

## **PRESENT AND FUTURE DEVELOPMENTS IN VICTIM SERVICES**

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### **Introduction**

Fear is arguably central to the study of criminology and victimology, although in many ways, it is the least studied. Fear of death, destruction of identity, and destruction of values drives the search for safety and security both at an individual level and in the consolidation of individuals in communities and cultures. It appears that the human species is the only living organism that can conceive of things in the future and can understand that its own death, while unpredictable in its timing, is inevitable. This knowledge is at the root of existential terror in human beings as they confront their ultimate helplessness and possible meaninglessness. Societies are constructed through the development of mutually-acknowledged, reciprocal obligations among individuals, with protection from threats from an organizing force. Social, religious and legal structures evolve, among other reasons, to both protect individuals in their day-to-day lives as well as to help acutely-distressed individuals.

Thus, the innate fears of the individual result in the need for emotional attachment to others, which leads to the building of societies. Societies become a critical reference for feelings of safety and security. The communal dynamics are a source both of protection and assistance as individuals negotiate the dangers of existence.

Within this context, crime may be viewed as a violation of not only a legal framework but also of individuals, communities, and of society as a whole. The response should attempt to address the interconnectivity of relationships as well as the physical, mental, emotional and spiritual aspects of those involved. Services should be designed to support those aspect as well as to provide resource allocation as equitably as possible in the aftermath of crime. Violence prevention at any level should be seen as a primordial obligation of governments to protect the individuals they govern. Whenever societal protections fail, assistance to the victims is inherently demanded. Violence prevention promotes and sustains safety and security. The reparative mission of the justice system should be to enforce the order of law if it encompasses fundamental human rights, and to restore a sense of safety and security to victims and the general community. Providing victims rights and services, then, does more than give humane treatment to people who deserve it; it should be seen as essential components of the whole justice enterprise.

In order to accomplish this, societies must clearly answer such questions as: Who is a victim? What is a criminal victimization? And, what is justice? These definitions will necessarily vary among societies and cultures. Answers to these questions based on research and practice have shaped both the establishment of victim service programs in

the United States and the articulation of principles that translate into policies and programs in legal structures.

### **Research on Victimization**

Research on victimization and the birth of the field of victimology primarily grew out of the field of criminology as a result of the realization that the study of crime involved not only the criminal and the State but also the person victimized. Understanding the relationship between the criminal and the victim was expected to provide more insight into both crime control and crime prevention. Hence, it was not surprising that when the United States government began to look at the serious problem of criminal violence in the late 1960s and early 1970s, as crime rates rose, there were efforts to measure crime not only by police records but through victimization surveys.

These surveys of the general population elicited information about whether respondents had been victims of crime and if so, what their losses were (primarily in physical or financial terms). Questions were also posed on levels of fear among the populace regarding crime, since fear might interfere with social integration and with the effective functioning of both police and prosecutors.

Problems with these initial surveys included: a lack of sophistication in the questions posed; a misunderstanding of the impact of victimization; and the fact that many of the surveys were conducted primarily with a goal towards better criminal justice management within the *status quo*.

The value of this work was that it directed attention toward the need to understand better the impact of victimization, particularly with regard to its psychological effects. This was underscored by the fact that the surveys revealed that the fear of crime was much higher and more widespread than the actual risk of being victimized. As one commentator noted: “Moral panic abounds – particularly about mugging, sexual assault and violence – which is out of touch with reality.” (Young, 1988, p. 165). It also brought research to focus on victimizations that occurred when State laws were violated. In this, it served as a precursor to the assessment surveys of crime victims, more common today, regarding their needs and gaps in services prior to the establishment or the expansion of victim service programs.

As victimologists were discussing the theory of victimology and developing surveys of victimization, there was a concurrent development in the field of traumatology. This work focused on the psychological impact of individual and social catastrophes. In the United States, this field of inquiry and service closely paralleled the recognition – almost an awakening – of the effect of trauma in veterans of the Vietnam War and similar effects that were seen in survivors of homicide victims and victims of rape.

The acknowledgment of post-traumatic stress disorder (‘PTSD’) as a formal diagnosis in the psychiatric nomenclature in 1980 resulted in an explosion of scientific studies on how people react to all sorts of trauma, including, most significantly, criminal victimization.

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Fear is a defining feature of becoming traumatized and hence researchers in both victimology and traumatology began to revisit the role of fear in the study and impact of victimization. Initially, that research helped confirm the usefulness of many innovative practices that were being employed by practitioners in the field of crime victim services. The research also helped practitioners refine their skills and become more aware of how interventions in trauma can be either successful or unsuccessful.

At the intersection of traumatology and victimology, the field of victim assistance radically changed. In the 1970s, most of those concerned with victims focused on problems in the criminal justice system and how those bureaucracies could be made friendlier to victims. In the 1980s, greater emphasis was placed on what was considered to be the central issue in the aftermath of trauma – the emotional injuries inflicted on the victim, including fear and terror.

The new perspective meant that the question, ‘who is the victim’ needed a more expansive answer. In today’s world, the answer to that question revolves around the extent to which a victim is traumatized rather than type of event that caused the psychological reactions – and to look beyond the direct victim of that event to others who, by virtue of what they witnessed or how they were related to the victim, were themselves injured and deserving of help. The new emphasis also compelled a re-examination of the nature of victimization to expand beyond conventional crime to include other catastrophic events, such as natural disasters and accidents, and acts of terrorism, genocide and war – this latter group may be said to include elements of conventional crime.

The broadening in focus also suggested a shift in the concepts of justice. ‘Justice’ should not be limited to the response to violation of State law but also violations of what could be defined as human rights. Nor could justice be defined strictly in terms of conventional justice systems that focused on the treatment of offenders, but rather must be defined with a recognition of the centrality of the victim and the social and cultural context of the victimization. The doing of justice should address both the needs of society and the restoration of the victim. This opened the way to rethinking the role of the victim in conventional systems as well as to considering alternative systems of justice, such as transitional justice or restorative justice.

