

**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION**

Victims and Witnesses of Crime

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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**COMMONWEALTH OF VIRGINIA
RICHMOND
1988**



COMMONWEALTH of VIRGINIA

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IN RESPONSE TO
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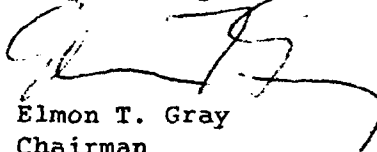
ATTORNEY GENERAL'S OFFICE
H. LANE KNEEDLER

November 9, 1987

To: The Honorable Gerald L. Baliles, Governor of Virginia,
and Members of the General Assembly:

House Joint Resolution 225, agreed to by the 1987 General Assembly, directed the Virginia State Crime Commission "to evaluate the effectiveness of current services provided to victims and witnesses of crime throughout the Commonwealth of Virginia and make any recommendations the Commission finds appropriate." In fulfilling this directive, a comprehensive study was conducted by the Virginia State Crime Commission. I have the honor of submitting herewith the study report and recommendations on Victims and Witnesses of Crime.

Respectfully submitted,



Elmon T. Gray
Chairman

ETG/sab

Respectfully Submitted

by the

Virginia State Crime Commission

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William T. Parker

From the House of Delegates:

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Subcommittee

Studying

Victims and Witnesses of Crime

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Delegate Raymond R. Guest Jr.
Mr. H. Lane Kneeder, Attorney General's Office
Mr. William N. Paxton Jr.
Reverend George F. Ricketts Sr.
Delegate Warren G. Stambaugh
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Acknowledgement

The members wish to express particular gratitude to the victims and families of victims whose courage and sense of justice brought them to testify before the subcommittee. We also wish to thank the many volunteers who give generously of their time to ease the burden of victims of crime.

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SUBCOMMITTEE STUDYING ISSUES PERTAINING TO VICTIMS AND WITNESSES OF CRIME

I. Authority for the Study

House Joint Resolution 225, agreed to by the 1987 General Assembly, directs the Virginia State Crime Commission "to (i) evaluate the effectiveness of current services provided to victims and witnesses of crime throughout the Commonwealth of Virginia, (ii) to study the concept of a Bill of Rights for Victims and Witnesses of Crime, and (iii) to make any recommendations the Commission finds appropriate" (Appendix B). Delegate V. Thomas Forehand Jr. of Chesapeake and Delegate John G. Dicks III of Chesterfield were the patrons of the resolution.

Section 9-125 of the Code of Virginia establishes and directs the Virginia State Crime Commission (VSCC) "to study, report and make recommendations on all areas of public safety and protection." Section 9-127 of the Code of Virginia provides that "The Commission shall have the duty and power to make such studies and gather information and data in order to accomplish its purposes as set forth in § 9-125 ..., and to formulate its recommendations to the Governor and the General Assembly." Section 9-134 of the Code of Virginia authorizes the Commission "to conduct private and public hearings, and to designate a member of the Commission to preside over such hearings." The VSCC, in fulfilling its legislative mandate, undertook the Victims and Witnesses of Crime Study as directed by House Joint Resolution 225.

II. Members Appointed to Serve

During the April 13, 1987 meeting of the Crime Commission, Senator Gray appointed Senator William T. Parker of Chesapeake to serve as the chairman of the Subcommittee on Victims and Witnesses of Crime. Members of the Crime Commission who served on the subcommittee are:

Senator William T. Parker of Chesapeake, Chairman
Delegate Raymond R. Guest Jr. of Front Royal
Mr. H. Lane Kneeder (Attorney General's Office)
Mr. William N. Paxton Jr. of Richmond
Reverend George F. Ricketts Sr. of Richmond
Delegate Warren G. Stambaugh of Arlington
Delegate Clifton A. Woodrum of Roanoke

III. Background

The criminal justice system has, according to many, emphasized the rights of the accused and the convicted while forgetting those of crime victims and witnesses. In the last decade, however, federal and state governments have enacted laws and are conducting studies designed to improve the system's treatment of victims and witnesses and, for victims, to attempt some recompense for their losses. Primary among the accomplishments are victim and witness assistance programs and victims compensation funds.

As early as 1976, Virginia had established its Criminal Injuries Compensation Fund, and in 1984 set up a Victim and Witness Assistance Program.

In that same year, HJR 105 (Appendix C) requested law-enforcement agencies, Commonwealth's attorneys, and courts to provide fair treatment to crime victims and witnesses.

The Judicial Council of Virginia and the Judicial Conference of Virginia adopted these practices and published "A Statement of Principles and Recommended Judicial Practices to Assure Fair Treatment of Crime Victims and Witnesses" (Appendix D). In 1986, Virginia amended its sexual assault statutes to include sex-neutral and marital rape provisions. Also in 1986, both HB 792 and HB 848 proposed a Victims Bill of Rights whose specifications parallel those of the Justice Department's Model Legislation (Appendix E). By 1987, Virginia had enacted legislation which, if reenacted in 1988, permits videotaping certain children's depositions, thereby drawing Virginia closer to the federal Model Legislation; however, Virginia, like other states, must still decide how far and how fast it wishes to comply with the model. Appendix G summarizes the model's provisions and each state's degree of compliance.

IV. Scope of the Study

The study included the following topics:

- Crime victims compensation
- Funding of victim-witness services
- Victim input in the sentencing process
- Victim input in the parole process
- Confidentiality of designated victim counseling
- Feasibility of a Bill of Rights for victims
- Other issues brought forward at public hearings

Although the study focused on legislative initiatives, the subcommittee recommended administrative or other actions to improve services for and treatment of victims and witnesses.

Four crime victims issues, the hearsay rule, videotaping testimony in child sex abuse cases, distribution of court assessments, and restitution are being studied by a House and Senate joint courts subcommittee, pursuant to HJR 319 (1987), and the Department of Planning and Budget, pursuant to Item 17 of the 1987 Appropriations Act. The Crime Commission subcommittee did not duplicate the work of these studies.

V. Recommendations

Pursuant to HJR 225 (1987), the subcommittee studying victims and witnesses of crime examined the Crime Victims Compensation Program, victim/witness services, the feasibility of enacting a crime victims bill of rights, and specific victim/witness issues. The Virginia State Crime Commission met on November 5, 1987 in Richmond, Virginia and received the report of the subcommittee. After careful consideration, the findings and recommendations of the subcommittee were adopted by the Commission.

The Commission reaffirms support for the Principles and Recommended Judicial Practices and urges administrators of the criminal justice system to abide by its provisions.

Crime Victims Compensation Program

1. Amend §19.2-368.18 to raise assessments for the Criminal Injuries Compensation Fund to establish a fee of twenty dollars for each conviction of a Class 1 or Class 2 misdemeanor under Title 18.2 except for drunkenness or disorderly conduct; and a fee of thirty dollars for any crime of treason, rape, robbery or any felony. The current fee is fifteen dollars for both classes of offenses.

2. The drunk driving exclusion in § 19.2-368.18 should be deleted, thereby subjecting drunk drivers to a \$20 misdemeanor assessment. Victims of drunk drivers should be included in the compensation program.
3. Amend §19.2-368.11:1(E) to eliminate the \$100 deduction and establish that all awards between \$100 and the \$15,000 maximum will be paid with no amount deducted. A claim for less than \$100 would not be eligible for compensation.
4. The Division of Crime Victims' Compensation Division should supply the Crime Commission with a report, at least quarterly, on the status of the compensation fund, the number of new claims received each month, and the number of claims not settled within three months.
5. The Department of Planning and Budget is conducting a study pursuant to item 17 of the 1987 Appropriation Act of the fines, fees, court costs and restitution ordered by district and circuit courts. The Department of Planning and Budget should examine the feasibility of placing the criminal injuries fund second in line in order of distribution priority. It is now subordinate to both court costs and fines.
6. The Division of Crime Victims Compensation should develop and promulgate written guidelines for eligibility, claims denial, and appeals procedures, and seek input on the effectiveness of its brochure. The Division should comply with the Administrative Process Act and the Crime Commission should review the guidelines before publication.
7. The Division should have its telephone number moved from the listing under "Industrial Commission" to "Crime Victims Compensation." The subcommittee commends the Division on having already accomplished this.
8. Billing directions should be attached to physical evidence recovery kits (PERK) to read, "Attention Health Care Provider: The person subject to this examination for the purpose of collecting evidence shall not be liable for the cost of this examination. Contact the local law enforcement agency to determine who shall pay the bill."
9. The subcommittee supports the budget request for two additional claims examiner positions for the Division.

Victim/Witness Assistance Programs

1. A resolution should be presented to the General Assembly for passage to encourage all localities to establish a program to assist victims of crime.
2. Amend Title 19.2 by adding a statute which outlines the basic minimum standards for an accredited victim-witness program. This statute should also provide that a program must be accredited to be eligible for participation in state funding and that DCJS will administer the funding and accreditation. Notification of victims of changed court dates should be included in the standards. DCJS should submit an impact statement to address this proposed legislation.
3. A resolution should be developed to recommend that all law enforcement agencies provide in-service training on victimization for all law enforcement officers and to recommend that the Department of Criminal Justice Services, in its validity review of mandated basic recruit training, include victimology training.

Victim Impact Statements

1. The Virginia State Crime Commission should continue the subcommittee on victims and witnesses of crime. Among other issues, it should continue the study of mandating the right of victims of personal crime, with the victim's consent, to have a victim impact statement considered as part of the presentence report.

Parole Input

1. As a second topic for continued study, the subcommittee should further examine this issue before making a final recommendation, especially in regard to the dilemma of protecting the public while protecting the prisoner's right to know the bases of parole decisions.
2. Future recommendations should be based on such considerations as:
 - a. A review of the Board's current procedures
 - b. The victim's right to provide input in parole decisions
 - c. The responsibility for notifying victims as a function of local agencies and courts
 - d. The responsibility of persons wanting to submit a statement to keep the Board apprised of their addresses
 - e. A requirement for receiving the input statement within 30 days after the person's receiving notification of the parole hearing
 - f. Those giving input to the Board should be notified of the Board's decision to parole or not to parole.

Confidentiality of Designated Victim Counseling

The issue of counselor confidentiality, along with victim impact statements and parole input statements, should be carried over for further study by the subcommittee.

Crime Victims Bill of Rights

Virginia has a variety of provisions for victims already in place and additional ones are proposed or are being studied. The codification of Virginia law places these in segmented portions of the Code of Virginia. As an alternative to recodifying all of these provisions into a single bill of rights, the Crime Commission should identify the best source of funds for publication and distribution of a booklet which would clearly list, summarize and bring together in one document crime victims laws in Virginia.

Additional Recommendations

1. Employer intercession for victims' and witnesses' court attendance: Section 18.2-465.1 (Penalizing employees for service on jury panel) should be amended to include victims and witnesses.
2. Address protection: A section should be added to Chapter 15 (Trial and Its Incidents) of Title 19.2 so that the addresses of victims of crimes against the person shall not be elicited in testimony unless the court determines that the address is necessary to establish an element of the offense or is otherwise relevant to the crime.

3. Separate waiting areas: The subcommittee should continue its study of this issue and, until additional information is collected, include the provision of separate waiting areas, where possible, in the standards for victim/witness assistance programs.
4. Victims' and family members' right to attend trial: This issue should be included in the continued study.
5. Hospital protocol for rape victims: The Crime Commission should update and republish for distribution to all hospital emergency rooms the Crime Commission publication "Hospital Protocol for Treatment of Sexual Assault Victims" and request the assistance of the Virginia Hospital Association in distributing the document.
6. Handbook for sexual assault victims: The Crime Commission publication "Criminal Sexual Assault: A Handbook for Victims" should be reviewed and updated with the assistance of the Department of Criminal Justice Services. The booklet should be printed and distributed to all interested parties.

