for the victim's right to self-determination, concern for others' welfare, and social responsibility are the professional values they will rely on to help them deliver ethically responsible services. If a situation requires them to choose one objective over another, it is these values that will inform their choices.

Competing Priorities and Conflicts of Interest

Some of the ethical questions that victim assistance providers may face in the service of crime victims will revolve around personal issues. Competing priorities are part of modern life, and it is not unusual that the pursuit of personal interests has the potential to conflict with professional responsibilities. That is why it is important that providers develop the tools they need to recognize and resolve situations where their personal interests might cause ethical conflicts in their work. This can be done by identifying their personal ethical standards, coming to terms with the values they support, and becoming aware of their significance in the ongoing service to crime victims. For example, when providers have personal interests in their relationships with clients, colleagues, or outside agencies and organizations, the objective exercise of their duties and responsibilities may be affected. Not only will providers' personal perceptions be challenged, but there may be viable reasons for acting in ways that could be contrary to a victim's interests.

Competing priorities between personal interests and professional responsibilities become conflicts of interest when a personal or private interest conflicts with the provider's official duty or interferes with the provider's objective professional judgment. Some

examples of personal activities that create professional conflicts of interest in the field of victim assistance include dual relationships, inappropriate use of confidential information, and accepting unofficial perks. Whenever possible, it is best to avoid any situation where there is even a potential conflict of interest. Conflicts of interest can limit the providers' ability to act in the best interest of the persons served and/or interfere with their independent judgment. Trust is the core issue. Conflicts of interest involve the abuse, either actual or potential, of the trust people have placed in providers as professionals. When a provider is faced with unavoidable ethical concerns, open communication with colleagues on these matters will be invaluable. It is important that providers share their concerns with trusted colleagues and test their professional objectivity in questionable situations.

Multicultural Competency

Sometimes, providers' own cultural biases and/or limited understanding of other ethnicities and cultures can result in ethical conflicts that have important and far-reaching consequences for the delivery of services to crime victims. This area of potential ethical conflict should be taken into account as providers assess their personal values and moral orientation relative to their work.

While personal values and professional values often stem from the same beliefs, they are different in content and should not be confused. Questions over competing priorities will likely appear on a regular basis. To make choices effectively, it is critical that providers be clear about both their own values and the professional values and roles inherent to carrying out professional responsibilities.

Ethical Decisionmaking and Common Dilemmas

This section describes how to use a standard process to make ethical decisions and to explore common ethical dilemmas that victim assistance providers face.

A Decisionmaking Model for Resolving Dilemmas

The practical application of professional ethical standards is not clear-cut when circumstances involve multiple interests and perspectives. Adherence to standards must be prioritized based on the needs of the person served, agency policy, and state law. When a question arises as to what is the most ethical course of professional conduct in a particular situation, an ethical "dilemma" may exist. A dilemma suggests that the answer is not obvious; there may be more than one "right" answer for the situation, depending on the various interests of the parties involved. These issues may be so complex that arriving

at a clear and ethical course of action becomes a difficult process—and may be further complicated by common pitfalls in the resolution process.

Ethical decisions should be made in a systematic and logical way that recognizes that there are multiple points of view in most dilemmas. Many ethical decisionmaking models can be useful for analyzing and resolving ethical dilemmas in victim services. Here is a six-step model:

1. Assess facts. Review all relevant documents and legislation; and verify sources of all information.
2. Identify the ethical standards and the corresponding practical considerations that are in conflict.
3. Brainstorm at least three (preferably more than five) courses of action and the consequences of each.
4. Consult peers or supervisor.
5. Choose the best option and act.
6. Evaluate—How can this situation be avoided in the future?

This model affords providers opportunity to analyze a given dilemma, identify the practical considerations, review the relevant standards, and reflect on actions and outcomes.

Next, we examine common ethical issues faced by victim assistance providers, including boundary issues and multiple relationships, confidentiality, legal advocacy versus legal advice, and professional competence.

Boundary Issues and Multiple Relationships

If providers offer friendship (or love) to clients outside the purview of their duties, or if they exchange goods and services with a victim, then professional boundaries have been violated and a dual relationship has been created. In a counseling or advocacy relationship, the provider has professional influence over the victim. When a second or dual relationship is established, the provider's influence and the victim's subordination are generally replicated. The victim remains vulnerable to the provider's position of power, creating an unfair dynamic in the second relationship. This blurring of the boundaries between the primary and secondary relationships permits intentional or unintentional abuse of power.

Victim assistance providers who enter into dual relationships with victims often rationalize their behavior by asserting that the circumstances are unique or that they cannot serve the client without making efforts that exceed normal boundaries. However,

regardless of these well-meaning intentions, crossing the boundaries of ethical practice creates a potentially exploitive situation for the victim and impairs the good judgment of the provider. Any time providers venture outside the boundaries established in the professional code of ethics, they do a disservice to the victim, who may ultimately experience distrust and anger.

If providers engage in dual relationships or have an inclination to do so, they should seek assistance in identifying their motivations and request intensive supervision of their interactions with victims. If necessary, they may need to leave their job until the ability to maintain appropriate boundaries has been reestablished.

Confidentiality

Confidentiality is the foundation from which trust in the provider-victim relationship is developed and nurtured. Serving victims often requires that providers become involved in private and personal areas of people's lives. Respecting the privacy of the victims served and keeping all aspects of the relationship confidential to the fullest extent possible is an ethic that applies to every client served. Many providers are required to sign confidentiality agreements with their agencies. They are also required to maintain the confidentiality of agency records and are held accountable for adherence to the agency policy on confidentiality.

However, confidentiality is not a *guaranteed right* in the field of victim services. Unlike other legal rights of confidentiality, such as the attorney-client privilege or the psychotherapist-patient privilege, there is not a commonly established right of confidentiality between victim service providers and their clients. Some states have extended—most by way of the psychotherapist-patient privilege—the right of confidentiality to domestic violence and sexual assault victim service providers.

Even where the rule of confidentiality is established by state statute, there are situations in which confidentiality can, and even should, be broken. It is the provider's duty to inform a victim of these exceptions at the beginning of the relationship (except in extraordinary crisis situations). Exceptions to the right of confidentiality are discussed in detail in the NVASC's *Ethical Code for Victim Assistance Providers*, and include the following circumstances:

- Emergency health issues (including death), i.e., information pertaining to the health of an individual in need of immediate medical intervention.
- Conditions relating to minor victims, i.e., reports of imminent danger to the minor.
- Sharing of information among agency colleagues that extends the confidentiality clause to those privy to the information.
- Informed consent—a written release signed by the victim that permits providers to disclose written or oral communications to any individual or entity.

- When subpoenaed to testify in court in some states.
- When a confidential communication has raised a threat of imminent harm to either the client or a third party.
- Child and elder abuse; in some states, providers will be mandated to report child and elder abuse to child or adult protective services.
- Duty to warn—the legal obligation to inform people of danger; states differ regarding duty to warn and confidentiality privileges.

Regarding the latter, precedent for the “duty to warn” exception was set by the U.S. Supreme Court in 1976 in the landmark case of *Tarasoff v. Regents of the University of California*. In this case, a therapist at the university health center failed to warn a female student that her ex-boyfriend had made threats against her life during his counseling sessions. The ex-boyfriend later stabbed the female student to death. The decision cited four conditions that were necessary for the duty to warn exception to be acted upon in a counseling relationship:

- There should be evidence that the client presents a threat of violence to another.
- The violent act must be foreseeable.
- The violent act must be impending.
- The counselor must be able to identify a potential victim.

It is imperative that providers be as educated as possible about the controlling legal authority in their states with respect to confidentiality and its exceptions as these apply to providers.

Legal Advocacy Versus Legal Advice

Legal advocacy to crime victims is also complicated by unauthorized practice of law (UPL) statutes. All states have laws that limit the practice of law to licensed attorneys, but the courts differ widely on how they enforce the law. Generally, the courts look at UPL in terms of harm caused by the practice of law by an unlicensed person.

Many victims of domestic violence pursue cases in court for custody and restraining orders without the services of a lawyer, and legal advocates often find themselves walking a fine line between assisting victims in the legal process and UPL. The advocate can give information and support and can make referrals to appropriate resources. For example, a victim assistance provider can give a tour of the courtroom and explain what typically happens in court, but he or she should avoid giving any advice to crime victims.

Phrases to remember and to keep clear of giving legal advice include:

- I can't tell you what to do, but some of your options are...
- I can't predict what will happen in your case, but the usual process is...
- I know that none of these choices are what you want, but which option will move you closer to what you need?
- I can never guarantee what the judge/police/social services will do, but what usually happens is...
- It's been my experience that women in similar circumstances to yours have done...but you'll need to decide what will work best for you.

When advocates find themselves saying, “you should,” “what will work is,” or “if I were you,” it is time to stop and figure out a way to rephrase these thoughts in a way that puts the choice/responsibility back on the client.

Professional Competence

Victim assistance providers must keep informed of all new and pertinent developments within the field, including research findings, newly enacted statutory guidelines, policy changes, etc. Achieving and maintaining professional competence serve the interests of the victim, the field of victim services, and the victim assistance provider.

Being competent also means providers must recognize when the need for supervision or other types of consultation arise. In serving the best needs of the victim, providers must stay within the clearly defined range of their roles and responsibilities. If the victims' needs go beyond these particular skills, providers must make an outside referral. To do this, providers must be familiar with community resources including the provider's allied professional contacts in that area.

When a victim no longer benefits from the services the victim assistance provider has to offer, or the services are no longer relevant to his/her needs, the professional relationship should be terminated. The provider should prepare the victim for this eventuality, particularly if the victim is unusually vulnerable and/or derives a great deal of support from their relationship. If referral to another professional is indicated, the provider should obtain as much information as possible and provide this to the victim in a timely manner. On the other hand, providers are strongly discouraged from terminating a relationship with a victim in order to pursue a business or personal relationship with the victim.

Ethical standards provide general guidelines for addressing ethical dilemmas such as dual relationships, confidentiality limitations, unauthorized practice of law, and maintaining professional competence. When ethical codes come into conflict in a provider's service to a client or among intra-agency service providers or allied professionals, there may be many ways to resolve the dilemma. Providers who develop the ability to analyze ethical dilemmas from all perspectives, who can determine the victim assistance ethical codes

that apply in a particular dilemma, and who review all options with an open mind will navigate the resolution process more effectively.

Educating Yourself About Legal and Policy Issues

This section identifies resources to learn about legal and policy issues that impact ethical practice in the victim service provider's own program or jurisdiction.

As the victim assistance discipline evolves and performance standards become institutionalized, civil liability concerns assume greater importance. Little established statutory or case law is directly applicable to victim assistance providers in terms of legal liability. Issues being addressed on the state and federal level are beginning to lay the groundwork for greater protection from liability and for confidential privilege, but the issues are still largely unlitigated and applied differently in different states. Therefore, providers and their agencies should be as educated as possible about state and federal statutes relevant to their liability in the course of their professional duties. Most agencies and organizations are aware of the applicable statutes; if not, victim advocates may need to address the issue with supervisors and research applicable laws and regulations. Beyond statutory issues, providers should also be aware of organization policies that may influence professional ethics.

Statutes and policies to be aware of include those regarding:

- Confidential privilege.
- Exceptions to confidentiality.
- Duty to warn.
- Protection from civil liability.
- Good Samaritan laws.
- Mandated reporting laws.
- Unauthorized practice of law (UPL): legal advocacy versus legal advice.

To find out more about state and federal laws and policy on these topics,

- ♦ Consult your program's policies and procedures manual.
- ♦ Consult the local law school.
- ♦ Contact the attorney general's office.
- ♦ Research statutes online.

- ♦ Check with state advocacy groups or national advocacy organizations such as the Victims' Assistance Legal Organization, National Organization for Victim Assistance, or National Center for Victims of Crime.

Because new state laws are passed and court decisions are filed that impact the field, practitioners are strongly encouraged to remain up to date on their state laws and recent court decisions as part of their ethical competency. Often, victim assistance coalitions or advocacy networks publish legislative updates that can be helpful in this respect.

Finally, providers in different types of victim assistance programs are subject to a wide variety of policy and legal authorities governing their conduct that result in different ethical priorities. These differences should be communicated between collaborating organizations to ensure delivery of quality and ethically responsible services to crime victims. When providers conflict over differences in ethical priorities among victim service agencies and organizations that are required to collaborate, cross-training on professional ethics may be helpful.

Because professional ethical practice is subject to varying state and federal statutes as well as program policies, it is imperative that victim assistance providers take initiative to educate themselves about applicable guidelines in their own program and locale. There exist numerous resources for doing so at the programmatic, regional, and national level, and providers must utilize such resources to maintain current knowledge in an evolving ethical context.

References

Center for Child and Family Studies. In press. *Ethics in Victim Services (CD-Rom)*. Publisher TBA. Retrieved August 13, 2007, from www.sc.edu/ccfs.

DeHart, D. D. 2003. *National Victim Assistance Standards Consortium: Standards for Programs and Providers*. Columbia, SC: Center for Child and Family Studies. Retrieved August 13, 2007, from www.sc.edu/ccfs/training/victimstandards.pdf.

Hook, M. 2005. *Ethics in Victim Services*. Baltimore, MD: Sidran, Inc. and Victim Assistance Legal Organization. Retrieved August 13, 2007, from www.valor-national.org/valorethics.html.

CHAPTER 10

DEVELOPING RESILIENCE

Janice Harris Lord, MSW, and Kevin O'Brien, Ed.D.¹

First heal yourself, and then go out and heal others.

Maya Angelou

Although the world is full of suffering, it is also full of overcoming it.

Helen Keller

Victim service providers come in contact with graphic descriptions of violence, victimization, and detailed reenactments of traumatic events. They can become vulnerable to personal negative consequences, but they also can experience many positive rewards as they become more resilient.

This chapter describes the traits of resilience and uses research to suggest strength-based proactive strategies to develop or strengthen these traits in individual victim service providers. Since resilience can be learned, adjusting to the impact of trauma work is within our control. Resilient strategies, if employed, will result in decreased provider distress and increased positive client outcomes.

NVAA Module 10 Learning Objectives

- Identify negative and positive effects of doing trauma-related work.
- Describe the five core elements of resilience.
- Develop personal strategies to strengthen their resilience.

The field of crime victim services recognizes the potential impact of exposure to trauma. Whether performed on the streets, in police departments, through the prosecutor's office, or in direct care programs, victim assistance makes huge demands on staff and volunteers. Yet, not all victim service providers are diminished by their work. In fact, many are strengthened and energized by it. As providers help victims integrate, strive, adjust, and move through trauma, they also are challenged to develop personal and workplace strategies to integrate, cope, and manage traumatic material.

A 1999 focus group of victim service providers (U.S. Department of Justice, 1999) reported that 75 percent of their agencies recognized the stress-related symptoms of staff and volunteers. Supervisors in these agencies attempted to intervene by discussing stressful incidents during staff meetings and providing individual supervision with credentialed mental health counselors to address stress-related issues.

¹ The authors of this chapter are Janice Harris Lord, Arlington, TX; and Kevin O'Brien, Ph.D., National Center for Victims of Crime, Washington, DC.