Finally, a broader view of victimization provoked an understanding the impact of victimization on communities as a whole rather than the more narrow concerns of the impact of victimization on the individual. Attacks on cultural values and institutions through terrorism or genocide raise inherent fears about the survival of the social network from which individuals have sought protection. The impact of traumatization is also increased when collective populations are harmed by the very institutions to which their members turn to when they are in need, a kind of betrayal that often occurs in cases of abuse of power.

All these changes were reflected in the development of a new framework for establishing services in response to victimization.

### Victim Service Programs

In the United States as in most countries, the framework for victim service programs has focused on crime victims. It has incorporated the use of research and planning to help implement and expand basic program elements.

Recognizing the value of research, the National Organization for Victim Assistance (NOVA) began developing standards for victim service programs as early as 1980. The process involved site visits to fifty programs recommended as excellent by practitioners in the field. They covered law enforcement-based and prosecutor-based programs, as well as independent, community-based programs. These site visits resulted in a publication entitled *The Victim Service System: A Guide to Action* ('*Guide to Action*') (Young and Stein, 1983). This was followed by a Delphi study of victim service providers and a series of regional conferences in which over 1,000 victim service providers were given the opportunity to review and critique the proposed standards as they were being developed.

The initial findings were published in 1988. The standards have been formally revised four times since then, most recently in 2005. The purpose of the process was:

To promote standards for implementing programs and for individuals who work with victims and witnesses in order to better assist them in dealing with emotional trauma, participating in the criminal justice process, obtaining reparations, and coping with associated problems caused by the impact of victimization. (Young and Stein, 1983).

The *Guide to Action* posits that a service program should seek to ensure that either the program itself or other agencies within its community provide nine basic elements of services to all victims; ranging from crisis intervention, assistance with practical problems, to counseling and advocacy throughout the process, to the prevention of victimization.

The service elements are described in terms of the provision of emotional support, direct assistance, and information. This parallels the description of services in the United Nations' *Handbook on Justice for Victims of Crime and Abuse of Power* (United Nations Office for Drug Control and Crime Prevention, 1999). In connection with each element of service, a description of basic activities that are central to the recovery of individual victims or witnesses is outlined. Additional activities that would enhance benefits to the victim are also suggested.

A program need not provide the entire continuum of program elements. If other competent services already exist in the community and the program can refer victims to it, duplication can and should be avoided. If a needed service does not exist, then the program should either provide it directly, or help to promote its establishment. All programs should include outreach services and provide relevant information for all the

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programs' clients. Thus, attention must be paid to offering multi-lingual services, services for people with various disabilities, and culturally-appropriate services.

While communities should ideally seek to assist all victims, programs are urged to prioritize the implementation of services based upon resources, the expertise of the program staff, existing service institutions, and an analysis of the needs of the jurisdiction. Each cooperating program should plan to phase in full service to victims over time. In setting priorities, programs are encouraged to use a systematic approach to take into account the severity of the victimizing event based on its impact on the victim. Since in many cases witnesses and relatives of the direct victims are traumatized, programs are encouraged to ensure that they too receive services as needed.

All programs should have an ongoing, multidisciplinary strategic planning process across service agencies that identifies gaps and generates services through community partnerships and determines the responsibility of each member of the partnership. Ideally, all program services should be available on a twenty-four hour basis, although most programs do not have the resources to do this. Nonetheless, through collaboration, most communities can sustain twenty-four hour crisis services either through a telephone hotline, on-scene response, home visits or walk-in services. Most programs can provide ongoing services as well either by their staff or trained volunteers or through appropriate referrals.

The following are the nine program elements.

### *Crisis Intervention*

While crisis intervention has had many definitions over the years, the essential features practiced by victim service providers involve helping victims feel safe and secure; providing them with an opportunity to explain and describe their experience along with reassurance that their reactions are not unusual; and problem-solving for the immediate future. This has translated into a formula known as R.S.V.P. in English: Respond with Safety and security, Ventilation and validation, and Prediction and preparation. This has been a structure used by crisis interveners since the late 1970s, and it has been validated by traumatologists over the years. As Bessel van der Kolk, a preeminent psychiatrist has summarized from his research, "After safety is assured, psychological intervention may be needed. People have to learn to put words to the problems they face, to name them, and to formulate appropriate solutions." (Van der Kolk, 2002, p. 47).

Research on trauma has also taught interveners about the importance of memory and the fact that traumatized people are often dominated by traumatic memories of the past. Hence, the intervener needs to incorporate skills that help the victim distinguish clearly between the past, present and future.

Crisis intervention services are seen as absolutely essential to a good victim assistance program. The importance of this was driven home to me early in my career.

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Jillean Englethorn taught me that lesson. I was in the process of reporting as a volunteer to a hospital one night when I noticed a young woman clad only in a paper gown and paper shoes sitting outside the front door of the medical center. She had a handful of newspapers on her lap. I walked over and asked her if she was okay. She said she didn't know. She had been raped; she had reported it; the sheriff had taken her statement; she had been examined for evidence; they had taken her clothes; and now she didn't know how she was going to get home. She was stunned and in shock.

She needed to be provided with physical safety and a sense of emotional security. She needed a chance to tell her story – not just review the so-called facts of her case. She needed to be reassured that her emotional reactions were valid. And she needed to have someone help her understand what to expect next and figure out how she might begin to cope with problems that faced her.