VI. Work of the Subcommittee

The subcommittee held three public hearings (July 30 in Roanoke, August 13 in Fredericksburg, and September 2 in Chesapeake), one extensive staff briefing, which took place as part of the first public hearing, and a work session in Richmond on September 22, 1987. In addition, the subcommittee reviewed crime victim studies and legislation from other states, as well as over 200 responses to a 44-question survey mailed statewide to judges, Commonwealth's attorneys, probation and parole officers, law enforcement officers, crisis center directors, and victim/witness assistance program coordinators.

A. Testimony and survey

Of some 75 people who testified, whether representing offices or organizations or speaking as victims or surviving family members, all supported the victims compensation program and victim/witness assistance programs, and all expressed hope that both programs could be expanded. Testimony and the survey revealed, however, that the compensation program would be improved by clearer, more specific written guidelines for eligibility and filing claims than those stated in § 19.2-368.4 et seq. of the Code. Survey results also showed that written compensation guidelines supplied to victim/witness offices would be helpful to victims and those assisting them.

B. Research

Virginia Law - The National Organization for Victim Assistance (NOVA), in its 1985 publication Victim Rights and Services: A Legislative Directory, recommends 50 crime victim/witness issues for legislative attention. Although Virginia has not yet enacted a Victims Bill of Rights, such legislation has been introduced and many of its provisions are already covered either by statute or by voluntary adherence to the suggestions in "A Statement of Principles and Recommended Judicial Practices to Assure Fair Treatment of Crime Victims and Witnesses," a brochure issued jointly by the Judicial Council of Virginia and the Judicial Conference of Virginia (Appendix D). Appendix F lists, in numerical order, the Virginia Code sections related to victims issues.

The Law in Other States - Victims Rights and Services: A Legislative Directory also identifies victim-witness issues and their status in each state (Appendix G). At the time of publication (1985), 28 states had enacted legislation which provided funding for services; 44 had enacted compensation legislation; 39 had enacted legislation providing for victim impact statements; and 31 had enacted victims bills of rights. More up-to-date information appears in Volume I of the National Association of Attorneys General publication, Crime Victims Seminar 1987, which compiles victim-witness laws enacted in each state in 1986 or introduced in 1987 (Appendix G-1).

Federal Law - Federal initiatives and legislation benefiting victims and witnesses include the following:

1. The Omnibus Victim and Witness Protection Act of 1982

This act provides for:

- a. Mandatory victim impact statements containing all financial, social, psychological and medical effects of the crime on the victim, as part of federal pre-sentence reports;
- b. Protection of federal victims and witnesses from intimidation;
- c. Payment of restitution by offenders to victims of federal crimes;
- d. Guidelines for fair treatment of victims and witnesses in federal crimes; and
- e. A provision prohibiting a felon from profiting from the sale of the story of his crime (sometimes referred to as the Son of Sam provision).

2. The President's Task Force on Victims of Crime - Appointed, on April 23, 1982, the Task Force, chaired by Lois Haight Herrington, reviewed literature on victimization, interviewed professionals working with victims and heard testimony from crime victims, their friends and relatives. Hearings were conducted in Washington D.C., Boston, Denver, San Francisco, St. Louis and Houston.

The Task Force completed its report in December 1982 and formally presented it to the President in January 1983. This report contained sixty-eight recommendations for action by, among others, criminal justice agencies, hospitals, bar associations and the private sector. One of the recommendations was to provide federal funding for victims' compensation and services provided to victims.

3. The Victims of Crime Act of 1984 - This assistance was made possible when Congress enacted the Comprehensive Crime Control Act of 1984. One of the components of this act is the Victims of Crime Act of 1984, which provides federal financial assistance to qualified state compensation programs and financial assistance to states for support of programs which provide services to crime victims. In Virginia, the Department of Criminal Justice Services (DCJS) has been designated to administer the victim services program. The compensation program is administered by the Industrial Commission and its Division of Crime Victims' Compensation.

4. The Justice Assistance Act of 1984 - A second component of the Comprehensive Crime Control Act is the Justice Assistance Act of 1984. This Act provides federal financial assistance to eighteen designated target areas of proven effectiveness. Assistance to victims of and witnesses to crime was one of the target areas. DCJS, which also administers these federal funds, awarded approximately \$138,000 to fifteen local victim assistance programs in FY 85-86, and VOCA funds became available the following year.
5. Office of Justice Programs - The Office for Victims of Crime, created in July 1983, is part of the Office of Justice Programs, which is the agency charged with implementing the task force recommendations. This is being done, in part, by the establishment of a national resource center and the development of model legislation and training grants.

Training programs for professionals have been developed in conjunction with various organizations, including the National Sheriffs' Association, the National Organization of Black Law Enforcement Executives, the National Judicial College, the National Organization for Victim Assistance, and the National Association of State Directors of Law Enforcement Training.

Parallel or Similar Studies in Virginia

In Virginia, several studies concerning crime victims and witnesses have been published. A 1979 study, conducted by the Crime Commission, outlines a hospital protocol for treatment of sexual assault victims. Another Crime Commission study, Victim-Witness Programs in Virginia (1983), and a DCJS study, A New Initiative for the Old Dominion: Victim-Witness Assistance Programs in Virginia, survey existing programs and recommend actions to strengthen them. This study was up-dated in 1986 as Victim/Witness Programs: Balancing the Scales. The Department of Planning and Budget is conducting one study on fines, costs, and restitution. The Joint Legislative Audit and Review Commission has begun a study that will include the Industrial Commission, the agency that administers the Criminal Injuries Compensation Fund. Both the Industrial Commission and the House Appropriations Committee have completed studies regarding Virginia's participation in VOCA. A legislative study on victims and witnesses was completed in 1986. This document (SD 15), "Crime Victims' Compensation," whose legislative proposals were enacted, recommended expanding the provisions of Chapter 21.1 (Compensating Victims of Crime) of Title 19.2 to extend the tolling for claims involving a minor or mentally incompetent person, to lengthen the time for filing appeal applications, to redefine methods for calculating awards, and to specify ways of disseminating information about the program. A joint subcommittee of the House and Senate Courts of Justice Committees established by House Joint Resolution 319 (1987) is currently studying the hearsay rule and videotaping testimony in child sexual assault cases.

VII. Discussion of Issues

A. Crime Victims Compensation Program

Current Law and situation

Virginia enacted a crime victims compensation law (§§ 19.2-368.1 through 19.2-368.18) in 1976, and the Industrial Commission's Division of Crime Victims Compensation began receiving claims in July 1977. The fund paid \$1,210,959 in claims in FY 1986-87. The following chart summarizes the situation for FY 1988.

FY 88	Expected Revenues
	\$ 29,000 Carryover
	300,000 Special Appropriation
	780,000 Fees Collection
	<u>325,000</u> Federal Grant
	\$1,434,000 Total

Expected Expenditures
\$2,000,000 Total

FY 88 Deficit
\$566,000

Because of the increased publicity brought about by § 19.2-368.17, the increase in victim assistance programs, expanded eligibility criteria in § 19.2-368.4 (surviving parents and certain family members of offenders are now eligible for awards), and extending the statute of limitations for reporting crimes against children (§ 8.01-229), the program will deplete its resources by the end of this year. Not only is the program's future jeopardized, but its current operation is impaired as a result of inadequate funding, delayed arrival of federal funds, unexpectedly low revenues from court assessments combined with an unexpectedly high number of claims (843 in FY 86-87; 494 in FY 85-86), and insufficient staff. Hence, a reassessment of funding for crime victim compensation is urgent (Appendix H).

Findings

Public testimony and the survey reveal unanimous support for the Crime Victims Compensation Program; however, with increased public awareness of the program, demands for money and for time to process claims now far exceed available funds and personnel. Victims whose claims are granted sometimes must wait 6 months or more before they receive money, and those who appeal decisions and win may wait a year. In addition, both victims and victim assistance personnel find application and appeal processes cumbersome and confusing, and the eligibility requirements narrow and ambiguous. To reduce delays and frustration, victims and victim counselors pressed for additional funds and the development and dissemination of written guidelines explaining eligibility and appeals.

Speakers also requested that the \$100 deductible on compensation claims be removed, and that a lower limit of \$100 be established for claim eligibility, so that any eligible claim of between \$100 and \$15,000, the upper limit for compensation payments, would be completely reimbursed.

Of particular impact was testimony concerning inclusion of DUI victims in victim compensation coverage. Research of other states' crime compensation laws indicates that such victims account for only ten percent of claims payment. Appendix H provides a financial analysis of the proposals for establishing financial stability in the compensation program.

Conclusion

The subcommittee concludes that crime victims compensation funds are inadequate to meet demands, that victims and those working with them lack sufficient information to file claims in the clearest, most expeditious manner possible, that the \$100 deductible for compensation claims provides an undue hardship on many victims, that inclusion of DUI offenders in the fee assessment will improve the financial status of the program, and more importantly that inclusion of DUI victims will improve the equity of the program's treatment of victims.

Victim/Witness Programs

Current law and situation

Victim/witness programs, first established in Portsmouth in 1976, assist all crime victims, especially victims of violent crimes, in reducing the trauma of victimization, understanding the complexities of the criminal justice system, and filing for victim compensation programs. Until 1984, only six such programs existed in Virginia. Funds made available that year through continuing state appropriations and in 1986 through the federal Victims of Crime Act enabled Virginia to expand the locally operated programs (§ 9-173.3), so that currently 32 programs now provide some level of service to 60% of Virginia's population. The Department of Criminal Justice Services administers these programs.

In addition to providing funding and technical assistance to localities, DCJS has also:

1. Designed and printed a handbook for crime victims.
2. Designed and printed a handbook for witnesses of crime.
3. Written and filmed a videotape for law enforcement officers about their roles in assisting crime victims.
4. Provided regional training for teams from localities to educate them about coordinating their services to assist crime victims.

The Department is currently in the process of:

1. Revising, in conjunction with the Crime Commission, the publication "Sexual Assault: A Handbook for Victims," originally published by the Crime Commission in August, 1981.
2. Developing victim assistance model policies and procedures for, among others, law enforcement, prosecution and victim service providers.
3. Developing victim assistance training curriculums for law enforcement, judiciary, Commonwealth's attorneys and victim service providers.
4. Developing a resource manual for victim/witness coordinators to assist them in performing their duties. This manual will include chapters on victims compensation, victim impact statements, and program management.
5. Developing a statewide assessment to determine which localities are appropriate for victim assistance programs and the level of staffing needed by each locality to provide appropriate services to crime victims.
6. Assisting localities wishing to develop victim assistance programs.
7. Working closely with the Virginia Network for Victims and Witnesses in activities designed to assist those providing services to crime victims in Virginia.
8. Working on a task force which is developing a model for victim impact statements.

9. Developing, in conjunction with the Parole Board, a brochure for crime victims which describes the parole process.

As a result of these Departmental and programmatic initiatives, the demand for victim/witness services now exceeds the ability to supply them.

Findings

Testimony, surveys, and research reveal widespread, unanimous support for victim services. While victims who testified at the public hearings expressed profound disillusionment with the criminal justice system's disregard for victims, every person complimented victim service coordinators for their helpfulness. Some remarked that the only professionals to treat them compassionately were the coordinators, and that without their efforts, victims would have been even more helpless in dealing with the criminal justice system and, more importantly, in restoring their lives. Testimony also disclosed that law enforcement agencies and Commonwealth's attorneys frequently lack the time and personnel necessary to provide victims with more than minimal attention, once the basic legal issues have been dealt with.

Conclusion

The Commission concludes that additional victim assistance services are essential to assure victims of support and guidance in criminal justice proceedings and to alleviate burdens on Commonwealth's attorneys' offices and law enforcement agencies.