Other agencies have more limited resources to build resilience to the negative consequences of trauma work, often facing high turnover, which necessitates additional time, effort, and costs of recruiting, training, and employing new staff and volunteers. When replacing seasoned victim service providers with novice ones, agencies must recognize that inexperienced providers are more likely to require one-on-one support and supervision than more experienced colleagues (Neumann and Gamble, 1995; Pearlman and Saakvitne, 1995a). Agencies may even find themselves legally liable for compensation to victim service providers who claim psychological damage at work, particularly if supervisors have not initiated preventive policies and strategies to enhance worker performance and satisfaction (Sexton, 1999).

While acknowledging the hazards of trauma work, this chapter emphasizes a strength-based action approach (Saleeby, 1996) to inform individual victim service providers about resilience and to offer them strategies to develop and strengthen resilience. A growing body of research suggests that the negative impact of stressful situations is reduced through the use of adaptive coping responses (Lazarus and DeLongis, 1983). Strengthening victim service providers' resilience should buffer potential negative reactions to trauma exposure. This chapter describes five core elements of resilience and details more specific traits and strategies within each element. These strategies, if employed, may result in decreased stress among victim service providers and, therefore, increased quality services to victims of crime.

Sharon, an experienced victim assistance provider, found herself losing sleep over one of her cases. An 8-year-old girl had been beaten to death by a neighbor in the basement of her home. As Sharon struggled to comfort the girl's mother, she became overwhelmed by the brutal crime.

"It was shocking!" she said. "It was shattering. It was evil. The girl's mother would never be the same. And neither would I."

This case crashed into Sharon's personal life with unexpected force. "I had never been so close to such pain," she said. "I could feel it and touch it, it was so strong."

Driven to do something, Sharon felt drawn into the tragedy. She gave the mother her personal phone number and her beeper number, telling her that she would be there for her anytime she needed to call. Sharon's family worried about the effect this case was having on her.

Yet, as the relationship evolved, both Sharon and the young mother moved forward. Sharon listened for hours. She accompanied the mother to the morgue, to the funeral, throughout the trial, and during the empty hours that followed the murderer's sentence. Fourteen years later, the young mother credits Sharon with saving her life. Sharon has grown herself as she has witnessed the mother's resilience and courage as she began a new relationship, remarried, had another child, and then became a victim advocate herself. In many unexpected ways, the process and relationship were strengthening for both the survivor and the provider.

Overview of Self-Care

As researchers have looked beyond the negative impact of trauma work, they have increasingly discovered both positive and negative effects (Joyce, 2004). While the focus of this chapter is on strengthening resilience as an effective tool for self-care among victim service providers, the potential for negative outcomes of trauma work cannot be overlooked.

New victim service providers may be unprepared for hearing the intensely painful experiences of persons victimized by violent crime. Providers supply many kinds of services: short- and long-term counseling, safety planning, education, assistance with compensation and restitution applications, court accompaniment, and overall case management. Working with trauma survivors involves more than simply facing traumatic events. It means living with each victim's unique reactions to the event, as well as walking with her or him through the various institutional and social reactions to the crime, which can be further victimizing (Dutton and Rubenstein, 1995). Through exposure to the trauma and the traumatized victim, providers also become aware not only that traumatic events *can* occur, but that they may occur again at any time and any place (Danieli, 1985).

Efforts to identify the troubling aspects of traumatic encounters among human services providers have resulted in numerous labels, including *secondary stress*, *cumulative stress*, *countertransference*, *emotional contagion*, *burnout*, *compassion fatigue*, and *vicarious traumatization*. Many professional psychotherapists and victim service providers say they are unsure what to call the phenomenon or how to define it, but they know it when they see it. Such statements as, "I'm not supposed to feel this way" and "I need to hide my feelings so I can be strong for others" illustrate syndromes that can disrupt a person's sense of life meaning, connections to others, personal and professional identity, and assumptions or views of how the world works (Pearlman and Saakvitne, 1995a).

To date, most of the professional literature on the effects of working in the trauma field has been based on anecdotal experiences with limited systematic research. The following research, conducted primarily on licensed or certified professionals who work with trauma victims, yields both positive and negative aspects of trauma work. For example:

- A high percentage of trauma counselors working with Holocaust survivors report numbing defenses (avoidance, denial, distancing), bystander guilt, rage, shame, horror, and grief (Danieli, 1988).
- Often, but not always, the greater the exposure of psychotherapists to child and adult traumatized clients, the greater their number of symptoms that are similar to those of their clients. These symptoms may include disturbed sleep, anger, fear, nightmares, flashbacks, irritability, anxiety, alienation, loss of control, suicidal thoughts, physical distress, low self-esteem, and disturbing images (Cornille and Meyers, 1999; Cunningham, 1996; Dalton, 2001; Hollingsworth, 1993; Kassan-Adams, 1994; McCann and Pearlman, 1990; McCann and Pearlman, 1999; Pearlman and Saakvitne, 1995b; Schauben and Frazier, 1995).

- A personal history of victimization may or may not be relevant to psychological stress, trauma symptoms, or posttraumatic stress disorder (PTSD) in female sexual trauma counselors (Schauben and Frazier, 1995; Follette, Polunsky, and Milbeck, 1994; Johnson and Hunter, 1997; Pearlman and Mac Ian, 1995).
- Positive aspects of working with traumatized victims of crime include increased personal satisfaction, life meaning, purpose, competence, spiritual well-being, and political activity; improved clinical skills; and deepened social relationships (Brady, Guy, Peolstra, and Brokaw, 1999; Joyce, 2004; Lobel, 1996; Miller, 2001; O'Brien, 2002; Radeke and Mahoney, 2000; Schauben and Frazier, 1995).
- It appears that the negative effects of trauma work, while present, are not only short-lived but also crucial to providers' development of longer-term positive effects (Lobel, 1996).

In short, these data support the need for more research. The authors were unable to locate any reliable empirical research on staff and volunteer victim service providers without certifications or licenses.

Defining Resilience

Resilience generally refers to one's ability to return to healthy functioning after being in a stressful situation (Luthar, Cicchetti, and Becker, 2000; Tugade and Frederickson, 2004). Being resilient does not mean that individuals are problem-free or unaffected by difficulties. It does mean drawing on personal beliefs, behaviors, skills, and attitudes to move through stress, trauma, and tragedy rather than succumb to them. It means emerging from stressful situations feeling normal and perhaps even stronger than before (National Center for Victims of Crime, 2005).

There are many definitions of resilience, however, and some discrepancies in the conceptualization of resilience as a personality trait versus a dynamic process. While *resilience* refers to a dynamic process of adaptation to significant adversity, *resiliency* refers to a personal trait rather than a process (Luthar et al., 2000). Following on Masten (1994), we use the term resilience in this chapter to focus on positive adjustment under challenging conditions—a process of specific attitudes, behaviors, and skills that can be learned. This chapter defines resilience as the power to cope with adversity and adapt to challenges or change. The concept of resilience is similar to other known constructs, such as altruism (Monroe, 1996; Luks, 1993)—the practice of helping others without concern for oneself or what one might get in return—and hardiness (Maddi and Kobasa, 1984; Kobasa, Maddi, and Courington, 1981; Bartone, 1999)—the ability to endure stress without becoming physically ill.

Resilience Theory and Research

One of the first people to study resilience was Emmy Werner, a professor of human development at the University of California at Davis, who had survived the bombing of Germany during World War II as a child. She began researching resilience in children in the 1950s and published a longitudinal study of resilient children in 1982 (Werner, 1982; Werner and Smith, 1992). Her study, which followed high-risk children from birth through the age of 32, identified the following traits of resilience among those who became productive and successful adults:

- The skill needed to make and keep friends, including a sense of humor.
- Problem-solving skills, which may be linked to parental competence—especially during the first year of life.
- Internal locus of control or the ability to recognize that a person has control over much of what happens to him or her.
- Hope, including a sense of purpose and a “success” orientation.
- A warm, positive relationship with at least one other person.
- Faith and prayer.

Since Dr. Werner’s pioneering work, hundreds of articles have been published on resilience among all age groups, professions, and sociological categories. Many clinicians attest to the resilience of humanity and the courage of the human spirit, the joy in participating in healing another person, and the personal growth that results from journeying with survivors of trauma (Pearlman and Saakvitne, 1995b; Guy, 2001; Schauben and Frazier, 1995).

Flach (1990) lists the following resilience traits:

- Insight into oneself and others.
- Self-esteem.
- Ability to learn from experience.
- High tolerance for stress.
- Low tolerance for outrageous behavior.
- Open-mindedness.
- Courage.
- Personal discipline.

- Creativity.
- Integrity.
- Sense of humor.
- A constructive philosophy of life that gives it meaning.
- A willingness to dream dreams that can inspire and give genuine hope.

Flach observed that those who cope best with trauma are those who have insight into the emotional impact of what they had been through and are able to express their feelings to another about traumatizing events. Similarly, Wolin and Wolin (1993), other pioneers in the field of resilience research, have identified six resilience traits:

- Insight.
- Independence.
- Ability to develop and maintain intimate relationships.
- Initiative in creative problem-solving.
- Sense of humor.
- Morality (knowing right from wrong and being willing to take risks for those beliefs).

In studying personal resilient characteristics of crisis workers who did not develop secondary PTSD, Lanning (1987) identified the following:

- An easy-going personality and sense of humor.
- Adequate training to perform the required tasks.
- Religious beliefs.
- Opportunity to train others or speak publicly.
- Positive relationship with one's father.
- Desire to help people.

Interest in resilience has prompted three distinct chronological waves of inquiry. Richardson (2002) and others point out that theorists first identified significant resilient traits, as noted previously. This wave was followed by studies that began to investigate disruptive and reintegrative processes of resilience during adversity. The current wave of interest is in recognizing resilience as the primary force that motivates or guides individuals to grow when faced with adversity and disruption. Flach (1990), a pioneer in

resilience research among adults, states, “The real question should not be ‘Why do some fall apart?’ but ‘Why on earth don’t they all fall apart?’”

Since Werner’s early studies on children, current research on human development and adaptation reveals that resilience in children is more common than uncommon, supporting the theory that resilience actually helps people grow when faced with trouble (Masten, 2001). Palmer (1997, 1999) has now identified four hierarchical degrees of resilience in children, suggesting that resilience can be developed and strengthened:

- Anomic survival reflects the pattern of children who live in a constant state of chaos or disruption.
- Regenerative resilience reflects children’s initial learning of new, more effective ways of dealing with challenges.
- Adaptive resilience refers to relatively sustained periods when children become accustomed to using constructive and positive strengthening strategies.
- Flourishing resilience is a function of self-actualized children who use effective and constructive coping strategies extensively and view their lives as meaningful and manageable, or resilient (Zastrow and Kirst-Ashman, 1990).

New traumatic activity can initiate a shift back to a former degree of resilience, but “flourishingly resilient” children have gained additional means to help them navigate through the challenge.

The last decade of empirical research on resilience has attempted to understand the underlying protective processes of resilience that contribute to positive outcomes (Cowen, Work, and Wyman, 1997).

One of these studies found that between 30 and 90 percent of people who suffer some form of traumatic event eventually experience some positive change as well (Calhoun and Tedeschi, 1999). People may change their life philosophy, learn to appreciate each day to the fullest, and reevaluate what really matters to them. They may believe that their experience made them wiser or encouraged them to act more altruistically in the service of others; they may dedicate themselves to social renewal or political activism; or they may enhance their relationships, for example, valuing friends and family more (Linley and Joseph, 2003).

In terms of the recovery of direct trauma survivors, phrases like *posttraumatic growth*, *stress-related growth*, and *adversarial growth* are becoming more common in the literature (Linley and Joseph, 2004; Ai and Park, 2005). This aspect of trauma research provides a strong foundation for incorporating proactive strategies for victim service providers and their agencies to counteract the potential negative effects of trauma work. Whereas many social and biological theories argue that most human behavior is based on self-interest, this pessimistic perspective does not explain the many heroic acts committed by people who risk much to help others (Finegan and Flannigan, 2004).

Some people appear to have become less resilient than they once were. For example, resilience in children tends to be weakened by violence, physical or sexual abuse, exposure to alcoholism, and removal from the home (Reynolds as cited in Gorman, 2005). Among adults, previous exposures to trauma and intensity of response to acute trauma (which may have included neuroendocrine changes) have been shown to weaken resilience (Yehuda, 2004). But despite any preexisting factors that may make some more people resilient than others, **everyone can strengthen their resilience by developing additional resilience skills** (Waite and Richardson, 2004; Trine, 2004).

Just as resilience traits can be developed within individuals, they can also be acquired by organizations. Fostering organizational resilience is crucial, because when organizations strengthen victim service providers' resilience, they also notice a consequent positive effect in the services the providers deliver.

In many ways, a workplace functions much like a family system, and some of the work in organizational resilience has been adapted from family resilience literature (Patterson, 2004). Figley (1988, 1989) has identified nine qualities of healthy family systems that may be essential to healthy workplaces as well:

- Acknowledgment and definition of problems.
- Commitment to the family [agency] as a whole.
- Orientation toward solutions rather than problems.
- High tolerance for others' differences.
- Frequent expressions of concern and affection.
- Open and effective communication.
- Significant and genuine concern for each other.
- High role flexibility.
- Absence of violence and substance abuse.

Resilience is not static, but developing resilience takes time. Organizations and supervisors who are committed to developing resilience may be more patient with staff and volunteers who might be slow to show some improvement in their work. They can learn to value small emergent strengths in victim service providers, such as more significant connections with others and a stronger sense of coherence or meaning in their work.

Csikszentmihalyi's (1988, 1990, 1999) concept of "flow" may also be helpful in creating a resilient working environment. Working individuals in flow, he suggests, balance the challenge of the work with their ability to perform the work satisfactorily. They are able to focus more on their work because they do not have to focus on themselves as workers.

They are “in flow” when hours have passed but it feels like minutes. They are so focused on their work that time seems to stand still. They enjoy their work and are energized by it because there is no dissonance between who they are and the work they do.

Core Elements and Strategies for Victim Service Providers to Develop Resilience

The pioneering researchers whose works have been cited previously in this chapter, as well as more contemporary ones, have identified numerous strategies for building resilience. While there is still no uniform single theory of resilience or resilient traits in the literature, most theorists, researchers, and practitioners would likely agree with the victim service provider who recently said, “While our river is still flowing, we need to do things—like keep the toxins out—to make sure it doesn’t dry up at the source” (S. Roos, personal communication, June 2006).

Resilience can be developed through attention to external supports (organizational and community resources), inner strengths (individual personality characteristics), and learned skills (coping skills). Developing these resilience elements works synergistically—meaning that improvement in one element is likely to affect improvement in the others, and vice versa.

The characteristics of resilience identified in this chapter summarize current resilience theory and research into five core elements:

- Self-knowledge and insight.
- A sense of hope.
- Healthy coping.
- Strong relationships.
- Personal perspective and meaning.

Each of these five core elements of resilience has distinct components that are presented with specific strategies for providers and organizations to foster personal, professional, and organizational resilience in supporting crime victims. While the majority of these strategies are research-based, some are derived from the collective common sense wisdom and experience of victim service providers and leaders in the field. This chapter offers strategies to be implemented by individual victim service providers. A later publication will address strategies to be implemented by agencies or organizations.

