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HOUSE COMMITTEE REPORT

(11)

Date Referred: February 17, 1989

FURTHER REFERRALS:

Date of Committee Action: 3/8/89

The FINANCE Committee considered:

HB 36

HOUSE BILL NO. 36 [RIGHTS OF CRIME VICTIMS]
"An Act relating to victims of crime, claims by victims of crime arising from criminal conduct, and service of process on prisoners; and amending Rules 32(d) (1) and 35 of the Alaska Rules of Criminal Procedure."

RECOMMENDS:

- Replacing with CS HB 36 (Fin.) the same title a new title
[ ] the attached amendment(s)
[ ] do pass
[ ] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the Committee

ADOPTS: letter of intent

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

- (2) fiscal impact (Law) (Corrections) [ ] fiscal note(s) published:
[ ] zero fiscal note (HESS)
[ ] zero with analysis

[ ] zero fiscal notes(s) published:
2/17/89 (Public Safety) (HESS) (COURTS)

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS: (Do Not Pass, No Recommendation, Amend)

Signatures and names: LARSON, SWACKHAMMER, BROWN, KOPONEN, WLMER, BARNES, SHULTZ, PHILLIPS

Signatures and notes: HOFFMAN, RIEGEL, WALLIS, (No Rec), (No Recommendation), (---)

Chairman's signature: Ronald J. Larson

## FISCAL NOTE

**REQUEST:**

Revision Date: March 6, 1989  
Title: "An Act relating to victims of crimes..."  
Sponsor: House Finance  
Requestor: House Finance

Agency Affected: Department of Law  
BRU: Prosecution  
Components: Third Judicial District,  
Fourth Judicial District

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		67.3	69.3	71.4	73.5	75.5
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		8.2	8.4	8.7	9.0	9.3
SUPPLIES		3.6	3.7	3.8	3.9	4.0
EQUIPMENT		16.0	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		95.1	81.4	83.9	86.4	89.0

CAPITAL						
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REVENUE						
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**FUNDING:** (Thousands of Dollars)

GENERAL FUND		95.1	81.4	83.9	86.4	89.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Please see the attached analysis.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director  
Division: Administrative Services

Phone: 465-3672  
Date: March 6, 1989

Approved by Commissioner: Douglas B. Bailey, Attorney Gen.  
Agency: Department of Law

Date: March 6, 1989

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

**RECEIVED**  
MAR 7 1989

LEGISLATIVE FINANCE

**Adopted**

M10319

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 36 (Fin.)

The Finance Committee substitute for HB 36 makes changes to the bill, requiring revision of the Department of Law's fiscal notes, which were submitted on November 10, 1988, January 17, 1989, and February 16, 1989.

The bill adds a new subsection to AS 12.61 that requires that upon request of the victim of a felony, or a domestic violence assault, the prosecuting attorney shall: (1) confer with the victim about the victim's testimony before the trial of the defendant; (2) give prompt actual notice to the victim of the defendant's conviction and the crimes of which the defendant was convicted, including advising the victim of his or her right to make a written or oral statement for use in preparation of the defendant's presentence report, and including advising the victim of his or her right to appear personally at the defendant's sentencing hearing to present a written or oral statement, and advising of the address and telephone number of the office that will prepare the presentence report, advising of the time and place of the sentencing proceeding, and advising of the types of information that a victim may include in a statement a victim provides for a presentence report or a sentencing hearing.

This section would also require that the prosecuting attorney notify the victim in writing of the final disposition of the case within 30 days after final disposition of the case. It appears that notification of final disposition would be required at both the trial and appellate levels. Similarly, a preceding section grants the right to victims to be informed by the prosecuting attorney at any time after the defendant's conviction of the record of all the defendant's convictions.

Currently, about 18,000 new criminal matters are referred to the department's criminal division each year. It is estimated that of this number, about 2,000 are felony cases covered by this bill. Furthermore, many felony cases have multiple victims. Although the department does not keep separate statistics for misdemeanor domestic violence assaults, it is believed that there are about 300 of these offenses, each year. Consequently, this bill has the potential for generating a substantial body of new work at all of the department's prosecution offices. Most of this required work would be handled by paralegals and legal secretaries. The requirement for prosecutors to confer with victims before the trial of the defendant in felony and domestic violence assault cases, is generally already being met.

The majority of the new work, however, will occur at Anchorage and Fairbanks because of the higher number of covered crimes at those locations. It will therefore be necessary to add a legal secretary at both Anchorage and Fairbanks to handle the additional workload that will be caused by this section of the bill; at a start up cost of \$95,300, and recurring annual costs of \$81,400, thereafter.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 36 (Fin.)

Fiscal Summary - CSHB 36 (Fin.)

	<u>Pers. Svcs.</u>	<u>Contractual</u>	<u>Supplies</u>	<u>Equip.</u>	<u>Total</u>
Anchorage					
Legal Secretary I	33.1	4.1	1.8	8.0	47.7
PFT					
Fairbanks					
Legal Secretary I	34.2	4.1	1.8	8.0	48.1
PFT					
	—	—	—	—	—
Total	67.3	8.2	3.6	16.0	95.1

Costs beyond FY 90 include a 3 percent annual inflation factor, less one-time costs.

Position Title Legal Secretary I		No. of Positions 1	Range/Step 10B	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District 8/9/10/11/12/13
<b>Justification</b>				
This full-time position is needed to provide for the victim notification and liaison requirements of CSHB 36. The granting of rights to victims to be informed of the dates of all criminal proceedings involving the defendant relating to the case in which the victim is involved, to provide oral and written statements in respect to presentence reports, and notice of final disposition in several thousand criminal trials, will cause a substantial additional workload for the state's prosecution support staff.				
Allocation to the Legal Secretary I class is recommended because of the large amount of written notice to be handled, and the need to provide accurate, timely case scheduling information to victims.				
<b>Type of Expenditure</b>		<b>Amount</b>		
1	2	3		
Salary	22,716			
Benefits	10,412			
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>33,128</b>		
Travel		-0-		
Contractual		4,100		
Commodities		1,800		
Equipment		8,000		
Other				
<b>Total Cost</b>		<b>47,028</b>		
<b>Funding Source for Total Cost</b>				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	47,028		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For  
New Position**