Victim Impact Statements

Current law and situation

Section 19.2-299.1 currently makes inclusion of a victim impact statement discretionary with the court, and there is no provision that requires victims to be informed that they can request that such a statement be included as part of the presentence report, whether or not the judge chooses to allow it in determining the sentence. According to statistics furnished by the Department of Criminal Justice Services, victim impact statements are requested by the court in approximately 20 percent of personal offense cases.

House Bill 848 (1986) proposed mandating victim impact statements at the request of the victim; however, the proposal was defeated. One objection raised was potential sentencing inequities.

A Supreme Court ruling in 1987 (*John Booth, Petitioner v Maryland*) found victim impact statements unconstitutional in capital murder cases since the introduction of a potentially inflammatory statement might prejudice the sentence and thereby result in "cruel and unusual punishment." Research indicates that no victim impact statements were used in Virginia in capital offenses in 1986.

Findings

Testimony regarding inclusion of victim impact statements in presentence reports remains divided. Some feel that the statements should be included for every serious crime; some feel that they should be included only with the victim's consent; and others oppose their inclusion altogether.

According to a 1987 table published by the National Association of Attorneys General, 32 states currently require victim impact statements, and that association supports inclusion of the statement, with the victim's consent, in the presentence report. Victims overwhelmingly support the opportunity to express themselves to the court through the use of victim impact statements. Some probation and parole officers, who would prepare the statements, find themselves already overburdened, claiming that each victim impact statement would require five to six hours to complete. Others, however, counter that they already prepare them and that they usually require only 30 minutes to one hour. The subcommittee heard testimony from one chief probation and parole officer who testified that probation and parole officers in his area personally interviewed victims of violent offenses. It was also noted that a task force composed of representatives of probation and parole, Commonwealth's attorneys, law enforcement, and victim/witness assistance programs was currently developing a victim impact statement form.

Conclusions

Because of the complexity of the issue and the intense feelings surrounding it, the subcommittee needs additional time to study the legal, economic, and staffing implications of mandating crime victims' right to victim impact statements.

Parole Input and Notification

Current law and situation

Although § 53.1-155 requires a prerelease investigation and § 53.1-160 requires prerelease notice to be given to certain officials, the Virginia Code has no provision requiring notification of a victim that a prisoner's parole hearing has been scheduled or that the prisoner has been released. The Parole Board has initiated a procedure whereby victims can request such notification (Appendix D). Victims are also allowed to submit a written statement detailing the effects the crime had on them and expressing their opinion regarding the prisoner's parole. Like the compensation program's promotional efforts, the Parole Board's publicizing its willingness to consider input statements has met with unexpected acceptance, with over 4,000 input forms and letters received in 1986 and even more anticipated for current and future years.

Findings

The Parole Board has a program that, despite an occasional unfortunate oversight, keeps up with existing demands. The Board defines itself as a "citizen representative," and this priority has created an agency that is responsive and sensitive to victims. Testimony from parole officers and victims disclosed that a victim's awareness of the opportunity for input and for notification of release varies according to the locality. It was also pointed out that when victims are threatened by prisoners, not being notified of a parole hearing or release can result in the wrong parole decision, unnecessary fear for the victim and, of course, actual peril to the victim.

Conclusions

Judging from the response to the Board's notification program, the subcommittee concludes that victims will use the program if they know about it. If its popularity continues to grow, however, and all indications are that it will, without additional staff the success of the program will crumble under an increasingly difficult burden of handling victim input information. Again, because of the issue's complexity, the subcommittee felt that more time is required to study this issue.

Finally, the subcommittee commends the Virginia Parole Board for its initiative and voluntary attentiveness to the needs of victims of crime.

Counselor Confidentiality

Current law and situation

Although § 8.01-400.2 provides for counselor confidentiality in civil cases, no parallel provision exists in criminal law. In one 1987 case (Pennsylvania, Petitioner v. Ritchie), the U.S. Supreme Court ruled that such confidentiality violated a defendant's right to information that might have changed the outcome of his trial had it been disclosed.

Findings

Both victims and counselors testified to the necessity for allowing counselor confidentiality, especially in sex crime cases. Counselors admit, however, that the profession itself has not completely defined the limits of the term "counselor" nor fully identified which workers the definition should include. In addition, questions regarding the defendants' rights remain incompletely answered.

Conclusions

Because of the legal complexities of counselor confidentiality, the subcommittee needs more time to examine this issue.

Crime Victims Bill of Rights

Current law

Although Virginia has a number of statutes benefiting crime victims (Appendix F) and encourages adherence to "Principles and Recommended Practices" (Appendix D), the Code of Virginia does not include a particular chapter setting out crime victims laws.

Findings

Testimony was divided on this issue: victims usually spoke in favor of a bill of rights; some attorneys, concerned about potential governmental liability, opposed it. Conversations with victims advocates in Connecticut, Massachusetts, Minnesota, and Wisconsin revealed that, to date, no suits have been filed against state or local governments. States usually avoid liability by including a nonliability provision in their victims bills of rights, a practice that in some measure may reduce the law's effectiveness. Despite the disclaimer, however, proponents feel that a bill of rights does improve the treatment of victims. Victims were especially concerned that information regarding victims laws be made more accessible and widespread.

Conclusions

While recognizing the value of testimony supporting a crime victims bill of rights, the subcommittee noted that Virginia already has various victim laws, that the subcommittee will be proposing new ones, and that more are under study. The need remains, however, for a single source document to identify existing provisions for victims of crime. The subcommittee also concluded that victims and those who work with them could more readily use this single source of victims laws, rather than search for specific provisions throughout the Code of Virginia.

Notification - Court Dates

Current law and situation

No provisions exist to require that victims and witnesses be notified promptly of court date changes. Notifying victims and witnesses of changes varies according to the individual Commonwealth's attorney's discretion.

Findings

Testimony and the survey revealed that victims regard the failure to notify them of changes in court dates as perhaps the greatest frustration and inconvenience of the criminal justice process. Victims complain that they must leave work, sometimes at their expense, or hire babysitters only to discover that the trial has been postponed. This practice not only inconveniences and costs victims and witnesses, but it also costs the Commonwealth, which is required by §§ 19.2-278, 19.2-329, 19.2-330, and 19.2-331 to pay witness expenses when witnesses are summoned by the state.

Commonwealth's attorneys respond that their workload is so enormous, especially in rural areas where there may be only one part-time attorney to prosecute every criminal case, that notifying all victims and witnesses of changed court dates in advance would be impossible. Also, they point out, they often learn of the postponement only when they arrive at court.

Victim/witness assistance coordinators have testified that they would notify victims and witnesses of the schedule changes, thereby removing the burden from Commonwealth's attorneys. Here again, however, the rural area remains unserved unless new victim/witness assistance programs are established.

Conclusions

The Commission concludes that notification of court dates is an area that needs reform. The Commonwealth should seek to relieve the burden of those individuals who must take off from work in order to testify before the criminal courts of this state. Further, localities which establish victim-witness programs should make notification of continuances a priority.

Victim/Witness Intimidation/Protection

Current law and situation

Virginia has certain statutes already in place to protect victims and witnesses. Section 18.2-460 punishes obstruction of justice by threats, force, or intimidation as a Class 1 misdemeanor and, in drug cases, as a Class 5 felony. Section 19.2-120 allows judges discretion to deny bail when an accused represents a danger to society.

No statutes exist to cover address protection, provision of separate waiting areas, police protection, and notification of escape. Throughout the state the media have cooperated in protecting the names and addresses of sex crime victims; however, the provision of the other forms of protection varies from locality to locality.

Findings

Little information emerged in the public hearings to suggest that, prior to conviction, intimidation posed a problem for most victims and witnesses. No one reported overt court room threats and, although victims were angry and frustrated that defendants were allowed to go free on bond, few speakers admitted feeling threatened. The survey, however, revealed that some victims are threatened by defendants both before and after conviction. Moreover, victims may feel so threatened that they will not report the crime or testify in public. To try to allay these fears, judges routinely deny bail when an accused does appear to be a threat to society or to a particular person. No complaints arose about media publication of names and addresses of victims, but victims, especially when they had moved from the site of a crime, preferred not to have to state their new address in court.

Testimony and survey results show that separate waiting areas for victims and defendants, and their respective witnesses, form a major concern for victims. Although many courts can provide separation, courts with less adequate facilities sometimes lack a clear solution to this problem.

The Commission found no evidence of police protection inadequacy. Victims did complain, however, that no one notified them when a prisoner escaped. The Commission determined that escape notification sometimes occurred through the Commonwealth's attorney's office, but this practice was voluntary and varied by locality.

Conclusions

The subcommittee concluded that many laws, when they are enforced, already exist to ensure protection of victims and witnesses. The subcommittee was concerned over a victim's being required to reveal his or her address, especially if the victim relocated after the offense in order to reintroduce stability and a sense of security in his or her life. Also noted by the subcommittee was that creativity and initiative by judges and other court officials in providing separate waiting areas for defendants, victims and their respective witnesses and family members, could overcome facility configuration constraints in some cases.

APPENDIX A
Legislative Proposals

1. A BILL to amend and reenact §§ 19.2-368.2, 19.2-368.11:1 and 19.2-368.18 of the Code of Virginia, relating to the Criminal Injuries Compensation Fund.
2. SENATE JOINT RESOLUTION requesting the establishment of crime victim and witness assistance programs by local governing bodies.
3. A BILL to amend the Code of Virginia by adding in Title 19.2 a chapter numbered 1.1, consisting of a section numbered 19.2-11.1, relating to standards for crime victim and witness assistance programs.
4. A BILL to amend and reenact § 18.2-465.1 of the Code of Virginia, relating to penalizing employees for jury duty or court appearances; penalty.
5. A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 16 of Title 19.2 a section numbered 19.2-266.2, relating to nondisclosure of the addresses of crime victims.

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend and reenact §§ 19.2-368.2, 19.2-368.11:1 and
4 19.2-368.18 of the Code of Virginia, relating to the Criminal
5 Injuries Compensation Fund.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That §§ 19.2-368.2, 19.2-368.11:1 and 19.2-368.18 of the Code of
9 Virginia are amended and reenacted as follows:

10 § 19.2-368.2. Definitions.--For the purpose of this chapter:

11 1. "Commission" shall mean the Industrial Commission of
12 Virginia.

13 2. "Claimant" shall mean the person filing a claim pursuant to
14 this chapter.

15 3. "Crime" shall mean an act committed by any person in the
16 Commonwealth of Virginia which would constitute a crime as defined by
17 the Code of Virginia or at common law. However, no act involving the
18 operation of a motor vehicle which results in injury shall constitute
19 a crime for the purpose of this chapter unless the injuries (i) were
20 intentionally inflicted through the use of such vehicle or (ii)
21 resulted from a violation of § 18.2-266 .

22 4. "Family," when used with reference to a person, means (1) any
23 person related to such person within the third degree of consanguinity
24 or affinity, (2) any person residing in the same household with such
25 person, or (3) a spouse.

26 5. "Victim" means a person who suffers personal physical injury

1 or death as a direct result of a crime.

2 § 19.2-368.11:1. Amount of award.--A. Compensation for Total Los
3 of Earnings: An award made pursuant to this chapter for total loss of
4 earnings which results directly from incapacity incurred by a crime
5 victim shall be payable during total incapacity to the victim or to
6 such other eligible person, at a weekly compensation rate equal to
7 sixty-six and two-thirds percent of the victim's average weekly wages.
8 The total amount of weekly compensation shall not exceed \$200. The
9 victim's average weekly wages shall be determined as provided in §
10 65.1-6.

11 B. Compensation for Partial Loss of Earnings: An award made
12 pursuant to this chapter for partial loss of earnings which results
13 directly from incapacity incurred by a crime victim shall be payable
14 during incapacity at a weekly rate equal to sixty-six and two-thirds
15 percent of the difference between the victim's average weekly wages
16 before the injury and the weekly wages which the victim is able to
17 earn thereafter. The combined total of actual weekly earnings and
18 compensation for partial loss of earnings shall not exceed \$200 per
19 week.