While crisis counseling is the core of activities involved in the early response to victims, it is recommended that each of the following additional services be provided within this program element when appropriate:

- Death notification services and support for people when it is necessary for them to identify the body of a deceased loved one.
- Notification of the victimization to the immediate family (unless the victim does not want them notified) or to friends the victim designates.
- Communities should be prepared to provide crisis response to all members communities directly affected by a major catastrophe as soon as possible.
- Other assistance that should be considered includes dependent care, cleanup of the crime scene, emergency property repairs, protection through restraining orders, and relocation services.

### *Ongoing Counseling*

Post-trauma counseling should be available to victims whether or not there is an investigation of a crime. Post-trauma counseling is an extension of crisis intervention but enhances it through education, an emphasis on health and physical well-being, and the integration of appropriate referrals for concurrent problems.

For most victims of personal catastrophe, the fears of death or serious injury are primary, and that fear generates a sense of loss of control and helplessness. The sense of surviving an overwhelming event and being besieged with an avalanche of conflicting and extraordinary emotions leave victims with a terror of the unknown that lies ahead of them. Education on the kinds of reactions that may affect them over time can be exceedingly helpful. That education may involve a range of information on post-traumatic stress, emotional responses to grief, coping with death and dying, and other subjects that affect their trauma.

When I visited Japan after the Great Han Shin earthquake in Kobe, I was amazed with how useful the simple description of potential traumatic reactions was for many of the

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victims and survivors. They seemed to need to better understand the roller-coaster of emotions and physical reactions they were undergoing. As a result, one of the simple things that we did was to distribute a paraphrased copy of PTSD as described in the Diagnostic and Statistic Manual IV of the American Psychiatric Association. The copy focused on the three primary elements of PTSD and emphasized that these symptoms were not necessarily signs of PTSD but were usually signs of acute or ongoing stress. This seemed to be very understandable and enormously helpful to those who received them. In putting words of understanding to an emotional experience that was bewildering and itself frightening, helped to extract some of the terror of that experience and free the mind to attend to immediate coping needs.

Counseling should also involve a focus on helping victims regain physical well-being. Physical health often deteriorates as people try to deal with the stress of victimization even when they have not directly suffered physical injury. A common theme is to encourage victims to consult with a physician or other health care provider during the aftermath of trauma. Significant health changes should be noted and either referrals made or simple suggestions can help. For instance, a well-known victim advocate and the survivor of the murder of her four sons, Betty Jane Spencer, remembered that she stopped eating and drinking liquids after the deaths of her sons. She couldn't bring herself to consume anything, because every time she started to, she remembered her sons could no longer consume anything. She became dehydrated to the point that she was taken to an emergency room.

Exercise, exposure to humor, and confirmation that tears are an appropriate and useful biological and psychological response to extraordinary stress are very helpful.

Post-trauma counseling should involve spiritual interventions. Interveners should be aware of and prepared to respond to spiritual needs of victims. Perhaps the most important of all social institutions that bind together communities are those with a spiritual basis. These may be the institutions of predominant religions but often in non-Eurocentric societies they may be based on other orientations.

Many service providers are not prepared to respond to some of the issues in counseling outlined here but they should be able to provide appropriate referrals to mental health professionals, culturally-appropriate religious or spiritual leaders, social support groups, and legal services both in the civil and the criminal justice system.

### *Advocacy*

Many times victims feel that the lack of assistance and understanding of social and criminal justice institutions is more harmful than the original victimization. The act of being engaged in social activities in a purposeful manner not only involves a commitment to restoring a social fabric but may provide victims a personal reason for living. Some traumatologists have indicated that, "Emotional attachment is probably the primary protection against feelings of helplessness and meaninglessness." (McFarlane and Van der Kolk, p. 24) They may want to become advocates in their own case or to work with

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others. Some choose to have someone represent them in public forums but many also become ardent participants in helping those who represent them in defining their issues.

Indeed, activism has an important therapeutic role in helping victims get on with their lives. There are ten reasons why victim activism can be therapeutic for survivors (Young, 2004, p.38-39):

- **Focus** – When one’s world has been thrown into chaos by trauma, there is a need to restructure order through focus on specific functional activities.
- **Catharsis** – Activism can provide a way to express intensely frightening emotions in a safe and socially-acceptable way. For instance, anger may be expressed in outrage at unresponsive laws and a determination to change them – instead of venting at family members.
- **Relationships** – Many victims and survivors lose touch with once-close friends and family. Those friends or relations may be afraid of the emotional upheaval in the victim’s life, may not know what to do or say, or may blame the victim. Victim activism often gives survivors a chance to form new ‘families’ and relationships bound together by trauma and commitment.
- **Repetition** – A vital part of healing is ‘telling your story,’ as is clear in the understandings that shape crisis intervention and post-trauma counseling. Victim impact panels, legislative testimony, speak-outs, support groups and so forth, all provide opportunity for telling and retelling the story.
- **Self-Esteem** – Victimization is often a humiliating, degrading experience. Activism can give victims tangible evidence of their accomplishments and self-worth.
- **Testimony** – Victims not only need to tell their story but to have it validated through the knowledge that someone listened to and believed the story, and it made a difference.
- **Insight** – Activism provides a way to hear from others who have suffered similar traumas as well as from people who work in the field. Hearing other people’s experiences can help clarify one’s own experiences, and teach others valuable insights.
- **Integration** – An important therapeutic goal for many is to be able to incorporate the story of their own tragedy into their lives. Activism allows victims to restructure their lives and recognize how their victimization and survival has altered them forever.
- **Purpose** – For many, the impact of crime shatters their sense of meaning and purpose in life. Their plans are thrown asunder. A person whose life has been

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centered around her child dies a special kind of death when that child is murdered. Activism can be the key to developing a sense of triumph over tragedy and providing meaning for both that woman's life and her deceased child.

- **Hope** – Activism may provide survivors with hope. The nine elements of activism described above and its positive benefits lead to a re-establishment of hope and a new life for victims and survivors.