Agency Department of Law  
 BRU Prosecution  
 Component Third Judicial District

Page 1 of 2  
 Revised Date

**FY 90**

Position Title <b>Legal Secretary I</b>		No. of Positions <b>1</b>	Range/Step <b>10B</b>	Barg. Unit <b>GCU</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Fairbanks</b>		Election District <b>19/20A/21</b>
<b>Type of Expenditure</b>		<b>Amount</b>		
<b>1</b>	<b>2</b>	<b>3</b>		
Salary	23,628			
Benefits	10,615			
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>34,243</b>		
Travel		<b>-0-</b>		
Contractual		<b>4,100</b>		
Commodities		<b>1,800</b>		
Equipment		<b>8,000</b>		
Other				
<b>Total Cost</b>		<b>48,143</b>		
<b>Funding Source for Total Cost</b>				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	<b>48,143</b>		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Justification**

This full-time position is needed to provide for the victim notification and liaison requirements of CSHB 36. The granting of rights to victims to be informed of the dates of all criminal proceedings involving the defendant relating to the case in which the victim is involved, to provide oral and written statements in respect to presentence reports, and notice of final disposition in several thousand criminal trials, will cause a substantial additional workload for the state's prosecution support staff.

Allocation to the Legal Secretary I class is recommended because of the large amount of written notice to be handled, and the need to provide accurate, timely case scheduling information to victims.

**Request For  
New Position**

Agency Department of Law  
 BRU Prosecution  
 Component Fourth Judicial District

**FY 90**

Page 2 of 2  
 Revised Date

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: "An Act relating to victims of  
Sponsor: Reps. Donlev & Gruenberg  
Requestor: \_\_\_\_\_

Agency Affected: Department of Corrections  
BRU: Administration & Support

Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		25.3	27.1	27.9	28.7	29.5
TRAVEL		3.1	3.4	3.4	3.1	3.1
CONTRACTUAL		5.4	6.4	6.1	5.4	5.1
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>36.1</b>	<b>36.9</b>	<b>37.7</b>	<b>38.5</b>	<b>39.1</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		36.1	36.9	37.7	38.5	39.1
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>36.1</b>	<b>36.9</b>	<b>37.7</b>	<b>38.5</b>	<b>39.1</b>

**POSITIONS:**

FULL-TIME	0	1	1	1	1	1
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

See Attached Analyst.

*Susan E. Knighton*

Prepared by: Susan E. Knighton, Director  
Division: Administrative Services

Phone: 465-3376  
Date: 3-3-89

Approved by Commissioner: Susan Humphrey - Barnett  
Agency: Department of Corrections

Date: 3-3-89

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Adopted

FISCAL NOTE  
CSHB 36 (Finance)

ANALYSIS

The Department of Corrections would experience fiscal impact due to the longer parole hearings that would be necessary. The increases are in the per diem and daily fees paid to board members and overtime for correctional officers providing security.

Additional cost will be required to accomplish notifying victims by hiring a full-time Clerk III.

Cost Analysis:

Five Board Members @ \$80.00/day Per Diem x 8.5 additional meeting days/year	\$ 3,400.00
Five Board Members @ \$150.00/day Compensation x 8.5 additional meeting days/year	\$ 6,400.00
64 hours of Correctional Officer over-time for prisoner transport and security @ \$25.00/hr.	\$ 1,600.00
One Clerk III @ \$24,700.00/year	\$24,700.00
Total	\$36,100.00

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to victims of crime....  
Sponsor: Donlev, Gruenberg, et al.  
Requestor: \_\_\_\_\_

Agency Affected: Health & Social Services  
BRU: Youth Services  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

This bill has no fiscal impact on the agency.

Prepared by: Yvonne M. Chase, Director Phone: 465-3170  
Division: Family & Youth Services Date: 2/14/89  
Approved by Commissioner: Myra A. Hanson Date: 2/16/89  
Agency: Department of Health & Social Services

- Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

**RECEIVED**  
FEB 21 1989

Adopted

WV 510

**STATE OF ALASKA 1989 LEGISLATIVE SESSION  
FISCAL NOTE**

Bill Version: HB 36  
Publish Date:

**REQUEST:**

Revision Date:  
Title: ...victims of crime, claims by  
victims..., and service of process  
Sponsor: Donley, Gruenberg, Boucher...  
Requestor:

Agency Affected: Alaska Court System  
BRU: Trial Courts

Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)				
OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING:		(Thousands of Dollars)				
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:		(Thousands of Dollars)				
Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

**Adopted**

Prepared by: *Jan Strandberg*  
Jan Strandberg, General Counsel  
Division: Alaska Court System  
Approved by: *Arthur H. Snowden, II*  
Arthur H. Snowden, II, Administrative Director  
Agency: Alaska Court System

Phone: 264-8228  
Date: 01/17/89  
Date: 01/17/89

- Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management & Budget
- Impacted Agency(ies)
- Senate Secretary

received  
1-19-89

110

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 36 (Jud)  
PUBLISH DATE: HOUSE 2/17/89

FISCAL NOTE

REQUEST:

Revision Date: 1/18/89 Agency Affected: Public Safety  
Title: "An Act relating to victims of crime, claims by victims of crime..." BRU: Council on Domestic Violence and Sexual Assault  
Sponsor: Rep. Donley, et al. Component: \_\_\_\_\_  
Requestor: House Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The Judiciary committee substitute establishes a "victim and survivor assistance program" in the Department of Law rather than in the Department of Public Safety. The revised bill is not expected to have a fiscal impact on the Department of Public Safety.

Prepared by: Gayle A. Horetski  
Division: Office of the Commissioner  
Approved by Commissioner: Arthur English  
Agency: Department of Public Safety

Phone: 465-4322  
Date: 1/18/89  
Date: 1/28/89

Adopted



1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 36 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to crimes, the rights, entitlements,  
7 and services that are due to victims of crime, and to  
8 service of process on prisoners; redefining the term  
9 'crime against a person'; and amending Rules 32 and  
10 35 of the Alaska Rules of Criminal Procedure."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 \* Section 1. SHORT TITLE. This Act may be referred to as the "Alaska  
13 Crime Victim's Rights Act."