20 C. Compensation for Dependents of a Victim Who Is Killed: If
21 death results to a victim of crime entitled to benefits, dependents of
22 the victim shall be entitled to compensation in accordance with the
23 provisions of §§ 65.1-65 and 65.1-66 in an amount not to exceed the
24 maximum aggregate payment or the maximum weekly compensation which
25 would have been payable to the deceased victim under this section.

26 D. Compensation for Unreimbursed Medical Costs, Funeral
27 Expenses, Services, etc.: Awards may also be made on claims, or
28 portions of claims based upon the claimant's actual expenses incurred

1 as are determined by the Commission to be appropriate, for (i)
2 unreimbursed medical expenses or indebtedness reasonably incurred for
3 medical expenses; (ii) expenses reasonably incurred in obtaining
4 ordinary and necessary services in lieu of those the victim would have
5 performed, for the benefit of himself and his family, if he had not
6 been a victim of crime; (iii) expenses in any way related to funeral
7 or burial, not to exceed \$1,500; (iv) expenses attributable to
8 pregnancy resulting from forcible rape; (v) any other reasonable and
9 necessary expenses and indebtedness incurred as a direct result of the
10 injury or death upon which such claim is based, not otherwise
11 specifically provided for.

12 E. Any award made pursuant to this section shall be subject to a
13 deduction of \$100 from any and all losses, except that an award to a
14 person sixty-five years of age or older shall not be subject to any
15 deduction. Payments under this chapter To qualify for an award under
16 this chapter, a claim must have a minimum value of \$100, and payments
17 for injury or death to a victim of crime, to the victim's dependents
18 or to others entitled to payment for covered expenses shall not exceed
19 \$15,000 in the aggregate.

20 § 19.2-368.18. Criminal Injuries Compensation Fund.--A. There is
21 hereby created a special fund to be administered by the Comptroller,
22 known as the Criminal Injuries Compensation Fund.

23 B. Where any person is convicted, after July 1, 1976, of any
24 crime of by a court with criminal jurisdiction of (i) treason ; or
25 any other felony ; or of (ii) any offense punishable as a Class 1
26 or Class 2 misdemeanor under Title 18.2 , except a violation of
27 Article 2 (§ 18-2-266 et seq.); Chapter 7, of Title 18-2 or
28 drunkenness or disorderly conduct, by any court with criminal

1 jurisdiction, there shall be imposed an additional cost, in the case,
2 with the exception of a public drunkenness or disorderly conduct
3 violation, a cost shall be imposed in addition to any other costs
4 required to be imposed by law, of the sum of fifteen dollars. This
5 additional cost shall be thirty dollars in any case under item (i) and
6 twenty dollars in any case under item (ii) of this subsection. Such
7 additional sum shall be paid over to the Comptroller to be deposited
8 into the Criminal Injuries Compensation Fund. Under no condition
9 shall a political subdivision be held liable for the payment of this
10 sum.

11 C. No claim shall be accepted under the provisions of this
12 chapter when the crime which gave rise to such claim occurred prior to
13 July 1, 1977.

14 D. Sums available in the Criminal Injuries Compensation Fund
15 shall be used for the purpose of payment of the costs and expenses
16 necessary for the administration of this chapter and for the payment
17 of claims pursuant to this chapter.

18 E. No claim shall be accepted by the Commission under this
19 chapter until July 1, 1977. All revenues deposited into the Criminal
20 Injuries Compensation Fund, and appropriated for the purposes of this
21 chapter, shall be immediately available for the payment of claims.

22 #

2 SENATE JOINT RESOLUTION NO.....

3 Requesting the establishment of crime victim and witness assistance
4 programs by local governing bodies.

5

6 WHEREAS, every year thousands of crimes are committed in Virginia
7 which result in injury or loss to an untold number of men, women and
8 children; and

9 WHEREAS, the physical, emotional and financial suffering of these
10 victims and witnesses and their families is sometimes overlooked by
11 the agencies which comprise our criminal justice system; and

12 WHEREAS, the major emphasis of the criminal justice system thus
13 far has been the apprehension, prosecution and rehabilitation of the
14 accused; and

15 WHEREAS, although positive steps are currently underway in
16 Virginia through the Criminal Injuries Compensation Fund and other
17 initiatives, additional steps are needed; and

18 WHEREAS, it is the civic responsibility of all citizens to become
19 involved in the criminal justice system; and

20 WHEREAS, the General Assembly in 1984 authorized the Department
21 of Criminal Justice Services to award grants for the purpose of
22 assisting in the funding of local programs to serve crime victims and
23 witnesses; and

24 WHEREAS, thirty-two localities in Virginia have initiated local
25 programs to assist victims and witnesses of crime; and

26 WHEREAS, the General Assembly, in recognizing the importance of

1 citizen cooperation to the general effectiveness of the criminal
2 justice system, finds that all crime victims and witnesses in the
3 criminal justice system should be treated with dignity, respect,
4 courtesy and sensitivity; now, therefore, be it

5 RESOLVED by the Senate, the House of Delegates concurring, That
6 the General Assembly by this resolution calls upon all local governing
7 bodies to establish, operate and maintain assistance programs to help
8 victims and witnesses of crime in dealing with the complexities of the
9 criminal justice system and in coping with the trauma and emotional
10 toll to which such persons are subjected; and, be it

11 RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of
12 this resolution for presentation to all local governing bodies in the
13 Commonwealth that they may be apprised of the sense of the General
14 Assembly.

15 #

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend the Code of Virginia by adding in Title 19.2 a chapter
4 numbered 1.1, consisting of a section numbered 19.2-11.1,
5 relating to standards for crime victim and witness assistance
6 programs.

7

8 Be it enacted by the General Assembly of Virginia:

9 1. That the Code of Virginia is amended by adding in Title 19.2 a
10 chapter numbered 1.1, consisting of a section numbered 19.2-11.1, as
11 follows:

12 CHAPTER 1.1.

13 CRIME VICTIM AND WITNESS ASSISTANCE PROGRAMS.

14 § 19.2-11.1. Establishment of crime victim-witness assistance
15 programs; funding; minimum standards.--A. Any local governmental body
16 which establishes, operates and maintains a crime victim and witness
17 assistance program which is accredited by the Department of Criminal
18 Justice Services shall be eligible for participation in state funding
19 for such program pursuant to § 9-173.3 of this Code.

20 B. To qualify for accreditation, local victim and witness
21 assistance programs shall observe the following guidelines:

22 1. In order that victims and witnesses receive protection from
23 harm and threats of harm arising out of their cooperation with
24 law-enforcement, prosecution or defense efforts, they shall be
25 provided with information as to the level of protection available and
26 be assisted in obtaining this protection from the appropriate
27 authorities.

1 2. Victims shall be informed of financial assistance and social
2 services available as a result of being a victim of a crime, including
3 information on how to apply for assistance and services.

4 3. Victims and witnesses shall be provided, where available, a
5 separate waiting area during court proceedings that affords them
6 privacy and protection from intimidation.

7 4. Victims shall be assisted, to the extent possible, in having
8 any stolen property held by law-enforcement agencies for evidentiary
9 purposes returned promptly.

10 5. Victims and witnesses shall be provided with appropriate
11 employer intercession services to ensure that employers of victims and
12 witnesses will cooperate with the criminal justice process in order to
13 minimize an employee's loss of pay and other benefits resulting from
14 court appearances.

15 6. Victims and witnesses shall receive prompt advance
16 notification, whenever possible, of judicial proceedings relating to
17 their case.

18 7. Victims shall be assisted in seeking restitution in
19 accordance with the laws of the Commonwealth where the offense results
20 in damage, loss, or destruction of the property of the victim of the
21 offense or in cases resulting in bodily injury or death to the victim.

22 8. Victims and witnesses shall be expeditiously notified by
23 appropriate personnel of any changes in court dates.

24 9. Victims of crime shall be notified of alternatives available
25 regarding the use of victim impact statements at sentencing and victim
26 input in the parole process.

27 Additionally, such programs shall adhere to such other standards
28 as may be promulgated by the Department of Criminal Justice Services.

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend and reenact § 18.2-465.1 of the Code of
4 Virginia, relating to penalizing employees for jury
5 duty or court appearances; penalty.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That § 18.2-465.1 of the Code of Virginia is amended and
9 reenacted as follows:

10 § 18.2-465.1. Penalizing employee for court appearance
11 or service on jury panel.--Any person who is summoned to
12 serve on jury duty or any victim of or witness to a crime
13 who is to appear in a court of law when such criminal case
14 is heard shall neither be discharged from employment, nor
15 have any adverse personnel action taken against him, nor
16 shall he be required to use sick leave or vacation time, as
17 a result of his absence from employment due to such jury
18 duty or court appearance , upon giving reasonable notice to
19 his employer of such court appearance or summons. Any
20 employer violating the provisions of this section shall be
21 guilty of a Class 4 misdemeanor.

22

#

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend the Code of Virginia by adding in Article 1
4 of Chapter 16 of Title 19.2 a section numbered
5 19.2-266.2, relating to nondisclosure of the addresses
6 of crime victims.

7

8 Be it enacted by the General Assembly of Virginia:

9 1. That the Code of Virginia is amended by adding in
10 Article 1 of Chapter 16 of Title 19.2 a section numbered
11 19.2-266.2 as follows:

12 § 19.2-266.2. Nondisclosure of victim's
13 address.--Unless the court determines that the address of a
14 crime victim is an element of the crime or otherwise
15 relevant in a criminal proceeding, a victim of a crime
16 against a person shall not be required to reveal his address
17 in any criminal proceeding.

18

#

APPENDIX B

HJR 225

GENERAL ASSEMBLY OF VIRGINIA -- 1987 SESSION

HOUSE JOINT RESOLUTION NO. 225

Directing the Virginia State Crime Commission to study crime victim-witness services.

Agreed to by the House of Delegates, February 8, 1987

Agreed to by the Senate, February 19, 1987

WHEREAS, public respect and support for the criminal justice system requires that it be perceived as balanced and fair, not only to those accused and convicted of committing crimes but also to those who are victims and witnesses of crimes; and

WHEREAS, protecting the rights of victims and witnesses of crime need not infringe upon the constitutional rights of those accused and convicted of committing crimes; and

WHEREAS, this Assembly, by way of prior enactments and resolutions, has previously affirmed its support for the rights of crime victims and witnesses; and

WHEREAS, there is a need to evaluate the effectiveness of current victim-witness services in view of the increasing number of bills introduced each legislative session dealing with victim-witness issues and to review various proposals that have been made regarding a "Bill of Rights for Victims and Witnesses of Crime"; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission is directed to (i) evaluate the effectiveness of current services provided to victims and witnesses of crime throughout the Commonwealth of Virginia, (ii) to study the concept of a "Bill of Rights for Victims and Witnesses of Crime," and (iii) to make any recommendations the Commission finds appropriate.

The Commission shall employ whatever methods of inquiry it shall deem necessary including, but not limited to, the conducting of public hearings throughout the Commonwealth and the employment of additional, temporary staff. The Department of Criminal Justice Services, through its Victim-Witness Program section, shall lend its expertise and resources to the Commission in completing this study.

The Commission shall complete its study and submit its recommendations, if any, no later than December 1, 1987.

The direct costs of this study are estimated to be \$8,315 and such amount shall be allocated to the Virginia State Crime Commission from the general appropriation to the General Assembly.