Advocacy by the victim often helps – advocacy *for* the victim is often essential. A program should be prepared to provide assistance with victim compensation or private insurance applications. Victims may need intervention on their behalf with sustaining their credit; maintaining their housing or employment; dealing with medical institutions (particularly where a forensic examination is involved, a concern about HIV infection exists, or where family violence is involved); assistance with relocation or shelter; assistance with dealing with the media; document replacement and other practical problems.

I remember the case of Mary Jimenez, a native Mexican, the wife of Robby Smith, an American. They met while they were in graduate school in Mexico City. He abused her shortly after their marriage began. In the attack that precipitated her leaving him, he broke her nose and arm and then cleaned out their apartment. She was then an immigrant by marriage in the United States and had been given a 'green card' designating her as a legal resident. When she called for assistance, she had been in hiding for four weeks because she did not have her actual green card and was afraid she would be deported without her two children. She was desperate and did not know how to speak English well enough to make herself understood without an advocate to translate for her and find the right person in the immigration department who could help her. She found that help – but others have not.

### *Support services during criminal justice investigation*

These services are critical. Law enforcement officers are usually the first contact a victim has with the criminal justice system and how victims are treated at this stage can affect the way they feel about the entire criminal justice process as well as how quickly they are able to establish a new life. As friend of mine once put it in practical terms: "a law enforcement officer can help to turn a victim into an effective witness." (Ahrens, Stein, Young 1980, p 6)

In the United States, more and more law enforcement officers are receiving crisis intervention training and are using it as a part of their interviewing techniques – and more and more victim service providers are working alongside law enforcement officers during the initial response to the reported crime. Crisis intervention services are important at this stage, as are support and accompaniment to proceedings involving the identification of the accused, to other criminal justice interviews, and to forensic examinations.

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Support service includes assistance with victim compensation or insurance applications; payment of costs of forensics examinations and arrangement for bills to be received by the payer, not the victim; assistance with requests for victim restitution; application and enforcement of protection orders; provision of shelter or safe places for victims; and assistance with prompt return of property when it is recovered. The return of property can be a struggle but it is seen as so important that it is included in many bills of rights in the United States and is so designated by the European Council Framework Decision. (Official Journal of the European Communities, March 22, 2001, p. L 82/3)

In one infamous case, a victim, Betty DeHarsh, tried to retrieve her son's car after he had been murdered. He was murdered in the state Arizona on his way home to the state of Nebraska. He had just been discharged from the Navy to help care for Betty. During the investigation of the case, his car had been impounded for several months by the police. It took the intervention of a Navy Admiral to arrange for the car to be transported to Nebraska – without the storage fees normally assessed to the victim.

At all stages of service, information about what is going on is important. It becomes even more important when the criminal justice system is involved. The right to information is recognized in all 50 States and the federal criminal justice system, as will be reviewed below.

Information should be accurately and expeditiously given. This includes information about case status, the criminal justice process and victim rights that are applicable at each stage, information on the detention of the suspect and bail, any measures to promote reparations, protection of evidence in a forensic examination, and information about available protection and prevention programs.

It may also include information on restorative justice programs. Since many such programs in the United States are triggered by the possibility of the case being diverted from conventional court processes, victims need to know their rights in such a diversion, including the right not to participate, thus keeping the case in the regular system.

### *Support services during prosecution*

Some programs provide crisis intervention services in the initial contact with victims but do not have them available at later stages. Yet, personal support from a trained crisis intervener is useful at all stages, including the actual prosecution of a case. So it is recommended that such services be available throughout all proceedings, including hearings, interviews, and trial.

The importance was underscored to me when I accompanied Jack Russell whose sister had been murdered to the sentencing hearing in which he would provide a victim impact statement. When the murderer was brought into the courtroom, he seemed palpably evil. I shivered with fear, even though I was not going to be giving a statement and there were law enforcement officers in the room. As we stood to acknowledge the judge, I felt Jack reach over and take my hand. He was shaking too.

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This anecdote does not describe a crisis counselor – me – performing at the top of my professional abilities. But it is a helpful reminder that the ‘crisis intervention’ often needed during the hard times of the justice process is the presence and support of someone the victim trusts.

It should be noted that the perception of ‘evil’ has only occasionally been addressed in traumatology and victimology. It is significant that some mental health professionals recently are referring to it: “In addition, many trauma survivors, including rape and torture victims, have come face to face with human evil, witnessing people taking pleasure in inflicting humiliation and suffering.” (Van der Kolk, 2002, p. 3)

Direct assistance of the kind reviewed here usually includes coordination of victim appearances at hearings, interviews, and the trial with the goal of minimizing the number of appearances; providing or reimbursing transportation expenses or arranging for parking; employer, landlord, creditor intercession services; assistance with restitution requests and enforcement; assistance with victim participation in the criminal justice process (including implementation of all rights for presenting victim information at critical stages in the decision-making including input on bail, charging, diversion, dismissals, plea bargains, continuances and sentencing); and provision of safe places in the courthouse for victims separate from the accused or defense witnesses when they are attending hearings or interviews.

Many programs also offer appropriate clothing to the victim if necessary – some even have closets of available clothes so victims can pick styles and sizes.

Other program enhancements are often offered. Transportation may be provided for victims and witnesses, particularly those with disabilities and the elderly. Full restitution requests are routinely prepared and presented by the prosecutor. All victims are, or should be, given help in preparing a victim impact statement for use at plea bargains and at sentencing. And rehearsals and court-room walk-throughs are made available to all victims.

Information should be regularly provided to victims regarding issues of prosecution, status, and other events that might be of concern to victims. General information on victim rights and available services should be repeated over and over again, and this should be provided in an appropriate language, communicated through appropriate cultural means and provided through all methods possible. In some countries, person-to-person contact may be best, in other cultures telephone communications may be a viable conduit for information. Radios are most useful in Rwanda. Email might be most useful in Western Australia.