14 \* Sec. 2. AS 09.05 is amended by adding a new section to read:

15 Sec. 09.05.050. SERVICE OF PROCESS ON STATE PRISONERS. (a) In  
16 a civil action to which a person committed to the custody of the  
17 commissioner of corrections is a party or witness, service of process  
18 shall be made by delivering a copy of the summons and the complaint or  
19 pleadings, together with a form for affidavit of proof of service, to  
20 the shift supervisor of the correctional facility in which the person  
21 is housed. The shift supervisor shall

22 (1) immediately hand deliver the summons and complaint or  
23 pleadings to the person whose name appears on the summons; and

24 (2) promptly complete the affidavit of proof of service on  
25 the form provided and return it to the party requesting service of  
26 process.

27 (b) A party requesting service of process under this section may  
28 locate a person committed to the custody of the commissioner of cor-  
29 rections by contacting the chief classification officer of the

1 Department of Corrections during that officer's regular hours of work.

2 \* Sec. 3. AS 12.47 is amended by adding a new section to read:

3 Sec. 12.47.095. NOTICE TO VICTIMS. (a) If an offender has been  
4 committed to the custody of the commissioner of health and social  
5 services under AS 12.47.090, the victim of that crime is entitled to  
6 notice of a pending change in the status of the offender. The commis-  
7 sioner of health and social services shall give notice as required by  
8 this section if

9 (1) the offender has been continued in commitment following  
10 expiration of the maximum term of imprisonment under AS 12.47.090(f)  
11 and the commissioner gives notice of release of the offender;

12 (2) the court is to consider modification of an order of  
13 conditional release for the offender under AS 12.47.092(e);

14 (3) a court is to consider conditional release of the  
15 offender under AS 12.47.090(k) and 12.47.092(a); or

16 (4) the offender petitions for discharge under AS 12.47.-  
17 092(f).

18 (b) If a victim desires notice under this section, the victim  
19 shall maintain a current, valid mailing address on file with the  
20 commissioner of health and social services. The commissioner shall  
21 send the notice required by this section to the victim's last known  
22 address. The victim's address may not be disclosed to the offender or  
23 offender's attorney.

24 (c) The commissioner of health and social services is required  
25 to give notice of a change in the status of an offender under this  
26 section to any victim who has requested notice.

27 (d) If more than one person who qualifies as a victim under  
28 AS 12.55.185 desires notice, the commissioner of health and social  
29 services shall designate one person for purposes of receiving any

1 notice required and exercising the rights granted by this section.

2 (e) In this section

3 (1) "offender" has the meaning given in AS 12.61.020;

4 (2) "victim" has the meaning given in AS 12.55.185.

5 \* Sec. 4. AS 12.55 is amended by adding a new section to read:

6 Sec. 12.55.023. PARTICIPATION BY VICTIM IN SENTENCING. (a) If  
7 a victim requests, the prosecuting attorney shall provide the victim  
8 with a copy of the following portions of the presentence report:

9 (1) the summary of the offense prepared by the Department  
10 of Corrections;

11 (2) the defendant's version of the offense;

12 (3) all statements and summaries of statements of the  
13 victim; and

14 (4) the sentence recommendation of the Department of Cor-  
15 rections.

16 (b) A victim may submit to the sentencing court a written state-  
17 ment that the victim believes is relevant to the sentencing decision.

18 \* Sec. 5. AS 12.55.088 is amended by adding new subsections to read:

19 (d) A victim has the right to comment in writing to the court on  
20 a motion to modify or reduce a sentence filed by the person who perpe-  
21 trated the offense against the victim.

22 (e) If a motion is filed to modify or reduce a sentence by a  
23 defendant who perpetrated a crime against a person or arson in the  
24 first degree, the court shall, if feasible, send a copy of the motion  
25 to the Department of Corrections sufficiently in advance of any  
26 scheduled hearing or briefing deadline to enable the department to  
27 notify the victim of that crime. If that victim has earlier requested  
28 to be notified, the Department of Corrections shall send the victim a  
29 copy of the motion and inform the person of that person's rights under

1 this section, the deadline for receipt of written comments, the hear-  
2 ing date, and the court's address.

3 (f) The court shall provide copies of the victim's comments to  
4 the prosecuting attorney, the person filing the motion to reduce or  
5 modify a sentence, and that person's attorney.

6 (g) In deciding whether to modify or reduce a sentence, the  
7 court shall consider the victim's comments, when relevant, and any  
8 response by the prosecuting attorney and the person filing the motion.

9 (h) If a victim desires notice under this section, the victim  
10 shall maintain a current, valid mailing address on file with the  
11 commissioner of corrections. The commissioner shall send the notice  
12 to the victim's last known address. The victim's address may not be  
13 disclosed to the offender or to the offender's attorney.

14 \* Sec. 6. AS 12.55 is amended by adding a new section to read:

15 Sec. 12.55.172. DESIGNATION OF REPRESENTATIVE. If more than one  
16 person who qualifies as a victim under AS 12.55.185 desires notice  
17 under AS 12.55.088, the prosecuting attorney shall designate one  
18 person to represent all victims for purposes of receiving the notice  
19 required and exercising the rights granted under this chapter.