APPENDIX C

HJR 105

*Fair
treatment
for
crime victims
and
witnesses*

Whereas every year thousands of crimes are committed in Virginia which result in injury or loss to an untold number of men, women and children; and

Whereas the physical, emotional and financial suffering of these victims and witnesses and their families are sometimes overlooked by the agencies which comprise our criminal justice system; and

Whereas the major emphasis of the criminal justice system thus far has been the apprehension, prosecution and rehabilitation of the accused; and

Whereas Virginia spends millions of dollars on the perpetrators of crime from their arrest through their release from prison but spends little to assist victims and witnesses in restoring their lives and property; and

Whereas although positive steps are currently underway in Virginia through the Criminal Injuries Compensation Fund, additional steps are needed; and

Whereas it is the civic responsibility of all citizens to become involved in their criminal justice system; and

Whereas the General Assembly, in recognizing the importance of citizen cooperation to the general effectiveness of the criminal justice system, finds that all crime victims and witnesses in the criminal justice system should be treated with dignity, respect, courtesy and sensitivity; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the General Assembly of Virginia by this resolution calls upon all law-enforcement agencies, attorneys for the Commonwealth and courts to strive to provide dignified, respectful, courteous and sensitive treatment to victims of crime and witnesses for both the Commonwealth and the defense and to pursue the following objectives in a manner no less vigorous than the protections afforded criminal defendants:

1. That victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, prosecution or defense efforts, and be provided with information as to the level of protection available.
2. That victims be informed of financial assistance and social services available as a result of being a victim of a crime, including information on how to apply for assistance and services.
3. That victims and witnesses be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation.
4. That victims have any stolen property held by law-enforcement agencies for evidentiary purposes returned promptly, unless there is a compelling law-enforcement purpose for retaining it.
5. That victims and witnesses be provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.
6. That victims and witnesses receive prompt advance notification, whenever possible, of judicial proceedings relating to their case.
7. That victims be awarded restitution in accordance with the laws of the Commonwealth where the offense results in damage, loss, or destruction of the property of the victim of the offense or in cases resulting in bodily injury or death to the victim.
8. That the Commonwealth make training and information available to criminal justice agencies emphasizing the proper and complete assistance that should be afforded to victims and witnesses of crime; and, be it

Resolved *Further* That the Clerk of the House of Delegates is requested to forward a copy of this resolution to the Executive Secretary of the Supreme Court, the Commonwealth's Attorneys' Association and the Department of Criminal Justice Services for distribution to all judicial, prosecutorial and law-enforcement agencies in the Commonwealth, that they may be apprised of the sense of the General Assembly of Virginia.



APPENDIX D

Recommended Judicial Practices in Virginia

PREAMBLE

PRINCIPLES AND RECOMMENDED JUDICIAL PRACTICE

We, as members of the Virginia judiciary, consistent with and mindful of our neutral role as judges, believe that we should play a leadership role in ensuring that all persons coming before the courts—victims, all witnesses and defendants—are treated with courtesy, respect and fairness.

The principles and recommended practices hereinafter set out represent the judiciary's commitment to exercising that leadership role and to providing fair, dignified and respectful treatment for all persons and parties appearing in and before the courts of this Commonwealth. In adopting and espousing these principles and practices, we have been guided by the policy of the General Assembly of Virginia as set forth in House Joint Resolution 105, adopted in the 1984 Session, and by the Statement of Recommended Judicial Practices adopted in December, 1983, by the National Conference of the Judiciary on the Rights of Victims of Crime.



PRINCIPLES AND RECOMMENDED JUDICIAL PRACTICES

1 Victims and witnesses should be well informed about how the criminal justice system operates, what their rights are, what they can expect from the system, what the system expects from them, how their cases are proceeding, and the services and assistance available to them

A. Judges should encourage the development of procedures whereby law enforcement officers, defense attorneys, Commonwealth's attorneys, clerks of court, and other appropriate personnel routinely inform victims and witnesses of the following:

1. How the criminal justice system operates;
2. What they can expect from the criminal justice system;
3. What the criminal justice system expects from them;
4. What the Commonwealth's victim compensation program offers and how to apply;
5. What public and community services and financial assistance are available and how to obtain them;
6. Who to contact (and how) to learn the status of the proceedings in which they are involved;
7. Who to contact (and how) concerning their safety and protection, especially relative to threats; and
8. Information concerning the physical layout of the courthouse, parking, public transportation, witness fees, availability of child care, etc.

B. Judges should encourage appropriate justice system officials to establish procedures whereby victims and witnesses will receive timely information concerning the proceedings in their cases. The following should be considered:

1. If requested, Commonwealth's attor-

neys should make information available to victims, preferably by an on-call system, of all bail, pretrial, trial and post-trial hearings;

2 All witnesses should be provided timely notice of hearings, continuances and delays. To the extent practicable, consistent with the orderly administration of justice, the waiting time of witnesses should be minimized;

3 If requested, Commonwealth's attorneys should promptly notify victims of serious crimes of judicial decisions to release the defendant from custody;

4 Commonwealth's attorneys should inform victims prior to trial concerning any diversion or plea-bargain agreement; and

5 Commonwealth's attorneys should inform victims of (and explain) the final disposition of their cases

2 Victims should be allowed, where appropriate, to attend and to participate in all of the judicial proceedings.

A. To facilitate victim participation, judges should encourage, and, where appropriate, use their authority, to:

1 Require that victim impact statements be prepared prior to sentencing in all appropriate cases;

2. Allow the victim or the victim's family to remain in the courtroom when it will not interfere with the defendant's right to a fair trial;

3 Provide interpreter and translator services for victims and witnesses while they are involved in the judicial process

B Judges should grant continuances or delays only for good cause and state the reasons for granting a continuance

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3 Victims and witnesses should receive protection from harm and threats of harm arising out of their cooperation with law enforcement, prosecution, and defense efforts

A Judges should require that:

- 33
- 1 Bail, in appropriate cases, be conditioned on defendants' having no direct or indirect contact with victims or prosecution witnesses, and
 - 2 Access to the addresses of victims and witnesses, upon a showing of good cause, be limited

B Judges should encourage and foster the following practices:

- 1 Whenever possible, and when circumstances require it, provision for separate waiting rooms for defense and prosecution witnesses;
- 2 Where a witness' safety is a special concern, appropriate officials make provision for special transportation and protection while traveling to and from the courthouse;
- 3 Where appropriate, notification by the parole board to the judge, the prosecutor, and the victim prior to the release of an offender of a serious crime, and

4 Victims and witnesses, in appropriate cases, be advised by Commonwealth's attorneys or other appropriate justice system officials that if they agree to be interviewed prior to trial by opposing counsel or investigators, they may insist on interviews being conducted at neutral locations

4 When it will not interfere with a defendant's rights to a fair trial, consideration should be given to special or unusual needs of a victim or witness

A Judges should encourage attorneys to bring to the attention of the court any special or unusual needs of a victim or a witness. These needs may include:

- 1 Trial scheduling considerations;
- 2 Courtroom arrangements to provide extra protection, provided the right of confrontation is not abridged;
- 3 An individual of the victim's choice to accompany him/her in closed criminal or juvenile proceedings, and in camera proceedings, provided the victim's testimony is not compromised.

5 To the maximum extent possible, victims and witnesses should be protected from financial and economic hardship

A. Judges should:

- 1 Award restitution to victims in accordance with the laws of the Commonwealth. If restitution is not awarded, the reasons should be stated;
- 2 Encourage or order the prompt return of stolen property or property held as evidence, unless there is a compelling law enforcement purpose for retaining it or unless the case is on appeal; and
- 3 Assure that, when requested, witnesses receive allowances authorized by law

B Judges should promote the following practices:

- 1 Informing the public generally of the importance of supporting the witnesses' participation in court proceedings; provision of appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances; and encouraging the adoption of legislation to provide witnesses with the same protection from adverse actions by employers as customarily is given jurors; and
- 2 Compliance by the Commonwealth's attorney with Sections 18.2-67 and 19.2-165.1 of the Code of Virginia which provide that victims of rape are not to be charged for examinations and other procedures for collecting and preserving evidence.

6 These Principles and Recommended Judicial Practices are subject to existing Rules of Court, statutes, and constitutional provisions

APPENDIX E

Model Legislation - Presidential Task Force

STATE LEGISLATIVE STATUS CHART

The chart on the following page compares existing legislation in each state to the Proposed Model Legislation implementing recommendations of the President's Task Force on Victims of Crime and the Attorney General's Task Force on Family Violence. It is intended to provide an overview of the extent to which state legislation meets those recommendations in the nation as a whole as well as in individual states.

Although a substantial effort was made to ensure the accuracy of the chart, some discrepancies may have resulted from incomplete or out-of-date information. A master chart will be kept up-to-date as new legislation is passed, and we would appreciate any information you can give us with regard to newly enacted laws dealing with these Task Force recommendations.

In analyzing existing legislation, a determination was made as to whether a law was in complete or substantial compliance, partial compliance, or noncompliance with Task Force recommendations. Partial compliance in the following categories was based on these criteria:

- Victim/witness address protection - Privacy of some victims (children, victims of sexual assault) is protected, but no general protection is extended to all victims; or protection is extended during some, but not all proceedings.
- Privileged victim counseling - At least some, but not all, victim counseling is privileged.
- Victim hearsay - Hearsay of some (e.g., children) but not all victims is admissible in preliminary hearings.
- Pretrial detention - bail can be denied only when the current charge is accompanied by prior convictions or the accused is on pretrial release for another offense. (The chart does not take into account pretrial detention in capital cases because it is almost always authorized.)
- Open parole hearings - Hearings are open to victims, but not the general public.
- Limit parole authority - Guidelines limit parole board discretion, but parole still can substantially reduce sentence.
- Employee sex-offense arrest records - Records are available on some, but not all, child-care employees; or conviction records, but not necessarily arrests, are available.
- Limit judicial discretion - Mandatory sentences must be imposed for some crimes; or guidelines exist but they allow for wide discretion.
- Victim impact statements - Statements are optional, not required.
- Statute of limitations - The period has been extended only one year.
- Child competency - Present law allows most children to testify but some will still be presumed incompetent, and others will be allowed to give only unsworn testimony.

An individual legislative analysis has been prepared for each state, citing and summarizing existing law concerning Task Force recommendations. Please contact Dan Eddy or Tom Swan, at (202) 628-0435, to receive any information or provide corrections or updates to the chart.

+ COMPLETE OR SUBSTANTIAL COMPLIANCE
 - PARTIAL COMPLIANCE
 0 NONCOMPLIANCE

PROPOSED MODEL LEGISLATION ON VICTIMS OF CRIME

	ALABAMA	ALASKA	ARIZONA	ARKANSAS	CALIFORNIA	CONNECTICUT	DELAWARE	FLORIDA	GEORGIA	HAWAII	IDaho	ILLINOIS	INDIANA	IOWA	KANSAS	KENTUCKY	LA	MAINE	MARYLAND	MASSACHUSETTS	MICHIGAN	MINNESOTA	MISSISSIPPI	MISSOURI	MONTANA	NEBRASKA	NEVADA	NEW HAMPSHIRE	NEW JERSEY	NEW MEXICO	NEW YORK	NORTH CAROLINA	NORTH DAKOTA	OHIO	OKLAHOMA	PENNSYLVANIA	RHODE ISLAND	SOUTH CAROLINA	SOUTH DAKOTA	TENNESSEE	TEXAS	UTAH	VIRGINIA	WASHINGTON	WEST VIRGINIA	WISCONSIN	WYOMING					
VICTIM/WITNESS ADDRESS PROTECTION	0	0	0	0	-	0	-	+	0	0	0	-	0	0	-	0	0	-	-	+	-	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	-	-				
PRIVILEGED VICTIM COUNSELING	0	0	0	0	-	0	+	0	+	0	0	0	+	0	+	0	-	0	+	+	+	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	+		
VICTIM HEARSAY ADMISSIBLE IN PRELIMINARY HEARINGS	0	0	+	0	0	+	0	+	+	+	0	+	+	+	-	+	+	0	+	0	0	+	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	+	
PRETRIAL DETENTION AUTHORIZED FOR DANGEROUS DEFENDANTS	0	0	+	-	+	-	0	0	-	-	0	+	-	0	0	0	0	0	-	-	+	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	+	
OPEN PAROLE HEARINGS	+	0	-	+	+	+	-	+	0	0	+	-	+	+	0	+	-	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	0	0	
LIMIT PAROLE AUTHORITY	0	-	0	0	+	-	+	0	0	0	0	-	-	0	0	0	0	+	-	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
LIMIT JUDICIAL DISCRETION IN SENTENCING	0	-	-	0	+	-	0	0	+	0	+	0	-	0	0	0	0	0	-	-	+	+	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EMPLOYEE SEX-OFFENSE ARREST RECORDS AVAILABLE TO BUSINESSES	-	-	-	0	-	0	-	-	0	0	-	-	0	-	0	-	0	-	-	0	-	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
REQUIRE VICTIM IMPACT STATEMENTS AT SENTENCING	0	+	+	0	-	+	+	+	+	-	0	-	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	0	
PRESUMPTION OF CHILD COMPETENCY	+	+	0	+	-	+	+	+	-	0	+	0	+	0	0	0	0	0	+	+	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EXTEND STATUTE OF LIMITATIONS FOR OFFENSES AGAINST CHILDREN	+	+	0	0	0	+	0	0	+	0	0	+	0	0	-	+	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
LEGISLATION INTRODUCED																																																				