Many victims are not fully capable of understanding their rights when they are first told about them because they are in a crisis. Research shows that a portion of the prefrontal cortex may shut down during a traumatic event. High levels of arousal may interfere

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with both the ability to put one's feelings into words as well as the ability to discern incoming verbal messages. Hence repetition is of the utmost necessity.

Victims need information about the responsibilities of all criminal justice personnel to victims, and what sanctions, if any, are available if these responsibilities are not met. They need to know what is expected of them in the criminal justice process at each stage of the proceedings. Most victim and witness programs have a call-in system to provide current case status information and some of them provide proactive contacts with victims and witnesses, if requested.

### *Support services after case disposition*

An increasing number of service programs routinely provide personal support and accompaniment during all appeals or hearings on motions for retrials, or those involving probation revocation, parole or clemency. Some programs work with corrections departments to provide alternative ways for victims to testify at hearings. One innovation that emerged during the 1980s was the use of video recordings as a vehicle for testifying at parole hearings. One of the first cases involved Betty Jane Spencer, mentioned above. The young men who murdered her boys were caught and sentenced to life without parole. But, after they spent ten years in prison, they began to exercise their right to appeal for gubernatorial clemency (not parole) – and could do so every year for the rest of their lives. She found it onerous to go back in to a hearing room in the State prison to testify over and over again – once a year for each of the four convicted murderers – so she asked for and received permission to give her testimony by videotape.

Some programs provide personal support during civil legal proceedings, as in child custody hearings related to a domestic violence case or in a trial for damages caused by the crime. Others offer support and assistance with participation in restorative justice programs or victim-offender intervention services, upon request of victims.

Restitution issues are a primary concern for victims in the aftermath of their victimization but they arise most urgently during the sentencing process when restitution is ordered and thereafter when victims pursue enforcement of the order of restitution. Programs may work with other agencies to ensure enforcement of the orders through monitoring restitution payments and other techniques.

Programs may also work with the prosecutor or the probation department to get prompt revocation of probation when restitution payments are not made or when other violations of probation occur.

The victim's need for information in these processes is met by corrections or probation programs. Many agencies supervising convicted offenders have their own victim service programs that also work with local programs. Upon request, information is typically made available about the offender's status, release or escape. One enhancement in this area is to provide victims with information on where the offender will be released and a picture of the offender at the time of release in case the offender's appearance has

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changed. It is persuasively argued that the fears that victims have do not end with their final sentence and so if the offenders are released, victims need to know (from their perspective) who is most likely to victimize them again.

In the United States, victims have the right to notification of parole hearings, and often exercise them with the aid of service providers. In addition, some programs try to proactively notify victims if they become aware of current media events that may retraumatize victims.

### *Victimization Prevention*

This element of victim service programs may be the most difficult to define or describe. Most would argue that the first issue for the public and its victims is their safety. Hence, the government and individuals have an obligation to protect potential victims from victimization to the extent possible. But it is obvious that neither crime nor other forms of victimization can be completely obliterated – it is a hope that the numbers of people victimized can be reduced and that the consequences mitigated. For victim service programs, this means that they have a responsibility to promote victimization prevention for both the individual and the community.

Studies reveal that crime prevention information is the most sought after kind of assistance by those recently-victimized and when provided, is considered among the most effective of services. (See: Davis, Taylor and Titus, 1997)

Victim service providers should be expected to provide education on crime prevention techniques for neighborhoods and communities. They should seek to educate the public on the scope of crime and the reality of what may be expected in their jurisdiction. They should also seek to inform the public on the consequences of crime for an individual and his or her family and community.

### *Other Services*

Victim service programs should also promote other integrative services. These should include the promotion of multidisciplinary approaches to victim assistance. Most programs have a training component for at least law enforcement professionals and some also train prosecutors. Training for judges is less well developed, but States such as California have a mandatory continuing education program for their judges, and it includes a victim component.

Education of professionals who work directly with victims, such as school personnel, the health and mental health professions, the legal profession, spiritual leaders, and the media is also encouraged.

Victim advocates support the design and implementation of preparatory educational programs on victim issues for students of those ‘allied professions’ as well as training and education programs for active professionals.

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In the totality of educational materials aimed at the professions whose members impact on the lives of crime victims, four publications have had a major influence. These are the *Final Report* of the President's Task Force on Victims of Crime (1982), *Frontiers and Fundamentals* (Young, 1993), *New Directions from the Field: Victims' Rights and Services for the 21st Century* (US Department of Justice, 1998), and *The Community Crisis Response Team Training Manual* (Young, 2004), now in its Fourth Edition.

### *Professionalization of Victim Services in the United States*

There has been a growing professionalization of the victim assistance field in the United States. Many programs now require forty hours of pre-service victim assistance training and an additional sixteen hours of in-service training yearly. When the term professional is used is applied both to paid staff and volunteers. Most States have victim service program networks and annual training conferences for their members.

There is now a national program of accrediting victim advocates and a national program of certification for crisis responders – the latter are specialists in delivering crisis intervention to large numbers of victims of community-wide traumas.

But in the United States, the aspirations for professionalism extend beyond the education and skills of those who work with victims. They include an examination of the social and legal matrix of their services.

*New Directions from the Field* offered these five global challenges to guide the search for victim rights and services for the 21st century:

- To enact and enforce consistent, fundamental rights for crime victims in federal, State, juvenile, military, and tribal justice systems, and administrative proceedings.
- To provide crime victims with access to comprehensive, quality services regardless of the nature of their victimization, age, race, religion, gender, ethnicity, sexual orientation, capability, or geographic location.
- To integrate crime victims' issues into all levels of the nation's educational system to ensure that justice and allied professionals and other service providers receive comprehensive training on victims' issues as a part of their academic education and continuing training in the field.
- To support, improve, and replicate promising practices in victims' rights and services built upon sound research, advanced technology, and multidisciplinary partnerships.
- To ensure that the voices of crime victims play a central role in the nation's response to violence and those victimized by crime.