Self-Knowledge and Insight

The core trait of self-knowledge and insight simply means knowing who you are. It is having a clear sense of what you believe and how you feel rather than trying to be what others want you to be. It includes identifying your strengths and weaknesses—where you are successful and where you could use some help. Having insight into why you were drawn to victim assistance work helps you accept its challenges and motivates personal and professional growth. Both program directors and direct practitioners have identified insight or self-awareness as the top-ranked contributor to optimal functioning. Gaining strength in self-knowledge and insight includes:

- Building self-esteem (Flach, 1990; Wolin and Wolin, 1993; Norcross, 2000; Waite and Richardson, 2004).
- Developing a strong inner locus of control (Linley, 2003; Linley and Joseph, 2004; Waite and Richardson, 2004).
- Becoming more independent (Flach, 1990; Wolin and Wolin, 1993; Trine, 2004).

Build Self-Esteem²

Positive self-esteem means liking and respecting yourself enough that you can focus on the needs of others, rather than on constantly seeking someone else’s approval and affirmation. Positive self-esteem contributes to satisfying social relationships which, in study after study, have been shown to be crucial components of resilience (Myers, 2000; Myers and Diener, 1996; Pavot, Diener, and Fujita, 1990; Waite and Richardson, 2004; Trine, 2004). (Strong relationships are more fully discussed later as a core resilience trait.) It is difficult to develop and maintain intimate relationships with partners and friends or to establish meaningful relationships with clients or supervisors without positive self-esteem. The healing power of self-disclosure (Pennebaker, 1990) becomes possible only when you feel good enough about yourself to reveal yourself openly and transparently to someone else.

Janice Harris Lord, an advocate who began in 1978 and is still active in the field, says:

You have to know that you’re good. That’s not saying to be arrogant, but you have to acknowledge the things you are good at and act on those strengths. None of us can do

² F. Flach, 1990, “The Resilience Hypothesis and Posttraumatic Stress Disorder,” in *Posttraumatic Stress Disorder: Etiology, Phenomenology, and Treatment*, eds. M.E. Wolf and A.D. Mosnaim, Washington, DC: American Psychiatric Press, 36–45; S.J. Wolin, and S. Wolin, 1993, *The Resilient Self: How Survivors of Troubled Families Rise Above Adversity*, New York: Villard Books; J.C. Norcross, 2000, “Psychotherapist Self-Care: Practitioner-tested, Research-informed Strategies,” *Professional Psychology: Research and Practice* 31(6): 7028–7035; P.J. Waite and G.E. Richardson, 2004, “Determining the Efficacy of Resilience Training in the Work Site,” *Journal of Allied Health* 33(3): 178–183.

everything, but an effective advocate feels good enough about himself or herself to be able to lead without bulldozing or offending (Seymour, personal communication, September 2006).

Develop a Strong Inner Locus of Control³

Some people tend to think that life just happens and there is very little they can do about it. These people are operating out of an “external locus of control.” It is important to distinguish between matters outside your control and those you can influence. If you have a strong “inner locus of control,” you recognize that you do have the ability to affect many outcomes. Deciding not to expend energy on things beyond your control frees up energy to deal successfully with problems you can control. It takes insight to begin to recognize that most behaviors do have expected consequences. For the most part, life doesn’t just happen. It is not all a matter of luck.

Says Roberta Roper, whose daughter Stephanie was brutally raped, tortured, and murdered more than 20 years ago, and who is, today, one of the nation’s most respected victim advocates:

Since I was not only a victim/survivor, but an outsider in terms of the justice system, I was criticized early on as simply an “emotional mother seeking revenge.” However, I understood that if I was to make a difference and survive myself, I would have to acquire knowledge about the system, explore all perspectives on issues, research what other states and other advocates were doing, anticipate opponents’ arguments...and remain positive about our priorities (Seymour, personal communication, September 2006).

Become More Independent⁴

With high self-esteem and an internal locus of control, you will find yourself comfortable making independent choices and relying less on others to make decisions for you. Even

³ P.A. Linley, 2003, “Positive Adaptation to Trauma: Wisdom as Both Process and Outcome,” *Journal of Traumatic Stress* 16(6): 601–610; P.A. Linley and S. Joseph, 2004, “Positive Change Following Trauma and Adversity: A Review,” *Journal of Traumatic Stress* 17(1): 11-21; P.J. Waite and G.E. Richardson, 2004, “Determining the Efficacy of Resilience Training in the Work Site,” *Journal of Allied Health* 33(3): 178–183.

⁴ F. Flach, 1990, “The Resilience Hypothesis and Posttraumatic Stress Disorder,” in *Posttraumatic Stress Disorder: Etiology, Phenomenology, and Treatment*, eds. M.E. Wolf and A.D. Mosnaim, Washington, DC: American Psychiatric Press, 36–45; S.J. Wolin, and S. Wolin, 1993, *The Resilient Self: How Survivors of Troubled Families Rise Above Adversity*, New York: Villard Book; W. Trine, “How Can Young People’s Resilience Be Enhanced? Experiences from a Clinical Intervention Project,” *Clinical Child Psychology and Psychiatry* 9(2): 167–183.

when a choice is made that results in negative consequences, there is power in knowing that you did the best you could at the time. If you are highly independent in your victim services work, you may not adjust well to bureaucratic structure, and you may gravitate, with time and education, to running your own agency, private practice, or consulting. On the other hand, you may find yourself unable to be happy without a socially supportive setting but still value independent and creative planning and work. Recognizing your independent efficacy, or power to produce a desired effect, has been shown to contribute to resilience.

Sharon English, another long-term successful advocate whose expertise is in juvenile justice and corrections noted:

My main mentoring came from pioneer Jim Rowland who in essence said, “Go TRY something—anything!” He, too, did not have the answers. He just knew that the system then (the mid-80s) was incomplete and unjust. In a way, we couldn’t fail. There was nothing, so anything was better (Seymour, personal communication, September 2006).

Eight Strategies To Develop Self-Knowledge and Insight

1. Explore your motivations for working with victims of crime. Obviously, this strategy is best employed before applying for your first victim services position. However, it is never too late to do it. You may think that working with victims will be personally strengthening to you. This can be acceptable as long as the self-strengthening is not your primary motivation for the work. If it is, the price may be too high, and damage may be inflicted on victims who will likely recognize that you need affirmation. If you are a crime victim yourself, you can offer much to new victims as long as you are relatively free from the need to share your own story. You should have achieved enough healing to be able to focus primarily on other victims without becoming overwhelmed (Catherall, 1992).

2. Identify your own strengths and challenges. Good supervisors recognize that the employment interview provides a fertile opportunity to address self-esteem and the potential for healthy social interaction (Waite and Richardson, 2004; Trine, 2004). Therefore, it is wise to have already explored these issues yourself, and, as noted before, it’s never too late. How many close friends do you have with whom you can be honest and transparent? How well do you like and appreciate yourself? If you are a victim yourself, have you engaged in professional therapy to address it? In what areas do you still need growth? In what areas do you feel strong and competent? Once these are identified, your supervisor should be willing to assign you work that incorporates your strengths and provide opportunities and activities to strengthen your weaknesses.

3. Identify themes associated with discomfort. It is important to identify predominant themes or personal triggers that are upsetting to you so they can be worked through or, in some cases, avoided (Powers and Wampold, 1994). You may discover that specific

populations (children, seniors, teenagers) or specific types of victimizations (assault, rape, child abuse) may be more difficult for you than others because of lingering past life influences. Knowing your “discomfort themes” allows you to prepare for your potential reactions and to develop alternative reactions that will not be damaging to the victims you serve. This self-awareness also will minimize potentially negative effects on you. For example, you may be the only victim service provider in your community and therefore must serve all victims regardless of your level of discomfort with them. You may realize that you become very anxious facing angry victims. However, you can develop the ability to think to yourself, in confronting these victims, that this is one of your personal triggers (it helps if you can identify the reason) and that you will use three strategies when facing anger. These strategies might be: realizing that beneath anger is usually hurt or fear; realizing that if you allow the victim to ventilate the anger until it runs out, it will not last forever; and responding that you can see that he or she was very hurt by what happened. Thinking through and planning for situations like these is an excellent resilience strategy for dealing with your discomfort.

4. Clarify goals, mission, and boundaries of the organization. You are fortunate if your organization’s board of directors has developed a mission statement that is current, clear, concise, and known by all staff and volunteers. For example, one of the key reasons Mothers Against Drunk Driving has been so successful is not only that its name is easily recognized but also that its original mission was simply stated: “To stop drunk driving and support victims of this violent crime.” Keeping the agency’s mission simple helps the community know what to expect in terms of services. You should know your agency’s mission and, if it is indeed short and simple, memorize it. Victim services staff and volunteers may benefit from having a framed copy of the agency’s mission in each office as a reminder of the specifics of the mission and an encouragement to establish appropriate work boundaries. In human services work, it is not unusual for staff and volunteers to attempt to address victims’ problems that fall outside the mission of the agency. You need to know if your agency provides direct services, prevention, or both. You need to know your agency’s geographical and service category boundaries. You also need clarity about agency policies, job descriptions, and grievance and termination policies.

5. Know your code of ethics. If your agency has a code of ethics, or it is a member of a larger group or coalition that has one, you should have thorough knowledge of it. If not, you may want to discuss this with your supervisor. The National Advocate Credentialing Program has a code of ethics that can be downloaded at: www.trynova.org and adapted to your program. Supervisors also may draw from existing codes that have been developed at the state level (e.g., Texas, Oregon, Florida, Colorado, South Carolina) to develop guidelines for their agencies. If you are a licensed professional such as a psychologist or social worker, your profession has a code of ethics to which you are to subscribe. Share it with your supervisor so that he or she will not place you in situations that might violate your own profession’s code of ethics.

6. Recognize limits of control. You cannot control everything. Victim service providers are subject to work within boundaries and policies set by government, law enforcement, and judicial, correctional, and community agencies. In addition, you cannot control how

certain victims will or will not progress in their healing. But if you are able to recognize the things over which you have little or no control, you will become more resilient. The opportunity to ventilate frustration about things over which you have no control is important, but it is also important to move beyond frustration to positive planning about the things over which you do have control. For example, you do have some control over the interactions you have with a victim in your office or on the phone; you do not have control over the victim's behavior when your contact ends.

7. Get adequate training. Nothing creates more stress than being expected to do a job you have not been trained to do. New crime victims and new situations place new demands on both the expertise and the personal resources of providers who may be ill prepared for this work (Pope and Feldman-Summers, 1992). Colleges and universities are now beginning to address professional victim services. State Victim Assistance Academies, sponsored by the Office for Victims of Crime (OVC), provide basic training to new advocates and are in place in 29 states. Training at the local place of employment, therefore, remains crucial. When applying for a victim services position, you must inquire about the training you will receive and be sure that it will be adequate to make you feel competent to deliver the services you are to provide. Inquire about the possibility of attending a Victim Assistance Academy in your state or taking the 40-hour Victim Assistance Training Online course offered by OVC. Inquire about continuing education (e.g., victim services conferences and trainings after you become employed). It is imperative that you learn not only to serve victims but also about trauma and its impact on you as a provider. Training will further develop your resilience as well as assist you in addressing emerging problems promptly and openly (Neumann and Gamble, 1995; Lanning, 1987).

8. Individualize services to each victim. You will be much more resilient if you have the freedom to consider each victim's needs on an individual basis rather than maintain a cookie-cutter approach, treating each victim as you did the one before him or her. Obviously, agency policies and guidelines must be followed, perhaps more so in bureaucracies than in grassroots groups, but within those guidelines you should have ample opportunity for independent decision-making. This individual approach demonstrates recognition of the uniqueness of each victim, just as you hope to be evaluated by your supervisor based on your own unique gifts, strengths, and challenges (Dutton as cited in Connolly, 2003).

A Sense of Hope

Operating with a sense of hope means that, in most cases, you believe that situations can get better. A positive outlook—belief that the future will be better than the present or past—is a trait strongly associated with resilience (Flach, 1990). If you operate out of a sense of hope, you recognize the difficulty of the experiences of the victims you serve, yet you maintain a positive view of the challenges of life (Calhoun and Tedeschi, 1998). In Werner's studies of resilient children, hope was the key factor in whether or not a child would break out of an unhealthy living environment and become a stronger person

(Werner, 1982). Operating with a sense of hope includes being optimistic (Linley and Joseph, 2004) and strengthening one's sense of humor and ability to have fun.

Be Optimistic⁵

Optimism means the capacity to envision a solution. It means moving from hope as an aspiration to planning for change and growth. Optimistic people recognize problems and attempt to work through them (American Psychological Association, 2005). They see problems as challenges rather than catastrophes.

Research has found that hope and optimism also appear to be correlated with immune system strengthening and to be protective against illnesses such as hypertension, diabetes, and upper respiratory infection (Segerstrom, Taylor, Kemeny, and Fahey, 1998). Exactly how states of mind affect body biochemistry is still far from clear, but optimism has been shown to lower levels of cortisol, a hormone released in response to stress. Also, optimistic, happy people tend to take better care of themselves than those who are more lonely or depressed. An optimistic attitude helps people live longer and healthier lives, have better relationships, and do better in physical tasks.

Agnes Dill, the first American Indian woman to attend New Mexico Highlands University at a time when most American Indians were doing menial jobs, is now 91 and has never stopped trying to expand educational opportunities for other American Indians, especially women. She was eventually appointed by President Gerald Ford to his Council on Women's Educational Issues. Says Agnes today, "I'm very optimistic about life. I accept things as they happen and make them better if I can. Most days, I don't feel my age. I just feel pretty happy" (Mahoney, 2005)

Strengthen Sense of Humor and Ability To Have Fun

Among the consistent characteristics in studies of resilience is a sense of humor (Flach, 1990; Wolin and Wolin, 1993; Lanning, 1987). If you are a hopeful, optimistic person, you will be able to keep stressful situations in perspective and laugh at your own mistakes (as long as the mistakes are not detrimental to others). As long ago as the early 1900s, Sigmund Freud suggested, "Humor can be regarded as the highest of the defensive processes" (Freud, 1905/1960). More contemporary researchers (Provine as cited in Kluger, 2005; Ong, Bergeman, and Bisconti, 2004) point out that people seldom laugh alone; in fact, laughter is 30 times more frequent in social settings than in solitary situations. Thus, humor is a positive social communication tool. Humor allows for expression of emotion without individual discomfort or unpleasant effects on others, as long as it is not mean-spirited or demeaning. The best humor is when we tell funny stories about ourselves.

⁵ P.A. Linley and S. Joseph, 2004, "Positive Change Following Trauma and Adversity: A Review," *Journal of Traumatic Stress* 17(1): 11–21.

Veteran advocate Robin Finegan has served victims and survivors following the Oklahoma City bombing, Columbine High School shootings, and 9/11 attacks in New York City and Pennsylvania. She writes humorously about escorting a survivor to speak with television reporters during the Oklahoma City trials:

It was one of those days in court when, by the end, I had exhausted all attempts at humor and all efforts at politeness. Still, I thought I looked particularly fetching that day. I had on my favorite canary yellow linen dress and my hair was exactly the way I liked it, between perms when it was not too fuzzy or too flat. As I crawled into bed that night, I tried to keep my eyes open to watch the news. There I was in the background, waiting on the bleacher, leaning over, my chin resting on my hand, arm on knee CHOMPING, not chewing, but CHOMPING on a piece of bubble gum like I had just been out to pasture.

“Oh my God! I will never chew gum again!” I swore. It’s like having a hidden camera in your car and seeing yourself in the background of a Julie Roberts movie picking your nose and passing gas! (Finegan and Flannigan, 2004)

Eight Strategies To Develop a Sense of Hope

1. Develop opportunities to succeed. If your primary responsibility is to provide direct services to victims of crime, you may benefit from opportunities to engage in activities that can reap more tangible benefits (community forums, discussions, meetings with policymakers). Creating opportunities with more predictable beginnings, middles, and achievable goals may help you restore a more positive outlook.