20 \* Sec. 7. AS 12.55.185 is repealed and reenacted to read:

21 Sec. 12.55.185. DEFINITIONS. In this chapter, unless the con-  
22 text requires otherwise,

23 (1) "crime against a person" has the meaning given in  
24 AS 33.30.901;

25 (2) "dangerous instrument" has the meaning given in AS 11.-  
26 81.900;

27 (3) "firearm" has the meaning given in AS 11.81.900;

28 (4) "first felony conviction" means that the defendant has  
29 not been previously convicted of a felony;

1 (5) "judicial officer" has the meaning given in AS 11.56.-  
2 900;

3 (6) "pecuniary gain" means the amount of money or value of  
4 property at the time of commission of the offense derived by the  
5 defendant from the commission of the offense, less the amount of money  
6 or value of property returned to the victim of the offense or seized  
7 by or surrendered to lawful authority before sentence is imposed;

8 (7) "second felony conviction" means that the defendant  
9 previously has been convicted of a felony;

10 (8) "serious physical injury" has the meaning given in  
11 AS 11.81.900;

12 (9) "third felony conviction" means that the defendant has  
13 been at least twice previously convicted of a felony;

14 (10) "unconditional discharge" means that a defendant is  
15 released from all disability arising under a sentence, including  
16 probation and parole;

17 (11) "victim" means

18 (A) a person against whom an offense has been perpe-  
19 trated;

20 (B) one of the following, not the perpetrator, if the  
21 person specified in (A) of this paragraph is a minor, incompe-  
22 tent, or incapacitated:

23 (i) an individual living in a spousal relation-  
24 ship with the person specified in (A) of this paragraph; or

25 (ii) a parent, adult child, guardian, or custodian  
26 of the person;

27 (C) one of the following, not the perpetrator, if the  
28 person specified in (A) of this paragraph is dead:

29 (i) a person living in a spousal relationship

1 with the deceased before the deceased died;

2 (ii) an adult child, parent, brother, sister,  
3 grandparent or grandchild of the deceased; or

4 (iii) any other interested person, as may be des-  
5 ignated by a person having authority in law to do so.

6 \* Sec. 8. AS 12.61.010 is amended to read:

7 Sec. 12.61.010. RIGHTS OF CRIME VICTIMS. (a) Victims of crimes  
8 have the following rights:

9 (1) the right to be informed by the appropriate law en-  
10 forcement agency or the prosecuting attorney of the date of trial and  
11 the date of sentencing of the case in which the victim is involved;

12 (2) the right to be notified that a sentencing hearing or a  
13 court proceeding to which the victim has been subpoenaed will not  
14 occur as scheduled;

15 (3) the right to receive protection from harm and threats  
16 of harm arising out of cooperation with law enforcement and prosecu-  
17 tion efforts, and to be provided with information as to the protection  
18 available;

19 (4) the right to be informed of the procedure to be fol-  
20 lowed to apply for and receive any [VICTIM] compensation under AS 18.-  
21 67;

22 (5) at the request of the prosecution or a law enforcement  
23 agency, the right to cooperate with the criminal justice process  
24 without loss of pay and other employee benefits except as authorized  
25 by AS 12.61.017 and without interference in any form by the employer  
26 of the victim of crime; [AND]

27 (6) the right to obtain access to immediate medical assis-  
28 tance and not to be detained for an unreasonable length of time by a  
29 law enforcement agency before having medical assistance administered;

1 however, an employee of the law enforcement agency may, if necessary,  
2 accompany the person to a medical facility to question the person  
3 about the criminal incident if the questioning does not hinder the  
4 administration of medical assistance;

5 (7) the right to make a written or oral statement for use  
6 in preparation of the presentence report of a felony defendant;

7 (8) if the crime for which the defendant was convicted was  
8 a felony or a domestic violence assault, the right to appear person-  
9 ally at the defendant's sentencing hearing to present a written or  
10 oral statement; and

11 (9) the right to be informed by the prosecuting attorney,  
12 at any time after the defendant's conviction, about the complete  
13 record of the defendant's convictions.

14 (b) Law [VICTIMS' EMPLOYERS, LAW] enforcement agencies, prosecu-  
15 tors, and the courts shall make every reasonable effort to ensure that  
16 victims of crimes have the rights set out in (a) of this section.  
17 However, a failure to ensure these rights does not give rise to a  
18 separate cause of action against [VICTIMS' EMPLOYERS,] law enforcement  
19 agencies, other agencies of the state, or a political subdivision of  
20 the state.

21 \* Sec. 9. AS 12.61 is amended by adding new sections to read:

22 Sec. 12.61.015. DUTIES OF PROSECUTING ATTORNEY. (a) If a  
23 victim of a felony or a domestic violence assault requests, the pros-  
24 ecuting attorney shall make a reasonable effort to

25 (1) confer with the person against whom the offense has  
26 been perpetrated about that person's testimony before the defendant's  
27 trial;

28 (2) in a manner reasonably calculated to give prompt actual  
29 notice, notify the victim

1 (A) of the defendant's conviction and the crimes of  
2 which the defendant was convicted;

3 (B) of the victim's right in a case that is a felony  
4 to make a written or oral statement for use in preparation of the  
5 defendant's presentence report, and to appear personally at the  
6 defendant's sentencing hearing to present a written or oral  
7 statement;

8 (C) of the address and telephone number of the office  
9 that will prepare the presentence report; and

10 (D) of the time and place of the sentencing proceed-  
11 ing;

12 (3) notify the victim in writing of the final disposition  
13 of the case within 30 days after final disposition of the case.

14 (b) The notice given under (a)(2) of this section must inform  
15 the victim that the statement of the victim may contain any relevant  
16 information including

17 (1) an explanation of the nature and extent of physical,  
18 psychological, or emotional harm or trauma suffered by the victim;

19 (2) an explanation of the extent of economic loss or prop-  
20 erty damage suffered by the victim;

21 (3) an opinion of the need for and extent of restitution  
22 and whether the victim has applied for or received compensation for  
23 loss or damage; and

24 (4) the recommendation of the victim for an appropriate  
25 sentence.

26 (c) The state and the prosecuting attorney may not be held  
27 liable in damages for any failure to comply with the requirements of  
28 this section.

29 Sec. 12.61.017. INTERFERENCE BY VICTIM'S EMPLOYER. (a) An

1 employer may not penalize or threaten to penalize a victim because the  
2 victim is subpoenaed or requested by the prosecuting attorney to  
3 attend a court proceeding for the purpose of giving testimony. In  
4 this section, "penalize" means to take action affecting the employment  
5 status, wages, and benefits payable to the victim, including:

6 (1) demotion or suspension;

7 (2) dismissal from employment; and

8 (3) loss of pay or benefits, except pay and benefits that  
9 are directly attributable to the victim's absence from employment to  
10 attend the court proceeding.

11 (b) A person who violates (a) of this section is guilty of a  
12 violation.