These are ambitious goals. But, they have resonance for the structure of victim service programs on a national and international level.

### **Victim Rights: Policy and Implementation**

The development of victim rights in the United States was based on efforts to rethink ideas of criminal justice. The predominant philosophy in most large societies in modern times has been that those systems are there to address criminals in terms of the harm done to society rather than to the individual victim. Within that conceptual framework, victims served in peripheral roles as observers or witnesses. In the new conceptual framework justice, victims are seen to be the most important injured parties in crime. Thus, they should have a central role as participants in justice systems that should seek to address the harm done to them. Since loss of control and fear are primary harms brought on by victimization, justice should involve restoring control and mitigating fears of revictimization.

Restoration of a sense of control means that victims are given opportunities to be involved in the dispensation and decision-making with regard to what happened to them. Mitigation of fear may be accomplished by re-establishing a sense of safety through holding offenders accountable for the action, providing victims reassurance of society's concern for them, as well as redressing their financial, physical and emotional needs.

This redefinition of the purpose of the justice system resulted in the following five key principles of victim rights, most of which are pursued as legal rights within the criminal justice system but are also reflected in the services outlined above.

#### *Rights to Protection*

There are two primary issues to be considered under rights to protection. The first is the general issue of protection prior to victimization that could be claimed by any member of society – the right to be safe from crime. This would entail an obligation by society to “take reasonable measures to pursue the safety and security of persons and property.” (Waller, 1996, p. 94) Most countries have attempted to address this issue through reactive, retributive or prevention policies, but few have articulated this as a basic right. Victim rights in the United States have never included safety prior to victimization as a right, and as indicated above, crime prevention is rarely an integrated service within victim assistance programs. It is suggested that the need for this right to be recognized is reflected in the comprehensive *Guidelines for the Prevention of Crime* that were accepted by the United Nations Economic and Social Council in 2002. It is significant that these guidelines explicitly bring victim issues into their conceptual framework. In summarizing the wide range of approaches to crime prevention, the guidelines emphasize “focusing on the risk and protective factors associated with crime and victimization” or “social crime prevention” and by “providing assistance and information to potential and actual victims” or “situational crime prevention.” *Promoting the Prevention of Crime*, 2004, pp. 10-11)

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Rights to protection in the United States are instead confined to the second issue, that is, rights in the aftermath of crime. The first such right is the right to protection against intimidation or harassment from the accused, his or her relatives and associates. Laws to implement this right generally include recognizing intimidation and harassment as crimes that enhance penalties to be imposed on the underlying offense; the provision and enforcement of protective orders restraining the accused and others from contact with victims; and the establishment of waiting areas in court houses that separate victims and prosecution witnesses from defendants or defense witnesses.

Many laws provide special protections for vulnerable victim populations. Some of them enhance penalties when a crime is committed against particularly vulnerable groups, such as children or elderly people. Some laws expand the definition of crime to include hate or bias crimes that target specific populations, such as racial, ethnic or religious minorities and homosexuals.

Protective strategies and laws aimed at assisting and protecting domestic violence victims include mandatory arrest and 'no-drop' policies in prosecution. Child victims may receive extra care when they are witnesses in cases through special courtroom accommodations such as the use of videotaped testimony, closed-circuit cameras, the use of one-way mirrors such that children do not have to see the accused, or the allowance of personal support for a child in the witness stand. Rape shield laws have been enacted to protect sexual assault victims from the intrusive and intimidating explorations by defense attorneys into their past sexual history.

Legal reforms in the standards for release on bail have been enacted to provide protection for victims. Whereas previously in the United States, the general standard for such release was whether the accused would return to attend a trial or hearing, many laws now include a consideration of whether the accused poses a threat to the victim or the community at large.

### *Rights to Information and Notification*

The right to information about the status of a case has been recognized throughout the world as critical to meeting victim needs. Every victims' bill of rights in the United States includes this provision as does the 1985 *UN Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power* and the 2001 Council of Europe's *Framework Decision on the Standing of Victims in Criminal Proceedings*.

What was missing in some of the initial laws on this issue was the types of information that were required, the necessity for the information to be accurate, and the timeliness of the provision of information. Today most laws include words to the effect of the right to 'timely notification' of 'accurate and appropriate information'. They specify the following critical events in which timely information should be given to victims:

1. Court schedule changes

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2. Pre-trial release
3. Bail release
4. Plea agreements
5. Sentencing
6. Final disposition
7. Probation revocation decisions
8. Parole decisions
9. Pardon or clemency decisions
10. Work release
11. Prison release
12. Escape

### *Rights to Participation*

The most contentious issue in the field of victim rights in the United States has been the assertion of a right to participate in the justice process. While research has underscored the importance to victims of participation in a meaningful way, there has been resistance by many for whom victim participation invades traditional prerogatives – judges, prosecutors, defense attorneys and corrections officials. Despite their concerns, all 50 States now have statutes and some 32 States have constitutional amendments that allow such participation (for a listing go to [www.nvcap.org](http://www.nvcap.org)). Participation includes the right to attend the proceedings. This is reinforced by in the federal system through the *Victims' Rights and Restitution Act* of 1992 which allows victims “to be present at all public court proceedings related to the offense” with the exception of when the court determines that the victim’s testimony would affect or be affected by the testimony of others – a right reinforced in the 2004 *Crime Victims Rights Act*, with its rigorous sanctions in cases of non-compliance.