2. Practice gratitude. Gratitude has been found to be highly effective in balancing negativity (Seligman, 2002; Lykken, 1999; Lyubomirsky, Sousa, and Dickerhoof, 2006). Taking the time to appreciate all that is good or going well can increase your personal and professional optimism. You may decide to begin or end each day by making three entries in a “gratitude journal.” These entries can be anything from the mundane to the profound, but the idea is to keep the practice fresh by varying the entries as much as possible. Some believe that this exercise helps you develop the habit of taking a mental photo of pleasurable life moments so you will remember to write them in your journal. You may take the practice one step further by writing thank you notes to supervisors, mentors, or others (including victims) for whom you find yourself grateful.

3. Change or expand your job description. You might also ask your supervisor for the opportunity to change or enhance your job description at performance evaluation time so you can address new challenges and have more diversity in your work (Pearlman and Saakvitne, 1995b; Sexton, 1999; Catherall, 1995; Coster and Schwebel, 1997; Neumann and Gamble, 1995). You may want to engage in reading, research, teaching, or writing projects to substitute for direct victim contact for certain periods of time. Creating a public awareness campaign, making artwork for brochures, or even organizing a fundraiser can allow you to experience yourself and your colleagues in a new way. You

may want to train others or speak in the community. You may envision new and creative ways to share knowledge and wisdom gained from your victim services work. Learning to think outside the box and to recognize many points of view on a particular subject helps you to adapt to almost any situation. As you become more skilled at using analytical and creative thinking, you will increase options for addressing stressful situations. When supervisors and managers can honor and support creative thinking and projects, they go a long way toward building resilience in their staff and volunteers (Lanning, 1987).

4. Give praise. Just as you identify positive gains and strengths in the victims you serve, likewise affirm the successes of other staff and volunteers. This positive attention will come back to you a hundredfold. Most staff and volunteers appreciate peers who help them maintain perspective, a framework for living, and values that help them set priorities, make judgments, and determine appropriate actions. Every staff member and volunteer wants to feel that his or her work matters. Supervisors are primarily responsible for fulfilling that role, but they don't always do it. Even when they do, having that praise supplemented by the positive attitudes of peers goes a long way toward building a positive workplace attitude for everyone.

5. Diversify client types. If your agency specializes in a certain crime area, that particular traumatic material may be difficult to keep in perspective. For some crimes and some victims, getting better is a long and torturous experience. The opportunity to work with a variety of cases, victims, and situations may help you experience more successes in less-demanding cases. You may find yourself feeling more hopeful and balanced if your caseload includes a variety of clients (Dutton and Rubenstein, 1995).

6. Seek advanced professional development. Another strategy to enhance optimism is to increase your exposure to others in the field. Join local and regional coalitions. Obtain advanced education. Attend national conferences as well as local workshops and seminars. Meeting with other victim service providers expands your possibilities for personal growth and exposes you to new treatment approaches. Developing relationships with successful and productive victim service providers reduces isolation and increases personal optimism. You may need to set aside personal funds to engage in these opportunities, and you will be fortunate if you have a supervisor who is committed to professional staff development and seeks financial support and scholarships for continuing education, formal academic education, subscriptions to journals and newsletters, and memberships in professional organizations.

7. Decorate your office. A homey and cheerful office suited to your tastes can also brighten your mood and support creativity (Neumann and Gamble, 1995). This can include adding comfortable chairs, art, soft music, and lamps or other preferred lighting methods. Electrical outlet room fresheners or scented candles can make a room much more inviting. Desks may be positioned where they are most comfortable and, hopefully, you will be allowed to keep your door open or closed as long as confidentiality with victims is preserved.

8. Find appropriate ways to have fun. Even if your supervisor or office manager does not schedule them, you can organize picnics and away-from-the-office social gatherings that incorporate sensitive use of humor and fun, giving you and your colleagues an opportunity to relax and get to know each other outside the work environment. Noncompetitive games or crafts usually create laughter and release stress. If allowed in your office, send appropriate jokes or cartoons to staff and volunteers by e-mail or place cartoons on bulletin boards in the kitchen or break room.

Healthy Coping

Healthy coping, another key in fostering resilience, means moving beyond attitudes and feelings to deliberately putting skills and abilities in action to balance the negative aspects of your work with positive activities. It means paying attention to your physical, emotional, mental, and spiritual needs and doing something about them. Healthy coping strategies include building on skills and abilities, planning, and addressing negative feelings proactively.

Build on Your Skills and Abilities

Earlier, this chapter addressed assessing your personal strengths and weaknesses. This strategy moves beyond that to building on your strengths and continually developing new skills. This is not as easy as it sounds. Learning a new skill is often harder than just changing an attitude.

Says Roberta Roper:

Early on, I learned so much from Marlene Young and John Stein at National Organization for Victim Assistance (NOVA), which offered week-long trainings in direct services, advocacy, and administration. They provided convincing evidence to teach us to avoid negative advocacy. But the lessons I learned from real life experiences were even more convincing. Another victims group in my state erected a billboard that read, “Criminals kill victims—and the House Judiciary Committee kills victims’ rights!” This billboard earned them enduring punishment at the Capitol. All that learning came together for me in a way that helped me develop successful positive legislative strategies (personal communication, September 2006).

Plan

Keeping one’s body fit and finding ways to get through the day with energy left over for the family is a huge challenge in trauma work. You may sometimes feel overwhelmed with the enormity of your work and the multilevel tasks you face. Effective planning

means analyzing tasks to break them down into small, manageable steps that will ultimately reach a goal. As you identify small steps and follow through on them, you will see daily progress and feel more successful.

Janice Harris Lord says that for years she has kept two “to do” lists:

I use one list to write down broad tasks and goals as I identify them. It may take me a long time to achieve some of them (like writing a book), but I like to jot the idea down when I have it. My other “to do” list is revised every day and includes a manageable list of tasks for the day. I find it very satisfying to mark off these small steps one by one. When I find that I am not caring for myself well, I [make sure] that my list includes things like “Take a long, hot bath tonight” or “Offer to keep the grandkids this evening.” When adding these things means that a job-related task or two doesn’t get completed that day, I simply move them to the next day’s list (personal communication, 2006).

Address Negative Feelings Proactively⁶

Reframing difficult or negative experiences into growth-promoting experiences helps create a sense of balance in your work (Tebes, Irish, Puglisi Vasquez, and Perkins, 2004). It means learning to nurture yourself proactively and to avoid destructive shortcut ways to relieve stress such as drug or alcohol use or hostile behavior toward others.

In her book *Tragedy to Triumph: Lessons of Recovery and Hope*, Krista Flannigan shares how her trauma work following the 9/11 terror attacks helped her reframe a negative experience in her personal life into positive action. Krista writes about the dream that she and her husband Joe shared of having children and then learning, after four miscarriages, that because of an illness she inherited from her mother, she would not be able to become pregnant. Says Krista:

We grieved over our loss as we said goodbye to our dream of a child with my red curly hair and Joe’s green eyes. For awhile I convinced myself that without fulfilling this chapter in my life, the rest of my life couldn’t fall in place. ...Then, in December 2001, my heart ached for a mother and daughter as I watched them walk hand-in-hand through the Family Assistance Center in New Jersey and timidly apply for a death certificate for their cherished husband and father. The surviving duo, comforting and strengthening each other, affirmed for me the value of family, no matter what form it takes. Exiting the Red Cross tent, they left me a nugget of clarity. Red curly hair could be black Asian hair, and green Irish eyes could be slanted brown eyes. In February 2002, Joe and I greeted Lily, our infant Chinese daughter. As a

⁶ M.M. Tugade, B.L. Frederickson, and L.F. Barrett, 2004, “Psychological Resilience and Positive Emotional Granularity: Examining the Benefits of Positive Emotions on Coping and Health,” *Journal of Personality*, 72(6): 1161–1190; M.M. Tugade and B.J. Frederickson, 2004, “Resilient Individuals Use Positive Emotions to Bounce Back from Negative Emotional Experiences,” *Journal of Personality and Social Psychology*, 86(2): 320–333.

survivor once told me, “The bond that links true family is not blood but joy and respect in each other’s lives.”

Eight Strategies to Develop Healthy Coping

1. Learn to identify your physical stress reactions. You may have been appropriately hired but later realize that you are having difficulty with your work. You must learn to identify your own stress-related physiological and emotional symptoms (e.g., headaches, nausea, eating too much or too little, sleeplessness, intrusive imagery, emotional numbing and flooding, sexual difficulties). You must also acknowledge the interaction between pressures in your personal life and those in your work as a victim service provider. Learn to name these pressures and articulate them accurately. You may need to remind yourself that you need appropriate support to reduce the negative reactions to your work.

2. Balance your life. You must carefully balance your work with leisure activities, play, and other things you enjoy that do not involve trauma. Activities that distance you from trauma and reaffirm the goodness of life—whether other work or play—can restore energy. You probably entered human services work because you genuinely wanted to make the world a better place. Operating from this philosophy, it is easy to ignore your need for solitude and play and take on more victims or invite more graphic trauma material than you are prepared to manage (Pearlman and Saakvitne, 1995a). Evidence suggests that disorientation and disruption in self-care patterns are common in those who work with trauma (Parkes, 1972). This, in turn, results in marked increases in the use of sedatives, hypnotics, alcohol, and tobacco as soothing strategies, further depleting physical and emotional resources to cope (Clayton, 1990). Likewise, healthy protective behaviors (e.g., rest, nutrition, exercise) contribute to physical well-being (Powers and Wampold, 1994). Behavioral change in this arena is difficult and may require rather rigid scheduling to assure balance until it becomes more routine.

3. Get adequate sleep. In the absence of ample sleep, you will find your personal resources rapidly deteriorating. In his book *The Chemistry of Conscious States*, Harvard psychiatrist and neurophysiologist Allan Hobson (1994) contends that of all the practices known to be associated with good health, sleep is the most fundamental. Sleep not only restores the balance of neurotransmitters essential for daytime alertness but also enhances immune functions. Although 7.5 hours is a useful average, according to Hobson, you may function well with fewer hours, or you may need 9 or 10 hours. A good sleeping environment is a cool room (about 68 °F), an excellent quality mattress and pillow, no lights (including illuminated clocks), and no television. Your bedroom should be attractive and used only for sex and sleep. For some people, soft, meditative music enhances sleep, particularly if it begins with guided relaxation and imagery instruction.

4. Develop calming and modulation techniques. You may find it extremely beneficial to learn deep breathing and relaxation techniques that calm tension in the body and rejuvenate the spirit. Sometimes, talking out negative experiences can increase frustration rather than mediate it. You will have to learn for yourself when talking about something

helps and when it hurts. Often, separating yourself from your work for a while by walking outside, breathing in fresh air, focusing on nature, or observing children at play helps put things back in perspective. Identify the best techniques to help you redirect your thoughts to nonvictim related material, and then engage in them.

5. Change the pace. You may be able to change the pace of your daily routine by walking to work rather than riding or by deciding to phone rather than answer an e-mail (and vice versa). On a broader scale, you may choose to consult a life coach or engage in therapy for a while. Consider engaging in expressive therapies such as art therapy or movement therapy (Pearlman and Saakvitne, 1995b; Danieli, 1994; Schauben and Frazier, 1995). You may seek a retreat format. Just be sure that whatever you engage in is strength-based and encouraging. Regardless of the method, you will benefit from changing your pace to help you regain perspective and rekindle creativity.

6. Assess safety in your work environment. Sometimes, going to and from work becomes so routine that you fail to realize the stress associated with driving in rush hour traffic or your fears as you walk to and from your vehicle. Safety is a primary concern for many victims and victim service providers, particularly those who work in family violence situations. Safety concerns can limit your ability to effectively cope or solve problems. You may decide that you are better able to relax if you take public transportation to and from work. You may ask your supervisor to investigate the possibility of hiring security in the parking lot or even in the workplace to reduce your risk of physical harm. Additional considerations may include the use of post office boxes, automated door entry codes, safety glass in windows, and danger signals for each desk.

7. Use regular supervision. Regular, supportive supervision is essential to help you keep your victim work in perspective and to confirm your ethical commitment to the victims you serve. A negative experience with supervision can deter you from seeking the supervision you need. Therefore, the supervision must afford a safe exchange in which both cases and your reactions to your work with victims can be addressed without shame or fear that your problems will be noted in performance evaluations. Time within individual supervision sessions may be set aside specifically for sharing feelings related to the work. If you are a victim yourself, and are now a victim service provider, it is especially important for you to have at least one person with whom you can acknowledge your own victimization and explore its interaction with your trauma work. In addition to individual supervision, case conferences and peer process groups may be particularly useful to you (Pearlman and Saakvitne, 1995b; Schatzow and Yassen, 1991; Neumann and Gamble, 1995). If you do not have a supervisor who can provide this level of quality supervision, you may need to engage a mentor elsewhere for supervision and consultation. It will be worth it, even if you have to pay for it.

8. Use technology and resources wisely. Technology that is current and working properly goes a long way in helping you use your skills and abilities and, thereby, strengthen resilience. You should have adequate computers and software to simplify research and communication within and outside the agency. On the other hand, unnecessary use of e-mail, cell phones, pagers, and other portable information devices (PIDs) dramatically restricts the time you could be doing more important things or

restoring yourself with some solitude. Although you may sometimes have to be on call, your supervisor should continually assess the necessity of requiring it. A screening process for crisis calls at the workplace often reveals that many victims can wait until the next workday for services rather than speaking with you at your home or in your car.

Strong Relationships

Resilience rests on relationships. The desire to belong is a basic human need, and positive connections with others lie at the very core of psychological development. Building personal networks of support reduces isolation. People in supportive and loving relationships are more likely to feel healthy, happy, and satisfied with their lives and less likely to have physical or emotional difficulties (Pavot et al., 1990). As a victim service provider, it is crucial for you to feel that you are part of an extended social network at home, at work, and in the community.

Tom Rath, who heads the Gallup Organization’s Workplace Research and Leadership Consulting Division, points out that only 20 percent of workers are at companies or agencies that recognize the value of on-the-job-friendship. Rath maintains that “without a best friend at work, the chances of being engaged in your work are one in twelve.” He also found that those “with at least three close friends at work” were 96 percent more likely to be extremely satisfied with their lives as a whole (personal communication, September 2006).

You can enhance relationships by learning to identify obstacles to effective communication and communicate more effectively. Your relationships will also be strengthened as you become more responsible, flexible, and dependable. Strong relationships are fostered by developing close attachments to others and learning to seek support when needed.

Develop Attachment to Others

The value of friendship in strengthening resilience cannot be underestimated. Still, a national survey of nearly 1,500 Americans, more than 20 years ago, found that they had an average of only three close friends. When the survey was recently repeated, respondents said they had only an average of two close friends (Smith-Lovin, 2006). One explanation for the decline of friendships may be that adults are working more hours with less time for socializing outside of work. Victim service providers’ workloads are so demanding that building and maintaining friendships within the workplace can be difficult. It takes time, effort, and skill to develop close friendships, but it may be one of the most important tasks you can undertake in developing resilience.