13 (c) A victim who suffers a pecuniary loss as a result of an  
14 employer's act prohibited by this section may bring a civil action to  
15 recover actual damages and punitive damages of three times the actual  
16 damages sustained.

17 \* Sec. 10. AS 12.61 is amended by adding a new section to read:

18 Sec. 12.61.030. DESIGNATION OF REPRESENTATIVE. If more than one  
19 person who qualifies as a victim under AS 12.55.185 makes a request  
20 under this chapter, the prosecuting attorney shall designate one  
21 person for purposes of receiving the notice required and exercising  
22 the rights granted under this chapter.

23 \* Sec. 11. AS 12.61 is amended by adding a new section to read:

24 Sec. 12.61.900. DEFINITIONS. In this chapter

25 (1) "domestic violence assault" means an assault under  
26 AS 11.41.200 - 11.41.230 or 11.41.410 - 11.41.425 constituting a  
27 domestic violence offense under AS 25.35.060;

28 (2) "victim" has the meaning given in AS 12.55.185.

29 \* Sec. 12. AS 33.16.120(a) is repealed and reenacted to read:

1 (a) If the victim of a crime against a person or arson in the  
2 first degree requests notice of a scheduled hearing to review or con-  
3 sider discretionary parole for a prisoner convicted of that crime, the  
4 board shall send notice of the hearing to the victim at least 30 days  
5 before the hearing. The notice must be accompanied by a copy of the  
6 prisoner's application for parole submitted under AS 33.16.130(a).  
7 However, the copy of the application sent to the victim may not  
8 include the prisoner's proposed residence and employment addresses.

9 \* Sec. 13. AS 33.16.120(b) is repealed and reenacted to read:

10 (b) A victim who requests notice under this section shall main-  
11 tain a current, valid mailing address on file with the board. The  
12 board shall send the notice required by this section to the last known  
13 address of the victim. The victim's address may not be disclosed to  
14 the prisoner or the prisoner's attorney.

15 \* Sec. 14. AS 33.16.120(c) is amended to read:

16 (c) The victim has a right to attend meetings of the parole  
17 board in which the status of the prisoner convicted of the crime  
18 against that victim is officially considered and to comment, in writ-  
19 ing or in person, on the proposed action of the board. Copies of any  
20 written [THE] comments shall be provided to the prisoner and the  
21 prisoner's attorney before action by the board.

22 \* Sec. 15. AS 33.16.120(e) is repealed and reenacted to read:

23 (e) If the victim requests, the board shall make every reason-  
24 able effort to notify the victim as soon as practicable in writing of  
25 its decision to grant or deny discretionary parole or to release the  
26 prisoner under AS 33.16.010(c). The notice under this subsection must  
27 include the expected date of the prisoner's release, the geographic  
28 area in which the prisoner is required to reside, and other pertinent  
29 information concerning the prisoner's conditions of parole that may

1 affect the victim.

2 \* Sec. 16. AS 33.16.150(b) is amended to read:

3 (b) The board may require as a condition of discretionary or  
4 mandatory parole that a prisoner released on parole

5 (1) meet family obligations;

6 (2) pursue employment, education, counseling, or training;

7 (3) remain within stated geographic limits unless written  
8 permission to depart from the stated limits is granted the parolee;

9 (4) report upon release to the parole officer assigned to  
10 the parolee;

11 (5) report as required to the parole officer assigned to  
12 the parolee;

13 (6) reside at a stated place and notify the board of any  
14 change in place of residence;

15 (7) not possess or control firearms or other dangerous  
16 weapons;

17 (8) refrain from possessing or consuming alcoholic beverages;  
18

19 (9) submit to reasonable searches and seizures by a parole  
20 officer, or a peace officer acting under the direction of a parole  
21 officer;

22 (10) submit to appropriate medical, mental health, or controlled  
23 substance or alcohol examination, treatment, or counseling;

24 (11) submit to periodic examinations designed to detect the  
25 use of alcohol or controlled substances;

26 (12) make restitution ordered by the court [TO A VICTIM OF  
27 THE PRISONER'S CRIME,] according to a schedule established by the  
28 board;

29 (13) refrain from opening, maintaining, or using a checking

1 account or charge account;

2 (14) refrain from entering into a contract other than a  
3 prenuptial contract or a marriage contract;

4 (15) refrain from operating a motor vehicle;

5 (16) refrain from entering an establishment where alcoholic  
6 beverages are served, sold, or otherwise dispensed;

7 (17) refrain from participating in any other activity or  
8 associating with any other person that the board determines is rea-  
9 sonably likely to diminish the rehabilitative goals of parole, or that  
10 may endanger the public.

11 \* Sec. 17. AS 33.16 is amended by adding a new section to read:

12 Sec. 33.16.260. DESIGNATION OF REPRESENTATIVE. If more than one  
13 person who qualifies as a victim under AS 12.55.185 requests notice  
14 under this chapter, the commissioner shall designate one person for  
15 purposes of receiving the notice required and exercising the rights  
16 granted by this chapter.

17 \* Sec. 18. AS 33.20.080 is amended to read:

18 Sec. 33.20.080. BOARD OF PAROLE TO INVESTIGATE APPLICATIONS FOR  
19 EXECUTIVE CLEMENCY. The governor may refer applications for executive  
20 clemency to the board of parole. The board shall investigate each  
21 case and submit to the governor a report of the investigation, to-  
22 gether with all other information the board has regarding the appli-  
23 cant. When the report or investigation is submitted, the board shall  
24 also transmit to the governor the comments it has received under (b)  
25 of this section.

26 \* Sec. 19. AS 33.20.080 is amended by adding new subsections to read:

27 (b) If requested by the victim of a crime against a person or  
28 arson in the first degree, the board shall send notice of an applica-  
29 tion for executive clemency submitted by the state prisoner who was

1 convicted of that crime. The victim may comment in writing to the  
2 board on the application for executive clemency.

3 (c) If the victim desires notice under (b) of this section, the  
4 victim shall maintain a current, valid mailing address on file with  
5 the board. The board shall send the notice required under this sec-  
6 tion to the victim's last known address. The victim's address may not  
7 be disclosed to the applicant for executive clemency or the appli-  
8 cant's attorney.