Other general rights to participation include allowing victims to have input at the plea bargaining stage and allowing victim impact statements at sentencing and parole hearings. Some States have gone further, allowing victims to have input on charging decisions, while it is common for inviting victim input in bail hearings, and allowing not only victim impact statements but statements of opinion regarding an appropriate sentence.

An unsettled issue concerns what rights a victim may have to ‘standing’ or to be recognized as a party to assert their rights. Some have argued that the *UN Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power* calls for the right to ‘standing’ for victims (Waller, 1996 p.82) and some nations have accorded such status for victims. However, in the United States the very right of victims to assert their rights has not yet been fully recognized, and remains in jeopardy, at least for the present.

### *Rights to Reparations*

As Marvin Wolfgang noted in 1965, “The victim of a crime has historically and almost universally enjoyed the right to reparations. This right was confiscated by the state in the

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form of fines without due consideration for the victim.” (Wolfgang, 1965, p.334). In the forty years since this remark was made, all 50 States have passed State victim compensation laws (for a listing, go to [www.nacvcb.org](http://www.nacvcb.org)). Although the programs vary widely in terms of victim eligibility and benefits, there seem to be a universal acknowledgment that State compensation is a necessary component of an effective response from society to victims. It serves two legitimate goals: to serve as a source of symbolic social recognition for victim suffering and to respond to victims in a just, expeditious, and equitable manner.

In the United States, State compensation programs’ financial assistance is usually limited to payments for health, mental health or funeral expenses. It is always the benefit of last resort, discounting any insurance, restitution or other form of compensation – and offers only token compensation for some property losses, like the replacement of eyeglasses. The common explanation is that compensation programs in the United States and around the world do not have the resources to truly make the victims whole. The other explanation is that the United States does not have a system of universal health care such as exists in Canada, much of Europe, Australia and New Zealand.

This does not discredit the value of recognizing rights of victims to recover their losses, but does emphasize the complexity of relying upon State compensation as anything like a complete response.

The other major form of reparations is the right to restitution. In the United States, restitution is defined as repayment of a victim’s losses by the offender. In all States and in the federal justice system, restitution is a sentencing option, is generally declared a right and in a growing number of jurisdictions, including the federal system, a judicial order for full restitution for the victim’s monetary losses is mandatory.

The problems surrounding restitution are numerous. Most stem from the fact that most restitution is ‘offender-based,’ so that the amount of restitution is often decided based on the offender’s ability to pay and it is usually considered as a part of other sanctions. It is not seen as a valid recompense for addressing victim losses outside other sentencing options. Most victim advocates and victims view restitution as an independent source of reparations that should be due to victims in full in addition to penalties such as fines, incarceration, or community service that address offender behavior directly. Some argue that requiring orders of ‘full’ restitution are unrealistic since many offenders could not make good on all the losses they have imposed. But the symbolic value of the formal recognition of the full debt owed by the offender is highly significant to many victims. And there is an argument that “most offenders probably could make more restitution than they typically do.” (Smith and Hillenbrand, 1997, p. 250).

### *Rights to be Treated with Dignity and Compassion*

This set of rights is probably the most difficult to enumerate but it is significant that the first articulation of victim rights in the United States included the ‘right to be treated with dignity and compassion’ and most of the bills of rights in the United States include

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reference to a right to be treated with dignity and compassion or respect. It is echoed in key international documents.

The *UN Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power* begins with the statement, “Victims should be treated with compassion and respect for their dignity.” The *UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime* states as its first principle, “Every child is a unique and valuable human being and as such his or her individual dignity, special needs, interests and privacy should be respected and protected.” The Council of Europe’s *Framework Decision on the Standing of Victims in Criminal Proceedings* includes in its preamble: “The rules and practices as regards the standing and main rights of victims need to be approximated, with particular regard to the right to be treated with respect for their dignity...”.

The key components to these rights are the right to services in response to financial, physical, emotional and social needs provided by trained personnel both within and outside of the criminal justice system; and the right to be treated with sensitivity and compassion by those with whom they have contact with in any social or justice institution. The primary factor in implementing these rights is the allocation of resources to provide funding for education, training and performance evaluation of service providers as well as funding for establishment and maintenance of service components.

In the United States, such funding is primarily based on a merging of federal, State and local funding streams. It is perhaps illustrative to review a little of the history of how this funding and resulting services have progressed at the federal level, since finding money for services and training is a major obstacle in most countries.

The most prominent source of financing comes from the federal *Victims of Crime Act* of 1984 (‘VOCA’). This legislation established the Office for Victims of Crime (‘OVC’) and established a Crime Victims Fund, based on the collection of fines from federal criminals that is used to support State compensation and local victim assistance programs. This program has been crucial in the explosion of programs and training for service providers over the last twenty years. But it has not been without challenges from the United States Congress.

From 1990 through 1995, deposits of Federal fines ranged between \$128 million and \$234 million. But one very large fine in 1995 caused the Fund to rise to nearly \$530 million the next year. The statute’s ‘shock absorber’ – the State victim assistance administrators’ authority to pay out any one year’s grant over a three-year span – made the big increase manageable. Three years later, however, deposits jumped to nearly \$1 billion, and even as OVC and its constituents pondered how to manage this new windfall, Congress stepped in by imposing a cap of \$500 million (holding the balance in reserve). Congress has maintained the use of caps in the years following, with the amount creeping up in most years. The Congressional intrusion into the direct management of VOCA’s trust fund was tempered by the relative stability of the Fund at about twice the level it enjoyed at the start of the decade.

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The trend of providing ever more services to larger number of victims continued. By the 1990s, there were effective services available in some communities heretofore underserved – communities defined by type of crime (such as homicide, domestic violence among same-sex partners or against male partners), or communities defined by geography (such as low-income urban dwellers and rural Americans), or communities within the larger community (such as immigrants and residents of Indian Reservations).