While loneliness has been linked to stress, depression, and loss of cognitive ability, friendship seems particularly protective for women. Shelley Taylor (2002), a researcher

at the University of California at Los Angeles (UCLA), has found that, under stress, women most likely “tend and befriend,” while men tend to go into “flight or flight.” According to Taylor, although both males and females produce the hormone oxytocin under stress, estrogen tends to enhance its effect and testosterone tends to diminish its effect. High oxytocin levels make people calmer, more social, and less anxious. It is important for you to identify those people who help you feel relaxed and who are affirming without being demanding. Watch how they operate. They will generally have the ability to focus on others more than themselves. Practice these skills, even though they may be uncomfortable at first. Just as you learn to be genuinely interested in the lives of the victims you serve and focus on them more than yourself, you can learn to use these same skills to attach to persons socially. Friendships not only fight stress but also may explain why women tend to outlive men. For example:

Marie and Lilly Clifford, in North Dakota, are 100 years old and are among the world’s oldest twins. Both earned teaching certificates. Neither ever married (not yet, anyway) and have always considered each other as their best friend. Marie doesn’t see very well, so Lily helps her out. Lily doesn’t hear very well, so Marie is their spokesperson. They have long chats together and enjoy each other’s company whether watching old Bonanza reruns together in their Assisted Living facility or going to Mass (Mahoney, 2005).

Seek Support When You Need It

No matter how well you have learned to be independent and self-sufficient, there are times when you need help. You cannot do it all. You must learn to take advantage of the knowledge and skills of other colleagues, organizations, and experts. You must also have the courage to ask for help when needed. Learning to seek support can be as simple as asking directions or asking for a ride, or as complex as focusing on a particularly volatile situation, or even solving a complex and difficult victim issue.

Says Angie McCown, victim services director for the Texas Department of Public Safety:

When I took this job, everyone seemed to assume that I would know what to do, so I didn’t get much instruction. Therefore, I tried to attend as many meetings, task forces, and trainings as I could, but it was 4 years before I attended my first National Victim Assistance Academy, which was my first structured training. Before that, I relied on mentors to guide me. Anne Hutchison taught me how to work within the system on the victim’s behalf and to never stop fighting for more. Janice Lord helped me appreciate the value of having both clinicians and grassroots providers in our field. Kathi West helped me transition from a local provider to a state provider and introduced me to national leaders. Anne Seymour, particularly in her dedicated work with Mark Lunsford, reminded me of the importance of the victim’s voice, without which we would likely be nowhere (personal communication, September 2006).

Eight Strategies to Develop Strong Relationships

1. Enhance communication skills. Relationships are fostered through effective communication. Whether at home or at work, relationships thrive on honest and open communication. Self-help literature, magazines, the Internet, and even television provide useful tips for effective communication with others. Learning how to express your emotions, how to state your needs clearly, and how to describe your reactions to individuals and situations is essential in maintaining healthy relationships.

2. Learn boundaries of confidentiality. Agency confidentiality policies must be clear (e.g., distinguishing confidentiality as an ethical issue from privileged communication as a legal issue); at the same time, they should allow for ample case consultation and supervision. Knowing the appropriate boundaries of your interactions with victims (see module on ethics) can help you relate appropriately to them, as well as to your colleagues and your family. Identifying what you can and cannot say about your work allows you to express your concerns in healthy ways without infringing on victim-provider confidentiality. Without clarity about this issue, you may not know how to discuss your reactions or worries about your work.

3. Collaborate. Effective victim service providers do not operate alone. When organizations work together, victims have more and easier access to services. Communication and collaboration make much more effective use of community resources, result in more efficient services, and can solve complex problems. You can develop collaborative relationships informally or through formal contracts, interagency agreements, or memoranda of understanding (MOUs). These relationships take effort, but developing linkages with adjunct services (e.g., self-help groups, medical services, compensation programs) not only provides more services to victims but also reduces your own workload and sense of isolation as well.

4. Discuss cases. Agencies should value warm, collegial relationships among staff and volunteers. Weekly staff meetings where cases are discussed can be very beneficial (Wasco, Campbell, and Clark, 2002). If compassionate problem solving toward victims becomes common throughout the workplace, with similar attitudes among staff and volunteers, your agency as a whole will reap significant long-term benefits in terms of productivity and commitment (Dutton as cited in Connolly, 2003).

5. Seek inclusivity and diversity. Another aspect of positive relationship development is ensuring that you are inclusive and diverse. Diversity increases our capacity for living with others in the real world. Inclusiveness means that the staff and volunteer forces represent the gender, racial, ethnic, and socioeconomic constituents of the community and that all of these different groups are welcome and appreciated. This image of the agency encourages more potential providers to apply for positions or to volunteer. Furthermore, when victims view your agency as inclusive and representative of themselves, they will be more likely to seek the agency's services. When victims have providers of similar race, ethnicity, gender, language, or sexual orientation, they are likely to be more comfortable; this comfort, in turn, will reduce your stress and enhance your resilience (Barak, 2000).

6. Foster a team approach. Another strategy to support strong relationships is to foster a team approach. Perhaps your supervisor has not considered allowing cases to be worked by teams rather than individuals. Teams enhance the social networking aspect of building resilience. Teams are internal efforts of collaboration that provide additional resources for victims as well as a training ground for better external collaboration. Teams may also be better able to identify creative and innovative means of delivering services for particular victims; however, innovative strategies must always be discussed with supervisors before implementation (Schauben and Frazier, 1995; Coman-Diaz and Padilla, 1990; Munroe et al., 1995; Neumann and Gamble, 1995). Working as a member of a team allows you significant creative independence and may decrease your need for supervision because you have more resources from which to gain different perspectives on your cases. Working in teams can help you develop a sense of mutual responsibility and, thereby, develop stronger cohesion among yourselves. Teams increase personal accountability, as other team members may challenge you if they see boundary problems or other issues that may harm you or the victims you serve. Team meetings also provide the opportunity to identify, work through, and resolve destructive divisions within the team itself.

7. Address conflict resolution proactively. Sometimes, organizational dynamics contribute to stress within an agency. At other times, misunderstandings and conflicts arise that are difficult to address. When this happens, you might suggest to your supervisor that a consultant be brought in from outside the agency to assess the problem objectively and offer solutions (Pearlman and Saakvitne, 1995a; Neumann and Gamble, 1995). This visible manifestation of concern for the providers as well as for the agency's mission as a whole is key in restoring social relationships within the agency. Resilient providers and administrators acknowledge the negative when they see it but value moving beyond it to successful strategies.

8. Strive to be genuine, empathetic, and warm. Genuineness, empathy, and warmth have long been recognized as the core conditions of the counseling and psychotherapy relationship. Research has shown that if you have the ability to develop genuine rapport with your clients, you will consistently get better outcomes (Traux and Carkuff, 1967). You are a genuine provider if you are aware of and open about your own strengths and limitations and, therefore, are not defensive. You are empathetic if you can identify with another's perspective and understand and communicate that understanding. You are warm if you are able to be friendly, considerate, and deeply respectful of your client's experience. Expressing genuineness, empathy, and warmth is a foundation for building a trustful, therapeutic relationship, which is strongly related to client change (Grencavage and Norcross, 1990). Regardless of the techniques being used, if a good relationship does not exist, parents will not be able to persuade their children to do their homework, salespersons will be less likely to convince their customers to buy an expensive product, and you may not be able to help victims evaluate their problems or change their behavior (Lampropoulos, 2002). These qualities strengthen all of our relationships and interactions.

Personal Perspective

Recognizing or acknowledging the personal meaning you attach to your work helps you remain more consistently resilient. Personal perspective means identifying your personal points of view and weighing the costs and losses associated with victim services work. These personal perspectives evolve over time as life experiences shape us. Using your personal perspective to enhance resilience includes cultivating your individual morality and integrity into your work (Flach, 1990), exploring spirituality in yourself and the victims you serve (Flach, 1990; Lanning, 1987; Linley and Joseph, 2003), and developing a coherent meaning for life (Linley and Joseph, 2004; Tugade et al., 2004).

Cultivate Morality and Integrity⁷

Morality and integrity begin with recognizing right from wrong, having low tolerance for outrageous behaviors, and developing the courage to take risks in the face of adversity. While related to insight as a key component of resilience, morality and integrity move beyond that insight to action. Healthy human beings are apparently wired with an innate sense of knowing when something “just isn’t right,” but the nonresilient person may spend too much time worrying about it and not enough time doing something about it. Personal morality and integrity have inspired people to change religious beliefs, choose or change careers, make decisions about family, address health problems, or simply decide to spend more energy on certain areas of work and personal life. For example:

Ninety-four-year-old Jess Lord attributes some of his longevity to clean living (“I don’t smoke. I eat right. I exercise. I’m faithful to my wife.”). More than that, however, he has always taken a stand for what he thinks is right and engaged in work for which he had a passion. As a young man, he started out as a bricklayer and eventually became a contractor whose word was trusted with a handshake. Later, he became an American Airlines pilot and flew the first blood plasma to Paris after it was liberated in World War II. In his late fifties, he decided to go to college and stuck with it through his bachelor’s, master’s, and doctorate degrees, reaching his goal to teach sociology at the University of Texas at Arlington. Since a young boy, he has stood for the rights of the oppressed. In recent years, he became a recognized Southwest potter and, when his arms got too weak to throw pottery, he started painting and writing. In his eighties, he published two books and still writes a letter to the editor every few weeks on how he thinks America could become a safer and more sane place.

⁷ F. Flach, 1990, “The Resilience Hypothesis and Posttraumatic Stress Disorder,” in *Posttraumatic Stress Disorder: Etiology, Phenomenology, and Treatment*, eds. M.E. Wolf and A.D. Mosnaim, Washington, DC: American Psychiatric Press, 36–45; S.J. Wolin and S. Wolin, 1993, *The Resilient Self: How Survivors of Troubled Families Rise Above Adversity*, New York: Villard Books.

Explore Spirituality⁸

Intrinsic spirituality and religious practices have been shown to correlate with many aspects of mental health, including resilience. More than 1,000 scholarly articles on the relationship between religion or spirituality and mental health were published between 2000 and 2002 (Koenig, 2002; Koenig as cited in Paul, 2005). Benefits of intrinsic spirituality and religious manifestation of spirituality through worship, prayer, and other practices have been correlated with social support, the avoidance of risky and stressful behaviors, and a sense of purpose and meaning in life (Benson, 1996). In 100 studies that examined the relationship between the positive emotions of joy, hope, and optimism, 79 found that religious persons had significantly greater well-being in all three areas (Koenig, 2002). Even the religion antagonist Sigmund Freud acknowledged that, “Only religion can answer the question of the purpose of life. One can hardly be wrong in concluding that the idea of life having a purpose stands and falls with the religious system” (Freud, 1930).

Krista Flannigan says that until the Oklahoma City bombing trials were moved to Denver and she became involved with the victims, she had no formal relationship with religion, although she considered herself spiritual. Skeptical at first, she began to recognize the genuine spirituality of Father Gary, her officemate in the Church of the Holy Ghost, where the victims’ Safe Haven was housed, as well as that of Jack Poe, the chaplain of the Oklahoma City Police Department, who came to Denver for the trials since he had befriended so many of the victims. Krista now honors Jack’s quiet wisdom and spirituality as he said:

People ask me, “Where was God at 9:02?” I tell them that He was in the same place as He was at 9:01 and 9:03. I do believe that in my whole ministry, I never saw God any clearer than I saw Him as He walked with us through those days. He really became flesh and dwelt among us as He was personified by the help and love and care that came our way through the hundreds of people who came to help us. That’s where God was. He was in the lives of the people living out their faith in practice, reaching out with a cup of cold water, with a hug, or with a shoulder to cry on (Finegan and Flannigan, 2004).

⁸ F. Flach, 1990, “The Resilience Hypothesis and Posttraumatic Stress Disorder,” in *Posttraumatic Stress Disorder: Etiology, Phenomenology, and Treatment*, eds. M.E. Wolf and A.D. Mosnaim, Washington, DC: American Psychiatric Press, 36–45; S.J. Wolin and S. Wolin, 1993, *The Resilient Self: How Survivors of Troubled Families Rise Above Adversity*, New York: Villard Books; J. Lanning, 1987, “Posttrauma Recovery of Public Safety Workers for the Delta 191 Crash: Debriefing, Personal Characteristics, and Social Systems,” unpublished manuscript; P.A. Linley and S. Joseph, 2004, “Positive Change Following Trauma and Adversity: A Review,” *Journal of Traumatic Stress* 17(1): 11–21.

Develop Coherent Life Meaning⁹

Life meaning may or may not be spiritual. Coherent life meaning implies that you begin with identifying personal values and then engage in behaviors that manifest those values. For example, numerous studies have shown correlations between resilience and work that persons find meaningful (Trine, 2004; Waite and Richardson, 2004). You may find meaning in the work itself, or you may take pride in your agency's mission (Thottam, 2005). In the best of circumstances, the work becomes an extension of what you naturally want to do. That way, you are the same person at home, at work, and in the community. All is integrated and coherent.

Veteran victim service provider Sharon English says, "What a person needs to lead in this field is consistent behavior that earns recognition from others. We must be looked to not only for correct information but for our passion and reputation for following through."

Eight Strategies to Develop Personal Perspective

1. Assess your personal values. It is important for you to explore and clarify not only your personal, foundational beliefs but also your attitudes about others and the world. You probably developed most of your values in your own family. Some may have changed positively through family and social contexts, education, or spiritual growth, while some may have changed negatively through exposure to trauma or other painful life experiences. Identifying values such as personal freedom and commitment to ending social injustice will influence your daily behavior and keep you grounded and focused on your goals.

2. Integrate new understandings of your work. It is possible to create or discover meaning in your work that may not have been readily apparent at first. For example, you may have taken your position simply because you needed a job, and your supervisor may not have screened or interviewed you in depth. You may not have realized that creative and helpful victim services work is so difficult. You may feel discouraged at the end of a day because none of the interventions you suggested to the victims you served seemed to have much meaning for them. However, if you begin to realize that change comes in small steps and that with each phone call or visit you are providing your client some tools for change, that is sufficient for deciding that you are an effective provider. As in a game of checkers, the next move is the victim's, and over time, you may indeed see positive change. The meaning of your victim services work must derive from what you give, not what you receive. Some victims of crime return to express gratitude for the help they received, but most do not.

⁹ P.A. Linley, 2003, "Positive Adaptation to Trauma; Wisdom as Both Process and Outcome," *Journal of Traumatic Stress* 16(6): 601–610; (Linley, 2003; M.M. Tugade and B.L. Frederickson, 2004, "Resilient Individuals Use Positive Emotions to Bounce Back from Negative Emotional Experiences," *Journal of Personality and Social Psychology*, 86(2): 320–333.

3. Assess your perspective of suffering. Victims' stories of human cruelty can challenge your personal faith, yet spirituality can enhance your ability to bear witness to significant human suffering. If you reexamine your beliefs about evil, suffering, and justice, you may stimulate growth into more mature beliefs that can help you keep your work in perspective. Developing a deeper spiritual life means something unique to each victim service provider, but doing so can establish a connection to something larger than yourself, whether by connecting with the best of human experience or with a spiritual entity. Spirituality can enhance realistic optimism and hopefulness in the face of trauma (Pearlman and Saakvitne, 1995b; Munroe et al., 1995; Brady et al., 1999).