9 (d) In this section,

10 (1) "crime against a person" has the meaning given in  
11 AS 33.30.901;

12 (2) "victim" has the meaning given in AS 12.55.185.

13 \* Sec. 20. AS 33.30 is amended by adding a new section to read:

14 Sec. 33.30.013. COMMISSIONER TO NOTIFY VICTIMS. (a) The com-  
15 missioner shall notify the victim if the offender

16 (1) escapes from custody;

17 (2) is released to the community on a furlough; or

18 (3) is released on an early release program.

19 (b) The commissioner is required to give notice of a change in  
20 the status of an offender under this section only if the victim has  
21 requested notice of the change.

22 (c) A victim who has requested notice under (b) of this section  
23 shall maintain a current, valid mailing address on file with the  
24 commissioner. The commissioner shall send the notice from the depart-  
25 ment required by this section to the victim's last known address. The  
26 victim's address may not be disclosed to the offender or the offend-  
27 er's attorney.

28 (d) The state may not be held liable in damages for the failure  
29 of the commissioner to comply with the requirements of this section.

1 \* Sec. 21. AS 33.30.111(f) is repealed and reenacted to read:

2 (f) If the commissioner considers a prisoner convicted of a  
3 crime against a person or arson in the first degree for a prerelease  
4 furlough and the victim has requested notice under AS 33.30.013, the  
5 commissioner shall send notice of intent to consider the prisoner for  
6 a prerelease furlough to the victim. The victim may comment in writ-  
7 ing on the commissioner's intent to release the prisoner on prerelease  
8 furlough status. The commissioner shall consider the victim's com-  
9 ments before making a final decision to release a prisoner on a pre-  
10 release furlough. The commissioner shall make a reasonable effort to  
11 notify the victim of an intent to release the prisoner on a prerelease  
12 furlough. The notice must contain the expected date of the prisoner's  
13 release, the geographic area in which the prisoner will reside, and  
14 other pertinent information concerning the prisoner's release that may  
15 affect the victim.

16 \* Sec. 22. AS 33.30 is amended by adding a new section to read:

17 Sec. 33.30.292. DESIGNATION OF REPRESENTATIVE. If more than one  
18 person who qualifies as a victim under AS 12.55.185 requests notice  
19 under this chapter, the commissioner shall designate one person for  
20 purposes of receiving the notice required and of exercising the rights  
21 granted by this chapter.

22 \* Sec. 23. AS 33.30.901(6) is amended to read:

23 (6) "crime against a person" means a crime as set out in  
24 AS 11.41, [EXCEPT CUSTODIAL INTERFERENCE UNDER AS 11.41.320 AND 11.-  
25 41.330;] or a crime against a person in this or another jurisdiction  
26 having elements substantially identical to those of a crime as set out  
27 in AS 11.41 [, EXCEPT CUSTODIAL INTERFERENCE UNDER AS 11.41.320 AND  
28 11.41.330];

29 \* Sec. 24. AS 47.10 is amended by adding a new section to read:

1           Sec. 47.10.072. ACCESS TO HEARING BY VICTIM. (a) If a crime  
2 was committed by a minor who is scheduled for a hearing under AS 47.-  
3 10.070, the victim may request from the court permission to attend the  
4 hearing. If the victim requests, the department shall provide techni-  
5 cal assistance to the victim in preparing a written submission to the  
6 court requesting access to the hearing. The department shall make  
7 reasonable efforts to inform victims of the availability of this  
8 assistance.

9           (b) If more than one person who qualifies as a victim under  
10 AS 12.55.185 makes a request, the commissioner of health and social  
11 services shall designate one person for purposes of receiving the  
12 notice and exercising the rights granted by this section.

13           (c) In this section, "victim" has the meaning given in AS 12.-  
14 55.185.

15 \* Sec. 25. AS 12.61.020(e)(2) is repealed.

16 \* Sec. 26. Rule 32(d)(1), Alaska Rules of Criminal Procedure, is amend-  
17 ed to read:

18           (1) WHEN MADE. The probation service shall make a presen-  
19 tence investigation and report before the court imposes sentence or  
20 grants probation. The presentence investigation and report shall be  
21 completed and made available to the court. The report shall not be  
22 disclosed to any one except counsel unless the defendant has tendered  
23 a plea of guilty or nolo contendere or has been found guilty. If the  
24 crime for which the person is to be sentenced is a felony, the con-  
25 tents shall be disclosed to counsel for the parties before the time of  
26 the hearing on the aggravator and mitigator factors and sentencing.  
27 The court may utilize the report in determining if a bargained sen-  
28 tence recommendation will be followed pursuant to Rule 11. In the  
29 event the attorneys for the parties request the preparation of a

1 presentence report to aid them in plea bargaining the court may order  
2 such report to be made prior to the time stated in this rule.

3 \* Sec. 27. Rule 32, Alaska Rules of Criminal Procedure, is amended by  
4 adding new paragraphs to read:

5 (g) WRITTEN STATEMENT SUBMITTED BY VICTIM OR VICTIM'S REPRESENTATIVE.  
6 If a written statement is prepared and submitted by the  
7 victim of a felony offense or a domestic violence assault under AS 12.-  
8 55.023, the trial court

9 (1) shall take the content of the written statement into  
10 consideration

11 (A) when preparing those elements of the sentencing  
12 report required by AS 12.55.025 that relate to the effect of the  
13 offense on the victim;

14 (B) when considering the need for restitution under  
15 AS 12.55.045; and

16 (2) may take the content of the written statement into  
17 consideration in any other circumstance that the court believes neces-  
18 sary.

19 (h) In (g) of this rule,

20 (1) "domestic violence assault" has the meaning given in  
21 AS 12.61.900;

22 (2) "victim" has the meaning given in AS 12.55.185.

23 \* Sec. 28. Rule 35, Alaska Rules of Criminal Procedure, is amended by  
24 adding new paragraphs to read:

25 (c) The victim may comment on motions made under this rule as  
26 follows:

27 (1) When an individual convicted of a crime against a  
28 person or arson in the first degree files a motion to modify or reduce  
29 a sentence, the court shall, if feasible, send a copy of the motion to

1 the Department of Corrections sufficiently in advance of any scheduled  
2 hearing or briefing deadline to enable the department to notify the  
3 victim, as directed by AS 12.55.088(e).