APPENDIX F

Existing Virginia Victims Legislation

Appendix F

Cited Code Sections

2.1-549 through 2.1-553.2 - Division for Children
8.01-229 - Suspension or tolling of statute of limitations
8.01-375 - Exclusion of witnesses in civil cases
8.01-400.2 - Communications between counselors and clients
9-173.3 - Victim and witness assistance programs
14.1-99, 14.1-189 through 14.1-195 - Payment of witness costs
16.1-244 - Concurrent jurisdiction (child custody)
16.1-253.1, 16.1-253.2 - Protective orders
18.2-61 - Rape
18.2-67 - Depositions - Criminal Sexual assault
18.2-67.01 - Videotaped depositions
18.2-67.1 through 18.2-67.2:1 - Sexual assault
18.2-119 - Trespass
18.2-456, 18.2-460, 19.2-120 - Intimidating witnesses
19.2-164, 19.2-164.1 - Interpreters for witnesses
19.2-165.1 - Payment of medical fees in criminal cases
19.2-270.1 - Use of photographs as evidence in certain larceny and burglary prosecutions
19.2-276 - Payment of witness costs
19.2-299.1 - Victim impact statements
19.2-303, 19.2-305, 19.2-305.1 - Restitution
19.2-329 through 19.2-336 - Payment for witness costs
19.2-368.2 through 19.2-368.18 - Crime victims compensation
19.2-389 - Criminal history record information
52-31 through 52-34 - Missing Children Information Clearinghouse
53.1-131, 53.1-180, 63.1-198.1 - Restitution
63.1-198.2, 63.1-199 - Criminal records checks - child care facilities
63.1-248.2 through 63.1-248.16 - Child abuse and neglect
63.1-315 through 63.1-319 - Spouse abuse services
65.1-23.1 - Sexual assault victims - workers' compensation

APPENDIX G

Summary of Crime Victims Legislation by State

Summary of State to Crime Victims Legislation - July 1985
Alabama - Minnesota

KEY
 I - Introduced Legislation X - Enacted Legislation
 B - Bill of Rights B/X - Bill of Rights/Individual Statute

LEGISLATION	TOTAL (30 States)	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	
1. Funding for Services	28 ¹	X	X	X	X	X	B/X	X	X	-	X	-	-	-	X	X	-	-	X	-	I	-	B	-	X	
2. Funding/ Domestic Violence	49	X	X	X	X	X	X	X	X	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
3. Funding/Sexual Assault	19 ²	X	X	-	-	X	X	-	X	-	-	X	-	-	X	-	X	-	-	-	X	X	-	I	X	
4. Compensation	44 ³	X	X	X	X	X	X	X	X	X	-	X	-	X	X	X	X	X	X	X	X	-	X	X	X	
5. Bill of Rights	31 ⁴	-	X	-	X	X	X	-	X	-	X	-	-	X	X	X	-	-	-	X	X	-	X	X	X	
6. Victim/Witness Information	29	-	B	-	B	B	B	X	B	-	B	-	-	B	-	-	-	-	-	-	-	B	X	B	B	
7. Protection from Intimidation	27	X	B	-	B/X	X	B/X	-	B/X	-	B	-	-	X	-	-	-	X	-	-	B	-	B	-	B	
8. Property Return	25	-	-	-	B/X	X	B/X	-	B	-	B	-	-	B	B	-	X	X	-	-	B	-	B	-	-	
9. Secure Waiting Areas	18	-	-	-	B	X	B	-	B	-	-	-	-	-	B	-	-	-	-	-	-	-	B	-	-	
10. Employer Intercession	22	-	B	-	B	X	B	-	B	-	B	-	-	-	X	X	-	-	-	-	-	-	B	B	-	
11. Creator Intercession	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	B	-	-	
12. Speedy Disposition, Trial	10 ⁵	-	-	-	-	X	B	-	B	-	-	-	-	-	-	-	-	-	-	-	-	-	B	-	-	
13. Victim Impact Statement	39	-	B	X	X	B	B	X	X	-	B/X	X	-	B	X	X	X	X	X	-	B	B	X	B	B	
14. Victim Statement of Opinion	6	-	-	-	-	B	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	B	-	B	
15. Allocation/ Oral Statement Sentencing	19	-	-	-	-	B	B/X	X	-	-	B	X	-	B	X	X	-	-	-	-	-	B	-	B	B	
16. Plea Bargain Participation/ Consultation	11	-	-	X	-	-	-	-	-	-	B	-	-	-	-	X	-	-	-	-	-	-	-	B	-	
17. Court Attendance	9 ⁶	X	-	-	X	-	-	-	-	-	B	X	-	-	-	X	-	-	-	-	-	X	-	B	-	
18. Parole Hearing, g./VIS	21	X	B	X	X	X	X	-	-	-	X	-	B	B	-	-	-	-	I	-	-	X	X	B	-	
19. Parole Allocation	15	-	-	X	X	X	X	-	X	-	-	-	-	B	B	-	-	-	I	-	-	-	X	B	-	
20. Restitution/ General	50	X	X	X	X	X	B/X	X	X	-	B	X	X	B/X	X	X	X	X	X	X	X	B/X	X	B	B	B
21. Restriction on a Condition of Probation/ Parole/ Work Release	31	X	X	X	X	X	X	X	-	-	B/X	X	-	-	-	-	X	X	-	X	B	X	-	I	B	
22. Mandatory Restitution	30	X	-	X	X	B/X	X	-	X	-	B	-	-	B	-	X	X	X	X	-	B	-	-	-	-	
23. Notification/ Court Proceedings/Schedule Changes	24	-	B	X	B	-	B	X	B	-	B	-	-	-	-	-	-	-	-	-	X	-	-	B	B	
24. Notification/ Pre-Trial Release	9	-	-	-	-	-	B	-	-	-	B	-	-	-	B	-	-	-	-	-	-	-	-	-	-	
25. Notification/Bail	4	-	-	-	-	-	-	-	-	-	-	-	-	-	B	-	-	-	-	-	-	-	-	-	-	

FOOTNOTES:

- ¹ Funding includes general appropriations, fines, penalty assessments and executive department appropriations.
- ² The National Coalition Against Sexual Assault (NCASA) estimates that 34 states have sexual assault funding.
- ³ Arkansas law permits compensation on a county basis; Utah's compensation program only covers drunk driving victims; Nebraska's program did not receive funding for FY 85-86 due to state budgetary problems.
- ⁴ Indiana and Oklahoma have passed a package of legislation considered an omnibus Victim Rights statute; Oregon's Victim Rights are outlined in the victim services funding statute.

Summary of State Crime Victims Legislation-- July 1985

Alabama - Minnesota (continued)

KEY

I-- Introduced Bills X-- Enacted Legislation
 B-- Bill of Rights B/X-- Bill of Rights/Individual Statute

LEGISLATION	TOTAL (50 States)	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	
26. Notification/ Plea Agreements	11	-	B	-	-	-	-	-	-	-	B	-	-	-	-	X	-	-	-	-	-	-	-	-	B	
27. Notification/ Sentencing	15	-	-	X	-	B	-	X	-	-	B	-	-	-	B	-	-	-	-	X	B	-	-	B	B	
28. Notification/ Final Disposition	13	-	-	-	-	-	-	-	-	-	B	-	-	-	-	-	-	-	-	-	-	-	B	-	-	
29. Notification/ Parole/ hearings	26	X	B	X	X	B	X	X	-	-	B	X	X	B/X	B/X	X	-	-	-	-	-	X	X	B	B	
30. Notification/ Pardon	10	-	B	-	-	-	-	-	-	-	-	-	-	B	-	-	-	-	-	-	-	-	-	-	B	
31. Notification/ Work Release	9	-	B	-	-	-	-	X	-	-	-	X	-	B	-	-	-	-	-	-	-	-	-	-	-	
32. Notification/ General Release/Felony	17	-	-	-	-	B	X	-	-	-	-	X	B	B	X	-	-	-	-	-	-	-	B	B	B	
33. Notification/ Escape	10	-	-	-	X	X	-	-	-	-	-	-	B	B	-	-	-	-	-	-	-	-	B	B	-	
34. Counselor Confidentiality/ General	3	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
35. Counselor Confidentiality/ Domestic Violence	13	-	-	-	I	-	X	-	-	-	-	-	-	-	-	X	-	-	-	-	X	-	X	-	-	
36. Counselor Confidentiality/ Sexual Assault	18	-	-	-	X	-	X	-	-	X	-	-	X	-	X	-	X	-	-	X	-	X	X	X	X	
37. Victim Privacy/ Address Protection	4	-	-	-	X	-	-	-	-	-	-	-	B	-	-	-	-	-	-	-	-	X	-	B	-	
38. Notoriety-for- Profit	32	X	X	X	-	X	B	X	B/X	-	X	X	-	X	X	X	X	-	X	X	-	-	X	-	X	
39. Children's Bill of Rights	3 ⁷	-	-	-	-	-	-	-	-	I	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	
40. Child Videotaped/ Closed Circuit Testimony & Depositions	24	X	-	-	X	X	-	X	X	-	X	X	-	-	X	X	X	X	X	X	X	-	X	I	I	-
41. Children/Fund- ing Services	7	-	X	-	X	-	-	-	-	-	-	-	-	X	-	-	X	-	X	-	-	-	-	-	-	
42. Child Competency	9	X	-	-	-	X	-	-	-	-	-	-	X	-	-	X	-	-	-	-	-	-	-	-	X	
43. Missing Children's Act	12	X	-	-	X	-	-	X	X	-	X	-	-	X	-	-	-	-	X	-	-	X	I	-	-	
44. Child/Statute Limitations	6 ⁸	-	X	-	-	X	-	-	-	-	-	-	X	I	-	X	-	-	-	-	-	-	-	-	X	
45. Child/Back- ground Check	6	X	X	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	X	
46. Child/Hearsay Admissibility	10	-	X	X	X	X	X	-	-	-	-	X	-	-	-	-	I	-	-	-	-	-	-	-	X	
47. Child Speedy Trial	4	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	B	-	
48. Child Privacy Protection	4	X	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	
49. Child Coun- selor/Court Proceedings	10	-	-	-	X	-	B	-	-	-	B/X	-	X	X	-	-	X	X	-	-	-	-	-	-	-	
50. Domestic Violence/ Protection Orders	17	X	X	X	-	X	-	-	-	-	X	X	-	-	-	-	X	-	X	I	-	-	-	-	X	

FOOTNOTES:

⁷ Iowa enacted a package of Children's Rights in 1985 considered an omnibus Children's Bill of Rights.