4. Question old beliefs. McCann and Pearlman's (1990) work on vicarious traumatization may serve well in helping you rethink old, naive beliefs. If you have become spiritually or philosophically disillusioned, you may be able to rework former beliefs to accommodate your trauma work experiences rather than to totally discard them.

5. Foster altruism. Altruism (Monroe, 1996; Luks, 1993) in resilient victim service providers tends to come naturally because they feel energized rather than depleted by helping. If you came into the work more to get your own needs fulfilled than to help others, you will have more difficulty in this area. However, you can learn to engage in altruistic practices. Whether you feel like it or not, you can practice kindness both randomly (as you recognize a need) and systematically (as you decide to bring a coworker a cup of coffee every day). You can make it a habit to reach out to others with personal inquiry, to listen intently with eye contact (if it is culturally appropriate), and to practice giving just for the sake of giving.

6. Engage in social activism. Some victim services agencies provide topical "brown bag" lunches with outside speakers to create and foster dialogue on issues of social concern. Some show movies or develop book clubs that allow people to discuss the meaning, value, and perspectives of the broader aspects of victim services work. Others provide bulletin boards that offer opportunities for staff to engage in programs that support their values of morality and integrity such as faith-based activities, homeless shelters, or community youth organizations.

7. Include spirituality in assessment of victims' strengths. Without using religious language, you may ask assessment questions like the following:

- What is most important to you in your life now?
- What has been meaningful and helpful to you as you have tried to live with your victimization?
- What has strengthened you as you have dealt with this?
- What kinds of support systems are helping you?

Victims who use their spirituality as a source of their own personal resilience will likely bring it up in response to questions like these. When they do bring it up, it is appropriate

to ask, “Would you like for us to incorporate your spirituality into the work we do together?” The issue is not *your* spirituality, but *the spirituality of the victim you are serving*. With that perspective, you may develop a greater comfort level with victims’ spiritual issues, especially if you also develop a referral list of skilled faith leaders who have a good knowledge of victim issues and will not impose their own spirituality on victims or revictimize them with religion. Instead, they will guide victims to develop their own spirituality within the framework of their own victimization.

8. Discard activities that are not coherent with values. Sometimes, you may find yourself being asked to act in ways that are counter to your values or beliefs. With thoughtful self-assessment you may realize that the way you are doing things or expressing yourself no longer fits in with your current values. This lack of coherence may require you to work with your supervisor to change aspects of the work that is currently required of you, or it may even require that you look for employment somewhere else. Sometimes the values of an agency change when a new administrator is hired or the board of directors turns over and changes the mission or priorities. If you no longer feel that the personal meaning of your life is in sync with the work you are expected to do, you will find yourself experiencing more and more stress until either you or the agency changes.

References

- Ai, A. L., and C. L. Park. 2005. "Possibilities of the Positive Following Violence and Trauma: Informing the Coming Decade of Research." *Journal of Interpersonal Violence*. 20(2): 242–250.
- American Psychological Association. "Fostering Resilience in Response to Terrorism: A Fact Sheet for Psychologists Working with Adults." Retrieved June 2, 2005, from www.apaHelpCenter.org.
- Barak, M. E. July 2000. "The Inclusive Workplace: An Ecosystems Approach to Diversity Management." *Social Work* 45(4): 339–354.
- Bartone, P. T. 1999. "Hardiness Protects Against War-related Stress in Army Reserve Forces." *Consulting Psychology Journal: Practice and Research* 51: 72–82.
- Benson, H. 1996. *Timeless Healing: The Power and Biology of Belief*. New York: Scribner.
- Bonano, G. A. 2004. "Loss, Trauma, and Human Resilience: Have We Underestimated the Human Capacity to Thrive After Extremely Aversive Events?" *American Psychologist* 59(1): 20–28.
- Brady, J. L., J.D. Guy, P. L. Poelstra, and B. F. Brokaw. 1999. "Vicarious Traumatization, Spirituality, and the Treatment of Sexual Abuse Survivors: A National Survey of Women Psychotherapists." *Professional Psychology: Research and Practice* 30(4): 386–393.
- Calhoun, L. G., and R. G. Tedeschi. 1998. "Posttraumatic Growth: Future Directions." In *Posttraumatic Growth*, eds. R. G. Tedeschi, C. L. Park, and L. G. Calhoun Mahwah, NJ: Lawrence Erlbaum, 215–238.
- Calhoun, L. G., and R.G. Tedeschi. 1999. *Facilitating Posttraumatic Growth: A Clinician's Guide*. Mahwah, NJ: Lawrence Erlbaum.
- Catherall, D. R. January 1992. "Warrior Therapists: Vets Treating Vets." *Journal of Traumatic Stress* 5(1): 19–36.
- Catherall, D. R. 1995. "Preventing Institutional Secondary Traumatic Stress Disorder." In *Compassion Fatigue: Coping with Secondary Traumatic Stress Disorder in Those Who Treat the Traumatized*, ed. C. Figley. New York: Brunner/Mazel, 150–177.
- Clayton, P. J. 1990. "Bereavement and Depression." *Journal of Clinical Psychiatry* 51: 34–40.
- Coman-Diaz, L. and A.M. Padilla. 1990. "Countertransference in Working with Victims of Political Repression." *American Journal of Orthopsychiatry*. 60: 125–134.

- Connolly, M. December 2003. "Research Finds That a Little Work Compassion Goes a Long Way." *Science and Theology News*.
- Cornille, T. A. and T.W. Meyers. 1999. "Secondary Traumatic Stress among Child Protective Service Workers: Prevalence, Severity, and Predictive Factors." *Traumatology* 5: 1-17.
- Coster, J. S. and M. Schwebel. 1997. "Well-functioning in Professional Psychologists." *Professional Psychology: Research and Practice* 28: 5-13.
- Cowen, E. L., W. C. Work, and P.W. Wyman. 1997. In *Developmental Psychopathology: Perspectives on Adjustment, Risk, and Disorder*, eds. S. S. Luthar, J. A. Burack, D. Cicchetti, and J. R. Weisz. New York: Cambridge, 527-547.
- Cunningham, M. 1996. "Vicarious Traumatization: Impact of Trauma Work on the Clinician." Doctoral dissertation, Adelphi University, 1996. *Dissertation Abstracts International* 57: 4130.
- Csikszentmihalyi, M. 1988. "Introduction." In *Optimal Experience: Psychological Studies of Flow in Consciousness*, eds. M. Csikszentmihalyi and I. S. Csikszentmihalyi. New York: Cambridge University Press, 3-14.
- Csikszentmihalyi, M. 1999. "If We Are So Rich, Why Aren't We Happy?" *American Psychologist* 54(10): 821-827.
- Csikszentmihalyi, M. 1990. *Flow: The Psychology of Optimal Experience*. New York: Harper and Row.
- Dalton, L. E. 2001. "Secondary Traumatic Stress and Texas Social Workers." Unpublished doctoral dissertation. Arlington, TX: University of Texas.
- Danieli, Y. 1985. "The Treatment and Prevention of Long-term Effects and Intergenerational Transmission of Victimization: A Lesson from Holocaust Survivors and their Children." In *Trauma and Its Wake: The Study and Treatment of Post-Traumatic Stress Disorder*, ed. C. R. Figley. New York: Brunner Mazel, 295-313.
- Danieli, Y. 1988. "Confronting the Unimaginable: Psychotherapists' Reactions to Victims of the Nazi Holocaust." In *Human Adaptation to Extreme Stress*, eds. J. P. Wilson, Z. Harel, and B. Kahana. New York: Plenum, 219-238.
- Danieli, Y. 1994. "Countertransference, Trauma, and Training." In *Countertransference in the Treatment of PTSD*, eds. J. P. Wilson and J. D. Lindy. New York: Plenum, 368-388.
- Dutton, M. A. and F. L. Rubenstein. 1995. "Working with People with PTSD: Research Implications." In *Compassion Fatigue: Coping with Secondary Traumatic Stress Disorder*, ed. C. R. Figley. New York: Brunner Mazel, 82-98.

- Figley, C. R. 1988. "A Five-Phase Treatment of PTSD in Families." *Journal of Traumatic Stress* 1(1): 127–139.
- Figley, C. R. 1989. *Helping Traumatized Families*. San Francisco: Jossey-Bass.
- Finegan, R. F. and K. Flannigan. 2004. *Tragedy to Triumph: Lessons of Recovery and Hope*. Indiana: Prairie View Publishing.
- Flach, F. 1990. "The Resilience Hypothesis and Posttraumatic Stress Disorder." In *Posttraumatic Stress Disorder: Etiology, Phenomenology, and Treatment*, eds. M. E. Wolf and A. D. Mosnaim. Washington, DC: American Psychiatric Press, 36–45.
- Follette, V. M., M.M. Polunsky, and K. Milbeck. 1994. "Mental Health and Law Enforcement Professionals: Trauma History, Psychological Symptoms, and Impact of Providing Services to Child Sexual Abuse Survivors." *Professional Psychology: Research and Practice* 25: 275–282.
- Frederickson, B. L., M.M. Tugade, C.E. Waugh, and G. R. Larking. 2003. "What Are Positive Emotions in Crisis? A Prospective Study of Resilience and Emotions Following the Terrorist Attacks on the United States on September 11th, 2001." *Journal of Personality and Social Psychology* 84(2): 365–376.
- Freud, S. 1960. "Jokes and their Relation to the Unconscious." In *The Standard Edition of the Complete Psychological Works of Sigmund Freud, vol. 8.*, ed. and trans. J. Strachey. London: Hogarth Press, 225–233. (Original work published 1905)
- Freud, S.. 1930. "Civilization and its Discontents." In *The Standard Edition of the Complete Psychological Works of Sigmund Freud*, ed. and trans. J. Strachey. London: Hogarth Press. (Original work published 1930)
- Gorman, C. January 17, 2005. "The Importance of Resilience." *Time*, A53.
- Grencavage, L. M. and J. C. Norcross. 1990. "Where are the Commonalities among the Therapeutic Common Factors?" *Professional Psychology: Research and Practice* 21: 372–378.
- Guy, J. D. 2001. *The Personal Life of the Psychotherapist*. New York: Wiley.
- Hobson, J. A. 1994. *The Chemistry of Conscious States: How the Brain Changes its Mind*. New York: Little, Brown.
- Hollingsworth, M. 1993. "Responses of Female Therapists to Treating Adult Female Survivors of Incest." Doctoral dissertation, Western Michigan University, 1993. *Dissertation Abstracts International* 54:3342.
- Johnson, C. N. E. and M. Hunter. 1997. "Vicarious Traumatization in Counselors Working in New South Wales Sexual Assault Service: An Exploratory Study." *Work and Stress* 11(4): 319–328.

Joyce, E. 2004. "The Other Side of Darkness: Working through Trauma with Victims of Crime." *Networks* 19(2–3). Washington, DC: National Center for Victims of Crime.

Kassan-Adams, N. 1994. *The Risks of Treating Sexual Trauma: Stress and Secondary Trauma in Psychotherapists*. Unpublished doctoral dissertation, University of Virginia.

Kluger, J. January 17, 2005. "The Funny Thing about Laughter." *Time*, A2.

Kobasa, S. C., S.R. Maddi, and S. Courington, 1981, Personality and Constitution as Mediators in the Stress-Illness Relationship." *Journal of Health and Social Behavior* 22: 368–378.

Koenig, H. G. 2002. *Spirituality in Patient Care: Why, How, When, and What*. Philadelphia: The Templeton Foundation.

Lampropoulos, G. K. 2002. "A Common Factors View of Counseling Supervision Process." *The Clinical Supervisor* 21(1): 77–95.

Lanning, J. 1987. "Posttrauma Recovery of Public Safety Workers for the Delta 191 Crash: Debriefing, Personal Characteristics, and Social Systems." Unpublished manuscript.

Lazarus, R., and A. DeLongis, 1983, "Psychological Stress and Coping in Aging," *American Psychologist* 38: 245–254.

Linley, P. A. 2003. "Positive Adaptation to Trauma: Wisdom as Both Process and Outcome." *Journal of Traumatic Stress* 16(6): 601–610.

Linley, P.A., and S. Joseph. 2003. "Trauma and Personal Growth." *The Psychologist* 16(3):135.

Linley, P. A., and S. Joseph. 2004. "Positive Change Following Trauma and Adversity: A Review." *Journal of Traumatic Stress* 17(1): 11–21.

Lobel, J. 1996. "The Vicarious Effects of Treating Female Rape Survivors: The Therapist's Perspective." Doctoral dissertation, University of Pennsylvania. *Dissertation Abstracts International* 57: 7230.

Luks, A. 1993. *The Healing Power of Doing Good*. New York: Ballantine.

Luthar, S., D. Cicchetti, and B. Becker. May/June 2000. "The Construct of Resilience: A Critical Evaluation and Guidelines for Future Work." *Child Development* 71(3): 543–562.

Lykken, D. 1999, *Happiness*. New York: Golden Books.

- Lyubomirsky, S., L. Sousa, and R. Dickerhoof. 2006. "The Costs and Benefits of Writing, Talking, and Thinking about Life's Triumphs and Defeats." *Journal of Personality and Social Psychology* 90: 692–708.
- Maddi, S. R. and S. Kobasa. 1984. *The Hardy Executive: Health Under Stress*. Homewood, IL: Dow Jones-Irwin.
- Mahoney, S. July/August 2005. "10 Secrets of a Good, Long Life." *The AARP Magazine* 48–49.
- Masten, A. S. 1994. "Resilience in Individual Development: Successful Adaptation Despite Risk and Adversity." In *Educational Resilience in Inner City America: Challenges and Prospects*, eds. M. C. Wang and E. W. Gordon. Hillsdale, NJ: Erlbaum, 3–25.
- Masten, A. S. 2001. "Ordinary Magic: Resilience Processes in Development." *American Psychologist* 56(3): 8.
- McCann, I. L. and L. A. Pearlman. 1990. "Vicarious Traumatization: A Framework for Understanding the Psychological Effects of Working with Victims." *Journal of Traumatic Stress* 3: 131–149.
- McCann, I. L. and L. A. Pearlman. 1999. *Psychological Trauma and the Adult Survivor: Theory, Therapy, and Transformation*. New York: Brunner Mazel.
- Miller, L. A. 2001. "Impacts of Treating Torture Survivors on Psychotherapists' Personal and Professional Lives." Doctoral dissertation, The Wright Institute. *Dissertation Abstracts International* 61:6713.
- Monroe, K. R. 1996. *The Heart of Altruism*. New York: Harper Collins.
- Munroe, J. F., J. Shay, L. Fisher, C. Makary, R. Rapperport, and R. Zimering. 1995. "Preventing Compassion Fatigue: A Team Treatment Mode." In *Compassion Fatigue: Coping with Secondary Traumatic Stress Disorder in Those Who Treat the Traumatized*, ed. C. Figley. New York: Brunner/Mazel, 207–23.
- Myers, D. G. January 2000. "The Funds, Friends, and Faith of Happy People." *American Psychologist* 55(1): 56–57.
- Myers, D. G. and E. Diener. May 1996. "The Pursuit of Happiness." *Scientific American* 274: 54–56.
- National Center for Victims of Crime. 2005. *Reach In. Reach Out. Finding Your Resilience*. Washington, DC: Author.
- Neumann, D. A., and S. J. Gamble. 1995. "Issues in the Professional Development of Psychotherapists: Countertransference and Vicarious Traumatization in the New Trauma Therapist." *Psychotherapy* 32: 341–346.