4 (2) The court shall provide copies of the victim's comments  
5 to the prosecuting attorney and to the person filing the motion to  
6 reduce or modify a sentence, or the person's attorney.

7 (3) The court shall consider the comments of the victim  
8 when relevant, and any response offered by the prosecuting attorney or  
9 the person filing the motion, in deciding whether to reduce or modify  
10 a sentence.

11 (4) If more than one person who qualifies as a victim under  
12 paragraph (d)(2) of this rule requests the opportunity to exercise  
13 rights under this paragraph, the court shall allow the person des-  
14 • igned under AS 12.55.172 to exercise those rights, or if a person  
15 has not been designated under AS 12.55.172, the court shall designate  
16 one person for purposes of exercising rights under this paragraph.

17 (d) In this rule,

18 (1) "crime against a person" has the meaning given in  
19 AS 33.30.901;

20 (2) "victim" has the meaning given in AS 12.55.185.

21 \* Sec. 29. APPLICABILITY. The provisions of this Act prescribing the  
22 rights of a crime victim and of a crime victim's relative or survivor  
23 during the course of criminal, civil, and administrative proceedings apply  
24 to proceedings against defendants initiated on or after the effective date  
25 of this Act.

February 28, 1989

An Act relating to the rights, entitlements, and services that are due to victims of crimes and their survivors arising from criminal conduct; and amending Rules 32 and 35 of the Alaska Rules of Criminal Procedure

Barbara Miklos  
Executive Director  
Council on Domestic  
Violence & Sexual  
Assault

OFFICE OF  
SENTENCE  
CORRECTIONS  
PUBLIC  
AFFAIRS

The Council on Domestic Violence and Sexual Assault supports HB 36, the "Victims Rights Bill", which addresses some of the recommendations of the President's Task Force on Victims of Crime. This task force was established by the federal government in 1982 in recognition of the problems crime victims face when encountering the criminal justice system. As the report of this task force stated:

Victims who do survive their attack, and are brave enough to come forward, turn to their government expecting it to do what a good government should - protect the innocent.... Without the cooperation of victims and witnesses in reporting and testifying about crime, it is impossible in a free society to hold criminals accountable. When victims come forward to perform this vital service, however, they find little protection. They discover instead that they will be treated as appendages of a system appallingly out of balance... Somewhere along the way, the system began to serve lawyers and judges and defendants, treating the victim with institutionalized disinterest.

The Council does not have sufficient expertise to comment upon legal issues raised in this legislation. However we will comment on some of the provisions of the bill with which we have particular interest.

The Council supports the provisions of the bill which give notification to victims and their survivors of proposed actions affecting prisoners, including sentencing, requests for parole or executive clemency, early release, and escapes. The Council also supports the provisions which allow for victims' participation in the sentencing and parole hearings, both by submitting written statements and by attending the hearings. Victims have a legitimate interest in these decisions, not only because of their desire for the service of a just sentence, but also because of their legitimate fear of revictimization once the defendant is released.

The Council supports placing the duties of prosecuting attorneys in statute so that it is clear how victims can be involved in the process. It would be helpful if a booklet or handout for victims were prepared that would let victims know their rights.

In conclusion, the Council on Domestic Violence and Sexual Assault supports efforts to ensure that the rights of crime victims are better taken into account by the criminal justice system.

  
\_\_\_\_\_  
Arthur English  
Commissioner

REPRESENTATIVE  
C.E. "SWACK" SWACKHAMMER

# Alaska State Legislature



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JUNEAU

BOX V  
JUNEAU, ALASKA 99811  
(907) 465-2689

## House of Representatives

March 7, 1989

### MEMORANDUM

TO: All Members,  
House Finance Committee

FROM: Rep. C.E. Swackhammer, Chair  
Finance Subcommittee on HB36 *Swack*

RE: Alaska Crime Victim's Rights Act

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The Finance Subcommittee, with the support of the bill's sponsor, the Dept. of Law and the Dept. of Corrections has drafted a proposed committee substitute for HB 36, relating to the rights of crime victims.

Focusing primarily on the fiscal impact of the bill, the subcommittee removed the section which created a statewide crime victims' assistance program. It is the subcommittee's belief that preceding sections of the bill mandate adequate notification of victims, regarding their rights, and allow full participation of victims in the legal process. (907) 262-7841

As a result of this amendment, the new fiscal note for the Department of Law has been reduced from \$238.1 to \$95.1.

A new Department of Corrections fiscal note reflects a reduction from \$119.3 to \$36.1. The department felt the additional notification of victims required by HB 36 could be handled by a Clerk III instead of two parole officers.

It is the intent of the subcommittee that HB 36 be funded with the Permanent Fund Dividend money that has been denied convicted felons. The Department of Revenue anticipates approximately \$1.6 million of permanent fund dividend money will be unexpended this year as a result of HB 245, which passed last session.

The subcommittee supports both new fiscal notes and urges members to adopt the committee substitute for HB 36.

# REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE  
DISTRICT ELEVEN • SPENARD  
SEAT A  
HEATHER MEADOWS • NORTHWOOD • SPENARD • THOMPSON • TURNAGAIN • UPPER MIDTOWN • WINDEMERE

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CHAIRMAN

LABOR AND COMMERCE COMMITTEE

MEMBER

STATE AFFAIRS COMMITTEE

HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

HOUSING AND BANKING SUBCOMMITTEE

FINANCE BUDGET SUBCOMMITTEE  
DEPT. OF COMMERCE AND  
ECONOMIC DEVELOPMENT

March 4, 1989

## M E M O R A N D U M

TO: Members of the House Finance Committee  
FROM: Representative Dave Donley **LD**  
RE: Alaska Crime Victims Rights Act

CSHB 36 (Jud), Alaska Crime Victims Rights Act includes funding to create a Victim Assistance Program through the Department of Law. This program funds two positions, a volunteer coordinator and clerical backup. It also includes funds to train the volunteers.