The expansion of services meant expanding the understanding of compassion in new ways. It also meant establishing worthy prototypes and ‘best practices’ that still reached only a minority of the intended victims. The pattern continues: there are not enough resources for victim services of any kind for hard-to-reach populations.

Adding to the available VOCA funds was the Federal Government’s 1994 commitment to preventing violence against women and helping its victims. The *Violence Against Women Act* of 1994 (‘VAWA’) packaged some 30 grant programs – a substantial amount aimed at the scourge of domestic violence – with an initial authorization of almost \$1 billion dollars over five years. While VAWA advocates experienced some disappointments in the way the programs were designed and focused, they generally took pride in the fact that annual appropriations usually came close to the dollar ceilings authorized, and that the 1998 reenactment (‘VAWA II’) included many improvements they had sought. The 2005 reauthorization sustained the statute’s larger goals.

In 2005, two additional significant things took place. First, the *Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims’ Rights Act* (honoring five homicide victims whose loved ones became champions of the victim rights’ movement) was enacted. The *Crime Victims’ Rights Act* (‘CVRA’, as it is commonly referred to) contains what is by now a standard litany of eight victim rights (a slight expansion on those listed in this paper) – but has enforcement provisions found in no other such statute in the United States. It also authorizes funding, including for the establishment of free legal clinics, seeking to make sure the new law is fully implemented.

It remains to be seen if this experiment in statutory reform meets its promise not only of delivering meaningful, enforceable rights for crime victims in the Federal justice system but also as a model for States to emulate. While trial courts have been spotty in enforcing the rights, and appeals courts have been weak in policing the lower courts’ enforcement obligations, one federal appeals court recently ordered a trial court to re-sentence an offender – this time allowing the victim to participate – and added this commentary:

Finally, we recognize that under [the Act], we were required to ‘take up and decide [this] application forthwith within 72 hours after the petition [had] been filed.’ We acknowledge our regrettable failure to consider the petition within the time limits of the statute, and apologize to the petitioner for this inexcusable delay. It may serve as a small comfort for petitioner to know that, largely because of this case, we are in the process of promulgating procedures for expeditious

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handling of CVRA's mandamus petitions to ensure that we comply with the statutes strict time limits in future cases. As victim participation in the criminal justice system becomes more common, we expect CVRA claims to become more frequent, and thus encourage district courts to modify their own procedures so as to give full effect to the CVRA. (*Kenna v. US Dist. Court for the Central Dist. of California*).

That struck perhaps the most hopeful note yet that victim rights on the books may be fully honored in practice. But the second most remarkable event in the years since the *Crime Victims' Rights Act* was adopted was most discouraging – at first.

In early 2005, the President's proposed budget to Congress contained a recommended 'rescission' of every cent in VOCA's Crime Victims Fund at the end of Fiscal Year 2006, a small step in helping to reduce the large Federal deficit but a huge blow to the nation's premiere victim-oriented program. That led to a firestorm not from only from the 4,500 local service agencies receiving VOCA funds but from many times that number within the broader victims' movement and its supporters in the public – and in public office.

In 2006, Congress adopted the Justice Department's appropriations bill, where any such rescission would have to have been adopted. It did not contain any such rescission language – and indeed, not one member of either House of Congress expressed any support for the idea.

Although many in the United States view that rejection of the 'raid' on VOCA as a negative victory – blocking something bad rather than moving care for victims forward – it will also be seen as the strongest demonstration to date that the victims' movement in the United States is more than a social cause. It is also one with a powerful political constituency.

That sense of empowerment is, to the surprise of many, to be tested once more – the most recent Presidential budget proposal again calls for draining VOCA's Crime Victims Fund. This time, activists in the United States victims' camp are determined to not merely defeat the proposal but to get Congress to adopt legislative protections so VOCA will be protected from such assaults in the future.

The United States has placed victims squarely in its political agenda by the force of its financial commitment to victim rights and services, but victim assistance professionals see the need to do more and that will require more resources. This is the growing trend around the world.

The *Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice* (2005) adopted at the high-level segment of the Eleventh United Nations Congress on Crime Prevention and Criminal Justice includes paragraph 17 as follows:

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We recognize the importance of giving special attention to the need to protect witnesses and victims of crime and terrorism, and we commit ourselves to strengthening, where needed, the legal and financial framework for providing support to such victims, taking into account, inter alia, the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.

The emphasis on providing a financial framework for victims is significant as is the reference in the *European Framework Decision* that suggests the “recognition and funding of victim support organizations” (Official Journal of the European Communities, p. L 82/4) by each Member State.

### **Conclusion**

The last thirty-six years in the United States has produced nothing less than a revolution in the way victims are understood and how responses to their needs are constructed. That revolution has been accompanied by rapid, complex, turbulent and unpredictable change on all fronts. That change will dramatically transform our world once again. Competition for dwindling resources, rapidly expanding populations, and the effects of globalization may also expand the numbers of victims and their needs. The goals and structure of justice may need to be re-examined. New definitions of crime will emerge. New insights into the effects of traumatization and its transmission both intergenerationally and cross-culturally will be articulated. New responses to crime and violence will be driven by international forces that transcend national barriers.

The United States has served as a laboratory for experiments in victim rights and services in recent decades. In that, the experience of its victims’ movement can provide lessons, for good or ill, that may help others seeking to accomplish similar goals or to invent new ones. In turn, the experiments and experiences of other countries will help the United States reinvent its own ways of meeting the onslaught of change. The challenge of change is to overcome our fears of the unknown and to face them head on with as much knowledge as we can. As Jawaharlal Nehru wrote:

Nothing in the world that is alive remains unchanging. All Nature changes from day to day and minute to minute – only the dead stop growing and are quiescent. So it is with the life of man, the life of a nation and the life of the world. (Bradley, Daniels, Jones, p. 118)

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