Norcross, J. C. 2000. "Psychotherapist Self-Care: Practitioner-tested, Research-informed Strategies." *Professional Psychology: Research and Practice* 31(6): 7028–7035.

O'Brien, K. M. 2002. "Beliefs, Assumptions, and Expectations of Therapists Supporting the Traumatically Bereaved." Unpublished doctoral dissertation, George Washington University.

Ong, A. D., C.S. Bergeman, and T.L. Bisconti. 2004. "The Role of Daily Positive Emotions During Conjugal Bereavement." *Journal of Behavioral, Psychological, and Social Sciences* 59(4):1 68–176.

Palmer, N. August 1997. "Resilience in Adult Children of Alcoholics." *Health and Social Work* 22(3): 201–209.

Palmer, N. 1999. "Fostering Resilience in Children: Lessons Learned in Transcending Adversity." published simultaneously in *Social Thought* 19(2):69–87 and *Raising Our Children Out of Poverty* 69–87.

Parkes, C. M. 1972. *Bereavement Studies of Grief in Adult Life*, 2nd ed. New York: International Universities Press.

Patterson, J. M. 2004. "Understanding Family Resilience." *Journal of Clinical Psychology* 58(3):233–246.

Paul, P. January 17, 2005. "The Power to Uplift." *Time*, A46.

Pavot, W., E. Diener, and F. Fujita. 1990. "Extraversion and Happiness" *Personality and Individual Differences*. 11: 1299–1306.

Pearlman, L. A., and P.S. Mac Ian. 1995. "Vicarious Traumatization: An Empirical Study of the Effects of Trauma Work on Trauma Therapists." *Professional Psychology: Research and Practice* 26(6):558–565.

Pearlman, L. A., and K.W. Saakvitne. 1995a. *Trauma and the Therapist: Countertransference and Vicarious Traumatization in Psychotherapy with Incest Survivors*. New York: Norton.

Pearlman, L. A., and K. W. Saakvitne. 1995b. "Treating Therapists with Vicarious Traumatization and Secondary Traumatic Stress Disorders." In *Compassion Fatigue: Coping with Secondary Traumatic Stress disorder in Those Who Treat the Traumatized*, ed. C. Figley. New York: Brunner Mazel, 150–177.

Pennebaker, J. 1990. *Opening Up: The Healing Power of Confiding in Others*, New York: Morrow.

Pope, K. S. and S. Feldman-Summers. 1992. "National Survey of Psychologists' Sexual and Physical Abuse History and Their Evaluation of Training and Competence in These Areas." *Professional Psychology: Research and Practice* 23: 353–361.

- Powers, L. E. and B. E. Wampold. 1994. "Cognitive-Behavioral Factors in Adjustment to Adult Bereavement." *Death Studies* 18: 1–24.
- Radeke, J. T. and M. J. Mahoney. 2000. "Comparing the Personal Lives of Psychotherapists and Research Psychologists." *Professional Psychology: Research and Practice* 31: 82–84.
- Richardson, G. E. 2002. "The Metatheory of Resilience and Resiliency." *Journal of Clinical Psychology* 58(3): 307–321.
- Saleebey, D. 1996. "The Strengths Perspective in Social Work Practice: Extension and Caution." *Social Work* 4:296–305.
- Schatzow, E. and J. Yassen. 1991. "Specialized Treatment Models for Clinicians with a History of Trauma." Workshop presentation at the Seventh Annual Convention in the International Society for Traumatic Stress Studies, Washington, DC.
- Schauben, L. J. and P.A. Frazier. 1995. "Vicarious Trauma: The Effects on Female Counselors on Working with Sexual Violence Survivors." *Psychology of Women Quarterly* 19: 49–64.
- Segerstrom, S. C., S. Taylor, M.E. Kemeny, and J.L. Fahey. 1998."Optimism Is Associated with Mood, Coping, and Immune Change in Response to Stress." *Journal of Personality and Social Psychology* 74(6): 1646–1655.
- Seligman, M. 2002. *Authentic Happiness*. New York: The Free Press.
- Sexton, L. August 1999. "Vicarious Traumatization of Counselors and Effects on their Workplaces." *British Journal of Guidance and Counseling* 27(3): 393–403.
- Smith-Lovin, L. June 2006. "Social Isolation in America: Change in Core Discussion Networks over Two Decades." *American Sociological Review* 71: 353–375.
- Taylor, S. 2002. *The Tending Instinct: How Nurturing Is Essential to Who We Are and How We Live*. New York: Henry Holt, and Company.
- Tebes, J. K., J.T. Irish, M.J. Puglisi Vasquez, and D. V. Perkins. 2004. "Cognitive Transformation as a Marker of Resilience." *Substance Use and Misuse* 39(5): 769–788.
- Thottam, J. January 17, 2005. "Thank God It's Monday." *Time*, A60.
- Traux, C. B. and R.R. Carkuff. 1967. *Toward Effective Counseling and Psychotherapy*. Chicago: Aldine.
- Trine, W. 2004. "How Can Young People's Resilience Be Enhanced? Experiences from a Clinical Intervention Project." *Clinical Child Psychology and Psychiatry* 9(2): 167–183.

- Tugade, M. M. and B.L. Frederickson. 2004. "Resilient Individuals Use Positive Emotions to Bounce Back from Negative Emotional Experiences." *Journal of Personality and Social Psychology*. 86(2): 320–333.
- Tugade, M. M., B.L. Frederickson, and L.F. Barrett. 2004. "Psychological Resilience and Positive Emotional Granularity: Examining the Benefits of Positive Emotions on Coping and Health." *Journal of Personality*. 72(6): 1161–1190.
- U.S. Department of Justice. 1999. *Vicarious Trauma Training: Developing a Model Training Program for Victim Care Providers Suffering Secondary Traumatic Stress* (Development of Training Units). Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, 33–59.
- Waite, P. J. and G.E. Richardson. 2004. "Determining the Efficacy of Resilience Training in the Work Site." *Journal of Allied Health* 33(3): 178–183.
- Wasco, S. M., R. Campbell, and M. Clark. 2002. "A Multiple Case Study of Rape Victim Advocates' Self-Care Routines: The Influence of Organizational Context." *American Journal of Community Psychology* 30(5): 731–760.
- Werner, E. 1982. *Vulnerable But Invincible: A Longitudinal Study of Resilient Children and Youth*. New York: Adams, Bannister, and Cox.
- Werner, E. and R. Smith. 1992. *Overcoming the Odds: High Risk Children from Birth to Adulthood*. New York: Cornell University Press.
- Wolin, S. J. and S. Wolin. 1993. *The Resilient Self: How Survivors of Troubled Families Rise Above Adversity*. New York: Villard Books.
- Yehuda, R. 2004. "Risk and Resilience in Posttraumatic Stress Disorder." *Journal of Clinical Psychiatry* 65(Suppl. 1): 29–36.
- Zastrow, C. and K. Kirst-Ashman. 1990. *Understanding Human Behavior and the Social Environment*, 2nd ed. Chicago: Nelson Hall.

Appendix A

Victim Assistance Programs

The information in this appendix is excerpted from *Judicial Education Project Curriculum* (Seymour and Beatty, in press).

There are over 10,000 victim assistance programs in the United States today. These include:

- ***Community-based victim assistance programs*** that serve a variety of crime victims, including victims who report crimes and go through the justice system, as well as those who do not. Examples include:
 - ♦ Rape crisis centers and sexual assault awareness programs.
 - ♦ Programs and shelters for battered women and their children.
 - ♦ Homicide support groups (such as Parents of Murdered Children chapters).
 - ♦ Drunk driving victim assistance programs (such as Mothers Against Drunk Driving [MADD] or Remove Intoxicated Drivers [RID] chapters).
 - ♦ Children’s Advocacy Centers that provide multidisciplinary services to victims of child abuse and neglect.
 - ♦ Court-Appointed Special Advocate (CASA) programs that advocate for abused and neglected children.
 - ♦ Elder protection programs that assist victims of elder abuse and neglect.
 - ♦ Faith-based victim assistance programs, which are increasing in both number and scope of services, and which help victims of different faiths cope with the spiritual impact of crime and provide other support and assistance.
- ***System-based victim assistance programs*** that operate within the context of the criminal or juvenile justice system; or state agencies that oversee victim assistance programs, help victims understand and exercise their rights, and offer referrals to other victim assistance services. Examples include:
 - ♦ Victim assistance programs in law enforcement, prosecutors’ offices, courts, probation, parole, institutional corrections, and Attorneys General offices.
 - ♦ State victim compensation programs.
 - ♦ State VOCA assistance administrators, who oversee victim assistance funding authorized by the Victims of Crime Act of 1984 (VOCA) through fines, fees, and

forfeitures collected from convicted federal offenders by the Crime Victims Fund, which is administered by the Office for Victims of Crime within the Office of Justice Programs, U.S. Department of Justice.

- ***State coalitions and associations*** that advocate for local victim-specific programs and issues. Examples include:
 - ◆ General victim assistance coalitions, which involve all types of crime victims and those who serve them.
 - ◆ Sexual assault coalitions.
 - ◆ Domestic violence coalitions.
 - ◆ State offices of Mothers Against Drunk Driving.
 - ◆ State associations of victim/witness professionals.
 - ◆ State offices of Adult Protective Services.
 - ◆ State offices of Child Protective Services.
- ***National associations and coalitions*** that address a wide range of crime victim assistance issues, many of which sponsor national toll-free information and referral telephone lines, as well as comprehensive Web sites for victim assistance, information, and referrals.
- ***Federal agencies*** whose primary or collateral role is assisting crime victims (such as the Office for Victims of Crime and Office on Violence Against Women within the U.S. Department of Justice and allied federal agencies at the Departments of Health and Human Services, Transportation, and State, etc.).

Appendix B

Crime Victim Services

The information in this appendix is excerpted from *Judicial Education Project Curriculum* (Seymour and Beatty, in press).

Community- and system-based victim assistance programs can offer a range of supportive services for crime victims that address their most basic, immediate needs; their needs related to coping with the short- and long-term effects of crime; and their need for information about their constitutional and statutory rights as victims of crime.

Victim's Basic Needs

Sometimes, the effects of being victimized can impact victims' quality of life, their capacity to cope with basic issues related to their daily activities, and their ability or willingness to participate in criminal or juvenile justice processes. In many communities, victim assistance programs help victims identify and address such basic needs, which include:

- Housing (both emergency/temporary shelter, long-term housing, and possible relocation if there are any concerns about the victim's safety and security).
- Transportation (personal automobile or access to and payment for public transportation).
- Food and clothing for victims and their families (to help ensure their health and basic welfare).
- Employment and/or job training (to help promote a basic quality of life).
- Assistance with basic issues relevant to children (such as school, child care, medical or dental needs, safety and security issues, etc.).

Victim Assistance Services

There are a number of services that can provide victims with information, options, and support to cope with the effects of being victimized:

Crisis Intervention: Services provided in-person, over the telephone, or via the Internet that help victims cope with the immediate mental health effects of victimization, assess their most essential needs, and provide services such as counseling, mental health support, and help to address sustenance issues.

Needs Assessment: Services to identify the victim's most essential needs and attempt to meet them.

Emergency Financial Assistance: Funds that are available in some communities to provide emergency cash awards to victims who are in dire financial straits or who need help to address basic survival concerns (such as health, housing, clothing, food, and transportation).

Home Safety Checks: A service that is usually offered by law enforcement agencies or bonded volunteers to improve the security of a victim's home, either by making recommendations or actually providing physical improvements and reinforcements (such as new locks, security systems, lighting, and landscape design).

Safety Planning: An advocacy and support service to help victims identify concerns and issues related to their personal security and the safety of their family; protective measures that can enhance their personal safety; and contingency plans to cope with emergency situations.

Advocacy or Intervention with Employers: A service provided to victims who, because of their need for medical or mental health treatment, personal safety, help in addressing sustenance issues, or participation as a witness in criminal justice proceedings, may require intervention with their employers (over the telephone, in writing, or in person) to take time off from work without being penalized or possibly losing their jobs.

Development or Enhancement of the Victim's Social Support System: A service to help victims identify people who can provide them with immediate, short-term, and long-term support, which may include family members, friends, neighbors, co-workers, faith community members, victim assistance professionals, or others.

Physical Health and Medical Issues: Services provided to victims that address their immediate-, short-, and long-term physical health needs, and may include transportation to medical facilities; emergency room care; rape kit examinations; HIV testing in cases involving the exchange of bodily fluids; physician care and medical treatment; provision of medication, medical supplies, or assistive devices (such as wheelchairs, crutches, hearing aids, or eyeglasses); and/or physical or occupational rehabilitation or therapy.

Mental Health Counseling: Services that include crisis intervention; a mental health needs assessment; individual counseling; family counseling; counseling for alcohol or other drug addictions; and provision of prescription medication to address the mental health needs of victims and their families.

Victim Support Groups: Programs that provide peer support through victims reaching out to other victims, regularly scheduled victim support group meetings, and advocacy throughout criminal or juvenile justice processes.

Legal Advocacy and Services: Programs that are available on a pro-bono or fee basis that help victims understand and access their legal rights under the law.

Referrals for Social Services: Providing victims with information about additional services that are *not* victim-specific, such as housing, food banks, transportation, employment, and family support; as well as services that are available in adjunct government systems, such as Child Protective Services, Adult Protective Services, disability services, education systems, etc.

Information Regarding What To Do in Case of Emergency: Providing victims with vital information about “911” emergency services, crisis hotlines, and other resources that can provide crisis responses to their immediate needs.

Information about Victims’ Rights: Crime victims have many rights established by statutes and state-level victims’ rights constitutional amendments. These rights are relevant from the time the crime occurs through the court processes and, in many cases, appellate processes.

Information about victims’ rights is generally provided by most criminal and juvenile justice and victim assistance programs, and includes:

- Information about their rights under the law as victims of crime.
- Information about and assistance with filing a victim compensation claim in cases involving violent crime.
- Orientation to the criminal or juvenile justice process to help them understand what is happening, their basic rights, and any role they may have in justice proceedings.
- Information about their right to protection.
- Information about their right to attend and participate in key justice proceedings.
- Information about and assistance with completing a pre-sentence investigation interview—referred to as “pre-adjudication interview” within the juvenile justice system—which is usually conducted by a probation officer prior to sentencing or adjudication to enable the judge to learn more about the defendant, and the impact of the crime on the victim.
- Information about their right to submit a victim impact statement (VIS), either orally or in writing.
- Information about their right to restitution, and assistance with seeking and documenting losses for restitution orders from the court.
- Information about their right to other legal/financial obligations from the convicted offender, such as child support, payment of health insurance, etc.
- Notification of the outcome of criminal or juvenile justice proceedings.

- ◆ For cases involving incarceration or detention: Notification of the location of the offender while he or she is incarcerated, and any movement (including release or escape).
- ◆ For cases involving community supervision: Information about victims' right to give input into conditions of community supervision; their right to protection (including assistance with obtaining protective orders); their right to financial/legal obligations owed by the offender (such as child support, restitution, payment of house mortgages or rent, etc.); their right to be notified of any violations, to give input into any violation hearings, and to be notified of the outcome of any violation hearings; and their right to receive contact information for the agency/professional who will be supervising the offender.
- ◆ For cases involving criminal appeals: Information about victims' rights and relevant roles throughout the appeals process (usually provided by the prosecutor's office that tried the case, or the state office of the Attorney General).