⁸ California law provides that the statute of limitations for all felonies is to be based on the severity of the crime. 1984 amendments eliminated the statute of limitations for all felonies.

Summary of State Crime Victims Legislation—July 1985

Mississippi - Wyoming

KEY
 I—Introduced Bills X—Enacted Legislation
 B—Bill of Rights B/X—Bill of Rights/Individual Statute

LEGISLATION	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY				
1. Funding for Services	-	X	-	-	-	-	X	-	X	X	-	X	X	X	X	X	X	-	-	X	-	-	X	X	-	X	-				
2. Funding/Domestic Violence	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	-	X	X	X	X	X	X	X	X			
3. Funding/Sexual Assault	-	-	-	-	X	-	-	X	-	X	-	X	-	-	X	-	X	-	-	X	-	I	X	-	-	-	-				
4. Compensation	-	X	X	X	X	I	X	X	X	X	X	X	X	X	X	X	X	X	X	-	X	X	X	I	X	X	X	X			
5. Bill of Rights	-	-	X	X	X	-	I	-	X	I	-	X	X	X	X	X	X	X	-	-	X	X	X	X	X	X	X				
6. Victim/Witness Information	-	-	-	B	B	-	-	-	B	-	-	B	X	X	B/X	B	B	-	-	B	B	B	B	B	B	B	B				
7. Protection from Intimidation	-	-	-	B	B/X	-	X	-	B/X	-	-	B	X	-	B	B	B	-	-	B	B	-	B	B	B	B	B/X				
8. Property Return	-	-	-	B	B	-	-	-	B/X	-	-	B	X	X	B	B	B	X	-	-	-	-	-	B	B	B	B				
9. Secure Waiting Areas	-	-	-	B	B	-	-	-	B	-	-	B	X	-	B	B	B	-	-	-	-	-	-	B	B	B	B				
10. Employer Intercession	-	-	-	B	-	-	-	-	B/X	-	-	B	X	X	-	B	B	-	-	-	B	-	B	B	B	B	B/X				
11. Creditor Intercession	-	-	-	-	-	-	-	-	B	-	-	-	-	-	-	-	B	-	-	-	-	-	-	-	-	-	-				
12. Speedy Disposition/Trial	-	-	-	B	X	-	-	-	-	-	-	-	-	X	-	-	B	-	-	X	-	-	-	-	-	B	-				
13. Victim Impact Statement	-	-	X	X	X	X	X	X	X	X	-	-	B	X	X	B	B	B	-	-	B	-	B	X	B	B	X	-			
14. Victim Statement of Opinion	-	-	-	-	-	-	-	-	X	-	-	B	-	-	-	B	-	-	-	-	-	-	-	-	-	-	-				
15. Allocation/ Oral Statement Sentencing	-	-	-	-	-	X	I	-	-	-	-	B	-	-	-	B	-	-	-	B	-	B	-	B	B	-	-				
16. Plea Bargain Participation/ Consultation	-	-	-	X	-	-	-	-	B	-	-	-	-	X	-	I	B	X	-	-	B	-	-	-	B	-	-				
17. Court Attendance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	B	-	-	B	-	-	-	-				
18. Parole Hearing/VIS	-	-	-	X	X	X	X	-	X	-	-	B	-	-	I	X	B	-	-	B	-	-	-	-	-	-	-				
19. Parole Allocation	-	-	X	X	X	X	X	-	-	-	-	B	-	-	I	I	-	-	-	-	-	-	-	-	-	-	-				
20. Restitution* General	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	-	B	X	X	X	B/X	B	B	B	B	X	X
21. Restitution a Condition of Probation/ Parole/ Work Release	X	-	X	X	X	-	-	X	X	X	-	-	-	-	B	X	-	X	-	X	X	B	-	-	B	X	X				
22. Mandatory Restitution	-	X	X	-	X	-	I	X	-	X	-	-	X	-	B	-	B	X	X	X	X	X	B	B	B	B	-	X			
23. Notification/ Court Proceedings/Schedule Changes	-	-	-	B	B	-	-	-	B	-	-	B/X	X	-	B	B	B	-	-	B	B	-	B	B	B	B	-				
24. Notification/ Pre-Trial Release	-	-	-	-	B	-	-	-	B	-	-	-	-	-	-	B	B	-	-	-	-	-	-	-	B	B	-				
25. Notification/Bail	-	-	-	-	-	-	-	-	B	-	-	-	-	-	-	B	-	-	-	B	-	-	-	-	-	-	-				

FOOTNOTES:

- * State Judicial policy in Oregon states that no civil case is allowed to go forth if a criminal trial is pending.
- * Florida currently has a citizens' initiative pending to make court attendance a constitutional change.
- * Courts in all 50 states plus the District of Columbia have the authority to order restitution to the victim at least in certain cases. Applicable statutes are cited, otherwise it falls within the inherent authority of the court.

Summary of State Crime Victims Legislation—July 1985

Mississippi - Wyoming (continued)

KEY

I—Introduced Bills
B—Bill of Rights

X—Enacted Legislation
B/X—Bill of Rights/Individual Statute

LEGISLATION	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
26. Notification/ Plea Agreements	-	-	B	X	-	-	-	-	B	-	-	-	-	-	-	-	B	-	-	B	-	S	-	-	B	-	-
27. Notification/ Sentencing	-	-	B	-	-	-	-	-	B	-	-	-	-	-	-	-	B	-	-	-	-	B	-	B	B	-	-
28. Notification/ Final Disposition	-	-	B	B	B	-	-	-	B	-	-	B	-	-	B	B	B	-	-	-	-	-	-	B	B	B	-
29. Notification/ Parole/ Hearings	X	-	-	-	-	-	-	X	X	-	-	B	X	-	B	B/X	B	-	-	B	X	-	-	B	-	-	-
30. Notification/ Pardon	-	-	-	-	X	-	-	-	X	-	-	-	X	-	B	-	B	-	-	-	-	-	-	B	-	B	-
31. Notification/ Work Release	-	-	-	-	-	-	-	-	X	-	-	-	-	-	B	B	B	-	-	-	-	-	-	B	-	-	-
32. Notification/ General Release/Felony	-	-	-	B	B/X	-	-	X	X	-	-	-	-	-	B	B	B	-	-	-	-	-	-	B	-	-	-
33. Notification/ Escape	-	-	-	-	X	-	-	X	I	-	-	-	-	-	-	-	B	-	-	-	-	-	-	B	-	-	-
34. Counselor Confidentiality/ General	-	-	-	-	-	-	-	-	X	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
35. Counselor Confidentiality/ Domestic Violence	-	X	-	X	-	X	-	-	X	-	X	X	-	-	-	-	-	-	-	-	-	-	X	-	-	X	-
36. Counselor Confidentiality/ Sexual Assault	-	-	-	-	-	X	X	-	X	-	-	X	-	-	X	-	-	-	-	X	X	-	-	X	-	-	X
37. Victim Privacy/ Address Protection	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	I
38. Notoriety-for- Profit	-	-	X	X	-	-	X	X	X	-	-	B/X	X	-	B/X	X	X	-	X	X	X	-	-	X	-	X	-
39. Children's Bill of Rights	-	-	-	-	-	-	-	-	-	-	-	-	-	-	I	-	-	-	-	-	-	-	-	-	X	-	X
40. Child Videotaped/ Closed Circuit Testimony & Depositions	-	X	-	-	X	X	-	X	X	-	-	I	X	-	I	-	B	-	X	X	X	-	-	-	-	-	X
41. Children/Fund- ing Services	-	-	-	-	X	-	-	-	-	-	X	-	-	-	I	-	-	-	-	-	-	-	-	-	-	-	-
42. Child Competency	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	X	-	-	X	-	-	-	-	-	X
43. Missing Children's Act	-	X	-	-	-	-	-	-	I	-	-	-	-	-	I	-	X	-	-	X	-	-	X	-	-	-	-
44. Child/Statute Limitations	-	-	-	-	-	-	-	-	-	-	-	-	-	-	I	-	-	-	-	-	-	-	-	X	-	-	-
45. Child/Back- ground Check	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-
46. Child/Hearsay Admissibility	-	-	-	-	-	-	-	-	-	-	-	-	X	-	I	-	-	-	-	-	X	X	-	-	-	-	-
47. Child Speedy Trial	-	-	-	-	-	-	-	-	-	-	-	-	-	-	I	-	-	-	-	-	-	-	-	-	-	-	X
48. Child Privacy Protection	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X
49. Child Coun- selor/Court Proceedings	-	-	-	-	X	-	-	-	X	-	-	-	-	-	I	-	-	-	-	-	-	-	-	-	-	-	X
50. Domestic Violence/ Protection Orders	-	-	-	-	-	X	-	X	-	X	-	X	-	X	-	X	-	X	-	X	-	-	X	-	-	-	-

APPENDIX G-1

1986-87 Victim/Witness Laws and proposed legislation

LEGISLATION IMPLEMENTING TASK FORCES' RECOMMENDATIONS

ENACTED IN 1986

Illinois

Constitution, art. I, sec. 9 (bail, pretrial detention)..... 5

Iowa

H.F. 2458 (victim impact statements).....11

Kansas

S.B. 710 (statute of limitations, child victims).....22

Kentucky

Sen. Sub. for H.B. 8 (open parole hearings).....24

H.B. 263 (privileged victim counselor communications).....30

H.B. 390 (victim impact statements).....34

Maryland

S.B. 315 (employee sex-offense records check).....48

Massachusetts

H. 1343 (rape victim identity protection).....56

Minnesota

Stat. Ann. sec. 611A.035 (victim address protection).....57

Missouri

H.B. 874 (victim impact statements).....58

H.B. 1098 (mandatory minimum sentencing for habitual offenders).....60

New Hampshire

H.B. 209 (statute of limitations, child victims).....63

North Carolina

S.B. 395 (victim impact statements).....65

Oregon

Ballot Measure #10, sec. 3 (victim/witness address protection).....70

Ballot Measure #10, sec. 3 (bail protection orders and revocation).....70

Ballot Measure #10, sec. 14 (victim participation at parole).....72

Pennsylvania

S.B. 176 (child victim name nondisclosure).....74

Rhode Island

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South Dakota

S.D. Codified Laws Ann. sec. 23A-27-1.1 (victim impact statements).....86

Wisconsin

A.B. 177 (victim address protection).....87

** Kentucky: Resolution by Kentucky Press Association concerning victim name and address protection.....88

INTRODUCED IN 1987

Colorado

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Victim impact statements (S.B. 2373).....104

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Bail, post-conviction detention (S.B. 2376).....125

New Jersey

Bail, pretrial detention (A. 123).....126

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Statute of limitations, child victims (A.243).....134

Bail, denial to drug offenders already on bail (S. 313).....136

New Mexico

Hearsay at preliminary hearings (no bill number).....137

Statute of limitations, child victims.....139

Victim counselor confidentiality.....142

Open parole hearings.....146

Employer access to employee sex offense records (child care).....153

North Carolina

Bail, denial for offenses committed while on bail (no bill no.).....161

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Sentencing ranges for felonies.....165

Sentencing instructions in capital cases.....168

Truth in sentencing, parole.....170

North Dakota

Statute of limitations, child victims (no bill number).....180

Protection of identifying information (H.B. 1190, sec. 3(10)).....187

Victim impact statements (H.B. 1190, sec. 3(14)).....188

Participation in parole decision (H.B. 1190, sec. 3(17)).....190

Vermont

Victim counselor confidentiality (H. 6).....193

APPENDIX H

Financial Analysis of Proposed Compensation Fund Changes

**Crime Victims Compensation
Financial analysis of Proposed Changes**

- I. Increase fee assessment on class 1 and 2 misdemeanors from the current \$15 to \$20; and increase fee assessment on felonies from the current \$15 to \$30.

Class 1 and 2 misdemeanors	40,727
\$5 fee increase	x \$5
	<u>\$203,635</u>

All felony cases	10,831
\$15 fee increase	x \$15
	<u>\$162,465</u>

Net Change	\$366,100
------------	-----------

- II. Assess DUI offenders at proposed misdemeanors fee rate and include DUI victims in Compensation.

36,987 convictions (85% of arrests)	
<u>\$20 fee</u>	
\$739,653	Revenue expected
<u>-200,000</u>	Claims expected (10% of \$2 million)
\$539,653	Net Change

Criminal Injuries Fund Statistical Comparison

	<u>FY 83-84</u>	<u>FY 84-85</u>	<u>FY 85-86</u>	<u>FY 86-87</u>
Number of Claims Established	257	309	494	843
Number of Claims Denied	80	93	111	338
Number of Claims Awarded	236	289	408	714
Maximum Awards	21	15	17	34
Emergency Awards	1	3	19	41
Supplemental Awards	72	80	124	200
Funds Available	2,160,914	1,462,931	1,756,589	1,532,063
Ⓔ Cash Balance	1,496,573	737,884	772,412	709,914
Fund *	650,289	698,844	773,365	792,946
VOCA Grant	---	---	186,000	---
Restitution	14,052	26,078	23,313	27,881
Tax Set-Off	---	125	1,499	1,322
Subrogations	---	---	---	---
Total Expenditures	423,030	690,519	1,046,675	1,341,565
Claims	347,380	594,307	943,539	1,210,959
Administrative	75,650	96,212	103,136	130,606
Cash Balance Year End	737,884 *	772,412	709,914	** 190,493

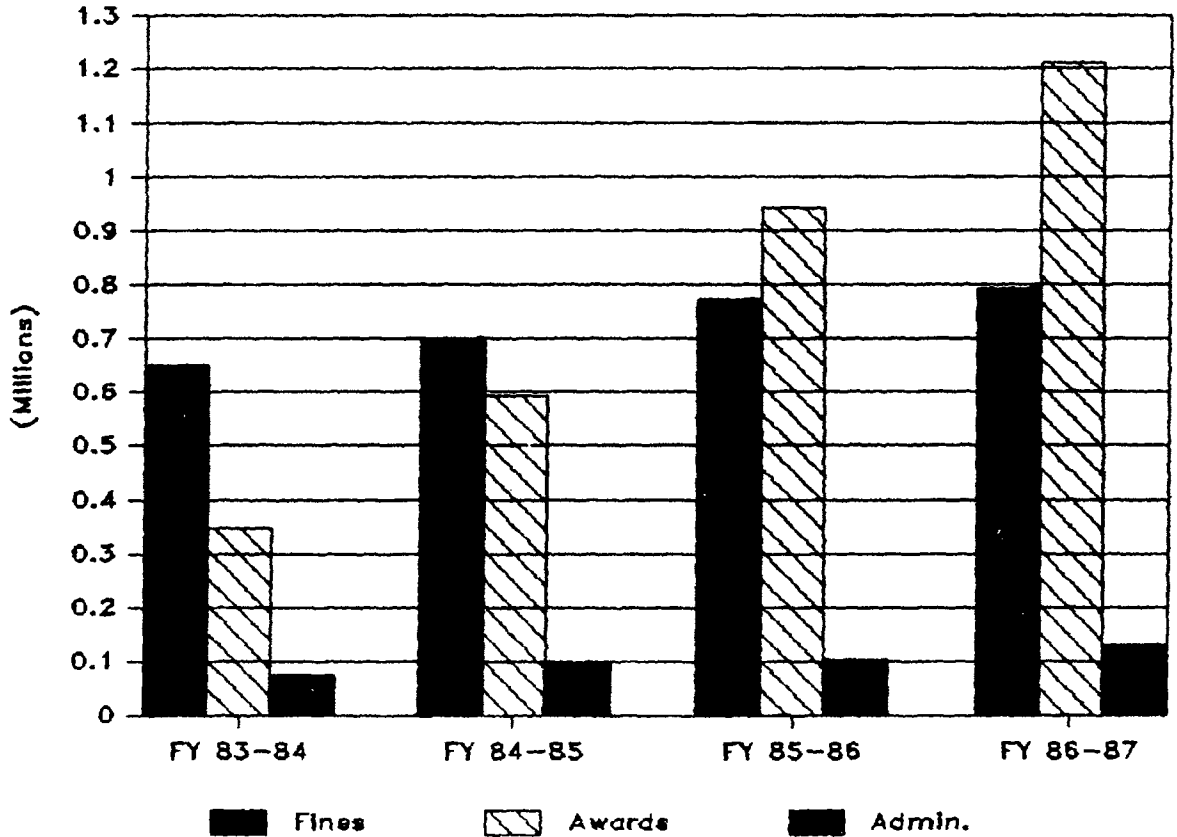
* \$1,000,000 was transferred to the General Fund in FY 83-84

** \$ 351,993 in awards are pending. Funds are expected in FY 87-88 to cover these outstanding awards

Criminal Injuries Fund Statistical Comparison

	FY 83-84	FY 84-85	FY 85-86	FY 86-87
Fines	\$650,298	\$698,844	\$773,365	\$792,946
Awards	\$347,380	\$594,307	\$943,539	\$1,210,959
Admin.	\$75,650	\$96,212	\$103,136	\$130,606

Criminal Injuries Fund Statistics



APPENDIX I

Parole notification procedures and form



COMMONWEALTH of VIRGINIA

B. NORRIS VASSAR
CHAIRMAN

LEWIS W. HURST
VICE-CHAIRMAN

KATHY E. VESLEY
DEPUTY DIRECTOR

Virginia Parole Board
Koger Executive Center
Culpeper Building, 2nd Floor
1606 Santa Rosa Road
Richmond, Virginia 23288
(804) 281-9601

BOARD MEMBERS

GEORGE M. HAMPTON, SR.
LEWIS W. HURST
MORRIS L. RIDLEY
FRANK E. SAUNDERS
B. NORRIS VASSAR

September 1, 1987

Mr. Robert Colvin, Executive Director
Virginia State Crime Commission
910 Capitol Street
Post Office Box 3-AG
Richmond, Virginia 23208

Dear Mr. Colvin:

I am enclosing, for your records, a package of materials regarding procedures for victims to give input, and receive information concerning parole consideration for offenders. I thought this might be useful reference material for the Commission's sub-committee on victims of crime.

In May, 1985 the Virginia Parole Board initiated a Victim Input Program to ensure a systematic means of providing an opportunity for input from victims and other interested persons and to provide them with parole consideration schedules, Board decisions and other appropriate information when such information has been requested. The Board has been highly successful in its objective of responding to all such requests with accuracy and timeliness. The Board established the program on a priority basis within existing resources. However, since its inception in 1985, the program and demands on the agency in all areas have grown to the point that we have not been able to continue to absorb the costs and workload involved in properly operating our Victim Input Program.

Last year the Board received over 4,000 Victim Input forms and letters and it is anticipated that this figure will substantially increase as the public awareness of the program increases. Moreover, it has become necessary for increasingly more of my time, and that of other professional staff, to be spent on Victim Input matters as the program develops a greater degree of sophistication and as its use members of the public and criminal justice officials (i.e. Commonwealth's Attorneys, other victim input programs) widens. With this increased use, the

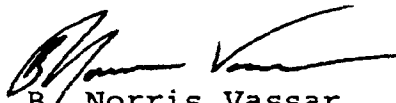
Letter to: Mr. Colvin
September 1, 1987
Page 2.

responsibility of maintaining the degree of success experienced in the past is quickly becoming overwhelming to the point of jeopardizing the integrity of the entire program.

Because of this, the Board will be requesting of the General Assembly, the funds to establish a Victim Input Coordinator position with support staff and technologically advanced equipment to facilitate more efficient and responsive operation of the program in keeping with the demands for assistance from victims and others.

I hope this information is of some use to you and the subcommittee. If I can provide further information, or assistance in any way, please do not hesitate to ask.

Sincerely yours,



B. Norris Vassar
Chairman

BNV:drs

Enclosure



COMMONWEALTH of VIRGINIA

Virginia Parole Board
Koger Executive Center
Culpeper Building, 2nd Floor
1606 Santa Rosa Road
Richmond, Virginia 23288
(804) 281-9601

B NORRIS VASSAR
CHAIRMAN

LEWIS W HURST
VICE-CHAIRMAN

KATHY E VESLEY
EXECUTIVE OFFICER

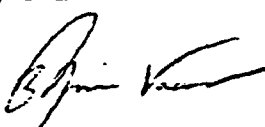
BOARD MEMBERS

GEORGE M HAMPTON SR
LEWIS W. HURST
MORRIS L. RIDLEY
FRANK E SAUNDERS
B NORRIS VASSAR

May 6, 1985

MEMORANDUM

TO: Virginia Circuit Court Judges and
Commonwealth's Attorneys

FROM: B. Norris Vassar, Chairman 

RE: Victim Notification of Parole Consideration

The Virginia Parole Board invites, encourages and welcomes from all sources, including victims and their families, all information which might aid the Board in making decisions regarding parole release. However, it does not appear that the Board's policy regarding this point is widely known.

While the indications are that most victims of crime and family members prefer no further involvement with the matter after court disposition, some would wish to be notified and to provide information to the Parole Board regarding parole consideration if they knew of the Board's interest in having their input.

Accordingly, I am requesting your assistance in getting the word to victims, particularly victims of violent crimes, that the Parole Board desires and encourages them to provide any information they feel should be considered in connection with the Board's responsibility to assess the offender for release suitability upon his or her eligibility, and to request notification of the consideration schedule as well as the decision, if they wish to have this information. Persons interested may submit information to the Board at any time after an offender who is eligible for parole consideration is sentenced. Indeed, the earlier the information is provided the better, since it would also be on hand for use by the Department of Corrections in assessing the offender for suitability for programs such as "trusty" status, furlough, and work release.

The attached form is suggested as a way of alerting the Board to any such desire. As the form indicates, a written statement or letter may be submitted at any time and the interested person may request to be notified of the parole consideration schedule for the offender and the results of the consideration. The interested person may also elect to appear before the Board to give information directly. In either case, the Board would be most anxious to accommodate any interested person in this fashion and wish them to know that.

I am attaching several copies of a form which can be used by victims and any other persons interested in providing information to the Board, or requesting information from the Board, relative to parole consideration for an offender. I am also attaching copies of the general parole calculation tables along with current and historical parole release statistics to assist you in explaining the parole system to interested persons.

Your help and any suggestions you may make regarding the Board's efforts to make victims aware of its policy in this area would be much appreciated.

BNV:dlt

Enclosures

VIRGINIA PAROLE BOARD
1606 Santa Road Road
Richmond, Virginia 23288

VICTIM INPUT FORM

Under Virginia Parole Board policy, it is your right as a victim or (other interested party) of a crime to provide information to the Board which you feel might assist the Board when it is required to make a determination about parole release suitability for the offender.

You may submit a written statement or letter which will be filed for use by the Board and/or you may request to be notified of the parole consideration schedule so as to submit a statement and/or appear before a representative of the Board at that time. you may also elect, simply, to be notified of the parole decision(s).

Please indicate any interest you have in pursuing this matter by filling in the information requested, checking one of the categories below and entering your address and phone number in the space provided.*

OFFENDER: _____
(Full Name)

COURT: _____

CONVICTION: _____
(Crime)

SENTENCE: _____
(Length)

(List information for each codefendant on separate sheet)

— I am forwarding a written statement herewith for inclusion in the record of the above offender for use in parole consideration(s).

— I wish to be notified, at the address below, of the parole consideration schedule for the offender listed with this form prior to such consideration by the Board.

— I wish to be notified at the address below, of the parole decision(s) in the case of the offender listed with this form.

Victim or Interested Party: _____
(Name)

(Street)

(City, State, Zip Code)

*Be sure to notify Board of address changes if you request notification of the consideration schedule and/or the decision.