Appendix C

Victims' Statutory Rights to Notice: Rights, Hearings, and Events*

*Updated June 1, 2005, by Justice Solutions, Washington, DC.

Notification of Rights

- Right to compensation.
- Right to restitution.
- Right to notice of events and proceedings.
- Right to attend proceedings.
- Right to be heard at proceedings.
- Right to consult with prosecutor.
- Right to protection from offender.
- Right to information on how to request or exercise the above rights.
- Right to information on how to obtain information about case status.
- Right to the name and telephone number of a contact person in the system.
- Right to referrals to victim assistance.
- Right to an explanation of the legal process and/or court proceedings.

Notification of Hearings

- Bail hearings.
- Bail review/modification hearings.
- Grand jury hearings.
- Other pretrial hearings.
- Hearings on acceptance of diversion.
- Hearings on acceptance of a plea bargain.
- Trials.

- Sentencing.
- Postsentencing hearings.
- Restitution hearings.
- Appellate proceedings.
- Probation revocation hearings.
- Probation modification hearings.
- Temporary release hearings.
- Parole hearings.
- Parole revocation hearings.
- Parole modification hearings.
- Pardon/commutation proceedings.
- Hearings on defendant's competency to stand trial.
- Hearings on defendant's release from mental institution.
- Cancelled or rescheduled hearings.
- Execution (in capital cases).

Right to Notice of Events

- Arrest of the offender.
- Bail or other pretrial release of offender, and conditions of release.
- Indictment.
- Dismissal of charges.
- Dropping of case.
- Plea negotiations.
- Plea bargain.
- Outcome of trial.
- Sentence of offender.

PARTICIPANT'S TEXT
National Victim Assistance Academy, Track 1, Foundation-Level Training

- Appellate request (by offender or by the state) for convicted offender's DNA testing.
- Filing of an appeal.
- Outcome of appeal.
- Location of incarcerated offender.
- Earliest possible release date for incarcerated offender.
- Probation of offender.
- Probation revocation/reinstatement of suspended sentence.
- When offender is in "out to court" status.
- Transfer of offender from corrections to another jurisdiction (e.g., mental institution, INS custody, etc.).
- Furlough.
- Work release.
- Transfer from one prison facility to another.
- Change of security status.
- Parole.
- Parole revocation.
- Pardon/commutation of sentence.
- Escape.
- Recapture.
- Death of offender.
- Execution of offender (in capital cases).
- Offender's release from mental institution.
- Clemency.
- Commutation.

Appendix D

Sample Victim Notification Letter

Criminal justice agencies can develop “merge letters” for every possible point of notification to victims. While the technical process of developing automated letters is quite simple, the development of victim-sensitive language is more challenging. This letter, which was developed for the publication *Promising Practices and Strategies for Victim Services in Corrections* (Seymour, 1999), has been adapted to reflect court- and probation-related notification.

Dear Mr./Ms. [name]:

Thank you for registering for victim notification services from the [name of agency]. I am very sorry that you were victimized, and I assure you that my agency and staff will do everything we can to assist you.

You will receive notice of [list types of notice that the victim is eligible for here]. *OR* This letter is to inform you of the [type of hearing] related to your case, which is scheduled for [day, date, time, location, and any other relevant information about victim participation]. *OR* This letter is to inform you of the status of the defendant/convicted offender, who is [information about status and location].

It is important that you notify our agency of any change in your address, telephone number, e-mail address, or other relevant contact information, so that we can notify you in an efficient manner. I have enclosed a card with our department’s address, as well as our telephone number for our Victim Assistance Program.

If our agency can provide you with additional information, answer any questions, or offer referrals to victim services in our community, please contact [name], [title] in our Victim Services Program at [telephone number].

I appreciate your consideration of this information, and I hope we can continue to meet your needs as much as possible.

Sincerely,

[name]

[title]

Enclosure: Informational Card

Appendix E

Victims' Right To Be Present and Attend Hearings

Victims may have the right to be present for the following proceedings:

- Bail hearings.
- Bail review/modification hearings.
- Grand jury hearings.
- Other pretrial hearings.
- Hearings on acceptance of diversion.
- Hearings on acceptance of a plea bargain.
- Trials.
- Sentencing.
- Postsentencing hearings.
- Appellate proceedings.
- Probation revocation hearings.
- Probation modification hearings.
- Temporary release hearings.
- Parole hearings.
- Parole revocation hearings.
- Parole modification hearings.
- Clemency/pardon/commutation proceedings.
- Hearings on defendant's release from mental institution.
- Cancelled or rescheduled hearings.
- Execution (in capital cases).

Appendix F

Documenting Losses for Victim Restitution

The information in this appendix is excerpted from the chapter “Victim Restitution” in *Promising Practices and Strategies for Victim Services in Corrections* (Seymour, 1999, p. 355-372).

To ensure accurate and complete restitution orders, victims are required to document their losses in writing for the court or paroling authority. It is important to provide victims with guidelines about the types of documentation that are needed to depict their out-of-pocket and projected future expenses.

Some considerations for guidelines that should be provided *in writing* to victims include, but are not limited to the following:

- Employer statements (letters or affidavits) that document unpaid time off from work the victim took as a result of injuries from the crime, or involvement in justice processes.
- Documentation of any workers’ compensation claims submitted and/or claims payments received by the victim.
- Copies of bills for services directly related to victims’ financial recovery from the crime.
- Any receipts for items or services.
- Documentation that estimates the value of stolen property.
- Photos of valuables that were stolen.
- Copies of any documentation often provided by local law enforcement agencies (records of serial numbers, photos, etc.) that is intended to aid victims in the recovery of stolen property.
- Any law enforcement records that indicate the status of stolen property (property recovered, recovered but damaged, etc.).
- Copies of victims’ applications to and/or copies of checks received from the state victim compensation fund.
- Copies of insurance claims and related correspondence between the victim and his/her insurance company, as well as copies of checks the victim may have received to cover losses.

Immediate Losses

During the pre-sentence investigation, victims should be asked to report information about their losses by completing or updating a financial worksheet and providing documentation as described above.

The range of these losses can include the following:

Medical Care

- Emergency transportation to the hospital.
- Rape kit examinations that are not immediately paid by a third party.
- All expenses related to the hospital stay, including the room, laboratory tests, medications, x-rays, HIV testing in cases involving the exchange of bodily fluids, and medical supplies.
- Expenses for care provided by physicians—both inpatient and outpatient—medication, and medical supplies.
- Fees for physical or occupational therapy.
- Replacement of eyeglasses, hearing aids, or other sensory aid items damaged, destroyed, or stolen from the victim.
- Rental and related costs for equipment used for victims' physical restoration, such as wheelchairs, wheelchair ramps, special beds, crutches, etc.

Mental Health Services

- Fees for counseling or therapy for the victim and his/her family members.
- Any costs incurred as a result of the victim's participation in support or therapy groups.
- Expenses for medications that doctors may prescribe for victims to help ease their trauma following a crime.

Funeral Expenses

- Costs associated with burials, caskets, cemetery plots, memorial services, etc.
- Expenses for travel to plan and/or attend funerals.

Time Off From Work

- To repair damage following property crimes.
- To attend or participate in court or parole proceedings.
- To attend doctors' appointments for injuries or mental health needs directly resulting from the crime.

Other Expenses

- Crime scene cleanup.
- Costs of replacing locks, changing security devices, etc.
- Expenses related to child or elder care when victims have to testify in court.
- Relocation expenses.
- Fees incurred in changing banking or credit card accounts.

Projected Expenses

Victimization often results in injuries or losses that are long-term in nature. While it is not possible to accurately document such projected expenses, it is possible to document expert opinions as to future financial obligations the victim might incur as a direct result of the crime.

Victims should be advised to seek documentation (a letter or affidavit) from professionals who are providing them with medical or mental health services that offers an estimate of the victims' future treatment needs, as well as related expenses. Such costs can include:

- Long-term medical treatment.
- Physical or occupational rehabilitation or therapy.
- Mental health counseling or therapy.
- Time that must be taken off from work to receive any of the above services.

The justice professional responsible for assessing victims' restitution needs should provide this documentation to the court or paroling authority.

Appendix G

Sample Conditions of Offender Community Supervision Relevant to Crime Victims

The information in this appendix is adapted from *Sample Conditions of Offender Community Supervision Relevant to Crime Victims* (Seymour, 1998).

The agency involved must release information relevant to conditions of supervision and/or violations of such conditions to the victim, upon request from the victim. The agency must also notify the victim of any hearing related to the violation by the offender of the conditions of supervision.

The following conditions that apply to the offender can be adapted for bail release, pre-adjudication, diversion, or incarceration:

- Obey all laws.
- Obey all conditions of supervision, such as no-contact orders.
- Possess no weapons.
- Seek or maintain employment (i.e., so that fines, fees, orders of restitution, and child support can be paid).
- Upon request from the victim, have no contact with the victim, his or her family, and others designated by the victim (for a specified period of time, or permanently) in person, by telephone, fax or e-mail, or through a third party.
- Upon request from the victim, submit to geographical restrictions that preclude living or working within a designated distance from the victim's home or place of employment.
- Agree that offender status and progress information can be shared for the purposes of case management by (supervising officer/treatment provider(s)/ victim advocate/others).
- Obey restrictions on movement and location (specifically those that involve contact with potentially vulnerable populations, such as children [at home, schools or day care centers], elderly persons, or persons with disabilities).
- Participate in any offense-specific treatment program deemed appropriate by the supervising agency, with victim input (i.e., substance abuse treatment, sex offender treatment, etc.)
- Participate in victim/offender programming that reinforces offender accountability, such as victim impact panels or victim awareness classes.

- Make full restitution to the victim(s), with the ability to travel out-of-state or end community supervision dependent upon full payment.
- If there is no restitution order, be provided with the opportunity to make voluntary restitution to the victim(s) or a victim assistance program designated by the victim.
- Pay fines and fees that support victim assistance programs, including victim compensation.
- Submit to warrantless search and seizure.
- Use no alcohol and/or other drugs.
- Submit to random alcohol and other drug tests.
- Pay for the cost of urinalysis.
- Submit to polygraphs.
- Perform restorative community service as recommended by the victim or victim surrogate (such as a victim assistance agency).
- Attend education or awareness programs, such as alcohol/drunken driving education, victim impact panels, or victim awareness classes.
- Submit to electronic monitoring.
- Submit to intensive supervision.
- In cases involving drunk driving, submit to restrictions on ability to drive, and/or agreement to have an alcohol ignition interlock device placed on their vehicles that detects alcohol use, and prevents the offender from driving if he or she has been drinking.
- In cases involving sex offenders and/or computer crimes, have no access to computers or the Internet.

Additional Conditions for Interfamilial/Family Violence Cases

- Commit no further abuse.
- Pay child support and restitution.
- Pay attorney fees for victims.
- Abide by all court restrictions and directives.

PARTICIPANT'S TEXT
National Victim Assistance Academy, Track 1, Foundation-Level Training

- Abide by supervised child visitation and/or public drop-off/pick-up point.
- Cooperate with child/adult protective services.
- Release information to third parties, as appropriate. (American Probation and Parole Association, 1996, p. 204)

Appendix H

Victim Safety Planning: Essential Elements of Safety Plans

By Trudy Gregorie, Director, Justice Solutions, Washington, DC, 2005

Personal Security

Personal security measures limit the offender's access to the victim or help victims shield themselves—and information about their whereabouts, activities, and intentions—from the offender. All of these measures involve some kind of personal loss, dislocation, or disruption of personal or family routines; most of them cost money—and some create significant financial burdens. Victims will understandably and legitimately resent having to bear these costs in order to achieve a measure of safety and privacy. Don't try to undercut these feelings; help victims do what needs to be done despite the fact that "it's not fair."

The following advice can be provided for victims.

Moving

Making new living arrangements is easier to do if you are a tenant, although there may be need for legal assistance in getting out of a lease; it is harder to do when it involves selling a home. Moving may require leaving the area altogether, and if the offender shares custody of any children involved, the civil courts will have something to say about it.

Try to use a "no name" mover, so you cannot be easily traced, or move things to storage, then use a different company to move them to where you're going.

In extreme cases, relocation is part of a complete change of identity. Unless you are involved in a formal victim/witness program, this generally requires a number of illegal acts and a strong commitment to following through, including a willingness to cut most, if not all, existing personal ties.

Protect the confidentiality of your new address:

- Notify the local postal service that it is *not* to release change of address information.
- Change your mailing address to a private box.
- Use a private mailing service, or rent a post office box in a different location from where you live.
- Use your post office box address on personal checks, letterheads, and business cards.
- Get dropped from commercial mailing lists that are rented or sold (especially with companies that send you catalogs or publications).
- Advise the telephone company, utilities, banks, and creditors of the change and asking them to put a notation on your file to restrict inquiries. (Many credit check agencies have a service that will let you know if someone runs a credit check on you.)
- Use your post office box address for your driver's license and vehicle registration.
- Place property or other assets in trust so that your address cannot be obtained through a title records search.
- As far as is legally possible (in the state where you live or from the state that you've moved), protect the new address in transfers of school records and in any legally required release of educational information.
- Teach children to keep their address and phone numbers confidential.
- Change your telephone number, getting an unlisted number and radically restricting the people you give it to; use an answering service or voice-mail number. If you need to share a phone with a roommate or relative, get a password-protected voice mail feature added to your service.
- If you can afford it, consider using one number to call-forward your calls to yet another phone somewhere else.
- Make sure your address isn't listed in the phone book or reverse directories.
- If you are routinely harassed over the telephone and you can find the money, you might want to get a new unlisted line while continuing to use an answering machine to monitor calls to the old number. The tapes may be useful as evidence of harassment, threats, or stalking behaviors.
- Use caller ID and call tracing services defensively: know who's calling you before you answer, but learn how to keep your calls from being identified, or call from public telephones.
- Courts have the ability to keep a petitioner's address and telephone number confidential. This will take a formal request from you and, in some cases, from the prosecuting attorney.
- If the offender is on probation/parole, get the name and number of your offender's probation/parole officer and stay in touch.

- Where available, enroll in victim notification systems that will alert you to the offender's release from jail or prison.

Home Security Measures

- Keep doors, windows, basement access, and garage locked.
- Change window and door locks.
- Replace wooden doors with steel/metal doors.
- Install peepholes, window bars, and/or poles to wedge sliding doors.
- Put fire extinguishers near your doors and learn to use them as “intruder repellents.”
- If you can afford it or negotiate with your landlord for it, install outdoor (motion sensitive) lighting, timed indoor lights, and/or electronic security systems and alarms.
- Get a dog.
- Program emergency numbers into your home and cellular telephones.
- If you are eligible, get involved in victim/witness programs that use “panic button” security alert systems, and/or dedicated cellular phones programmed to dial 911.

Social Habits

- As much as you possibly can, vary your daily routines: join a new congregation; shop at different stores; go to a new dry cleaner; frequent different restaurants and theaters; change banks; work out at a different gym; and find a new hairdresser.
- Teach children how to make collect and emergency calls, and that they can give their address and phone number to “safe” adults (i.e., police officers or teachers).
- Identify locations to regroup and rehearse “escape plans” with your children. (You should do this in case of fire in any event.)

Personal Support and Skills

Don't underestimate the difference it makes when people take the victim's situation seriously, and communicate both concern and respect. Developing a “partnership for safety” reduces isolation and may also reduce feelings of powerlessness and anxiety.