According to the U.S. Department of Justice's survey, 77% of all prosecutors, 34% of all police and 38% of all sheriff's offices had some type of victim assistance program in place. Attached you will find a copy of their findings.

Alaska at one time also had a victim assistance office through the Department of Law which was cut for lack of funding. This type of assistance to our victims is important. Our judicial system may seem like a strange and ominous machine to many victims and short of hiring their own lawyers, they are clueless to what their rights may be.

I realize that there is some concern about basing this program on volunteers. According to victim groups such as the Victims For Justice located in Anchorage, there are many volunteer group all over Alaska already that would benefit from a volunteer coordinator and believe that it would increase their effectivity.

I believe this inexpensive basic assistance for innocent victims of crime is a more important state function than many things we currently spend state money on. I would appreciate your support.

# Alaska State Legislature



## House of Representatives House Judiciary Committee

P. O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990  
(907) 465-4712

March 1, 1989

### MEMORANDUM

TO: All Members  
House Finance Committee

FROM: Rep. Max Gruenberg, Co-chair  
Rep. Peter Goll, Co-chair *(Signature)*  
House Judiciary Committee

RE: Alaska Crime Victim's Rights Act

CSHB 36 (Jud), Alaska Crime Victim's Rights Act, is before the House Finance Committee on Wednesday, March 1. This bill was in House Judiciary and underwent a number of changes based upon consensus among the Administration, the Judiciary Committee and the sponsor. The finished product is a bill with which we were all satisfied, and which will contribute to the rights of crime victims.

Under current law, the judicial and correctional system cannot allow for adequate participation by the victim of the crime. The victim's participation is important. This bill will allow full participation in the process, while recognizing the due process and fiscal needs of all parties.

The Administration and all the state departments affected were actively involved throughout the work on this legislation, and they do support the new committee substitute. I would ask that you give this delicately balanced legislation your support.

# REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE  
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CHAIRMAN  
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MEMBER  
STATE AFFAIRS COMMITTEE  
HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE  
HOUSING AND BANKING SUBCOMMITTEE  
FINANCE BUDGET SUBCOMMITTEE  
DEPT. OF COMMERCE AND  
ECONOMIC DEVELOPMENT

February 14, 1989

FEB 15 1989

## MEMORANDUM

TO: Representative Ron Larson, Co-chair  
House Finance Committee

Representative Lyman Hoffman, Co-chair  
House Finance Committee

FROM: Representative Dave Donley *DD*

RE: Scheduling CSHB 36 (Jud)

I would like to request that CSHB 36 (Jud), "Alaska Crime Victim's Rights Act" be scheduled for a hearing in the House Finance Committee as soon as possible.

This is a comprehensive bill that will raise Alaska's victims' rights legislation to the standards set by the President's Task Force on Victims of Crime. Among the rights that victims would receive are: the right to make a statement for presentencing and sentencing; notification to the victim in the case of trial dates, parole hearings, escape, furlough and other instances involving the prisoner, and the right to attend parole hearings.

I would appreciate your cooperation in this matter. This is legislation that is sorely needed for our victims and long overdue.

If you have any questions, please don't hesitate to contact me, or my aide, Michael Ward at 3892.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 28, 1989

SUBJECT: Sectional analysis of draft CSHB 36 (Jud)  
(relating to victim's rights)

TO: Representative Dave Donley

FROM: Jack Chenoweth  
Legislative Counsel *CC*

The following is an analysis of draft CSHB 36 (Jud), legislation adding to the rights of crime victims and persons who, for reasons indicated, act in the victim's stead.

OVERVIEW:

A significant feature of this draft is the handling of the definition of the term "victim" to mean the person against whom the offense has been perpetrated and certain others, specified in the definition of the term, to whom the rights of a "victim" are given by law. This key definition is set out in AS 12.55.185(11), and appears in bill section 7, at page 5, line 17.

The extension of the enumerated rights potentially opens exercise of the claim of rights to a sizable number of persons. In those instances, a collateral change made in various sections throughout the bill, applicable to programs identified in the bill, authorizes a designated executive branch official or other entity to appoint one of the class of persons acting in the place of the victim to represent all those persons for purposes of receiving notice and claiming rights, entitlements, and services under the legislation.

The amendments made by this bill substantively amend and extend the rights of a victim

-- as respects an offender who is mentally ill or insane (bill section 3);

- relating to an offender's sentencing and postconviction proceedings (bill sections 4 - 7);
- given under the existing "Crime Victim's Rights Act," (AS 12.61) (bill sections 8 - 11);
- in proceedings of the state Parole Board (bill sections 12 - 19) involving award of parole and applications for executive clemency;
- in other activities involving the offender's assignment of custody to the Department of Corrections, including situations such as escape, placement in a community furlough program, and early release (bill sections 20 - 23); and
- as to access to proceedings if the offender was a minor (bill section 25).

One provision, bill section 24, assigns the Department of Law a new responsibility, to develop and implement a program to assist victims to an understanding and full exercise of the rights, entitlements, and services provided to crime victims by law.

Bill sections 27 - 29 make necessary and related court rule changes, while the concluding bill section, section 20, indicates how these provisions shall be applied.

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Bill section 1 adds a short title for the bill.

\*

Claims may be brought by victims against persons who were convicted of the crime and imprisoned. Bill section 2 clarifies the service of process on state prisoners. The bill section specifies service of process on the shift supervisor of the institution, immediate delivery to the prisoner, and prompt return of affidavit of proof of service. The section also indicates how a plaintiff intending to serve a prisoner may determine the institution to which the prisoner has been assigned.

\*

Bill section 3 adds a new section, AS 12.47.095, that places additional duties on the commissioner of health and social services for offenders who are determined to be guilty but mentally ill or, alternatively, who are found to be not

guilty by reason of insanity. The section enumerates instances in which the commissioner must communicate to the victim a change in the status of the offender. The section places a burden on the victim to request a notice of the offender's change of status and to act only if the victim has maintained a current, valid mailing address on file with the commissioner. In the event of the victim's death, the section authorizes the commissioner to designate one among those who may qualify to receive notice and to exercise the rights granted on behalf of all. The section provides definitions of "offender" and "victim," the latter cross-referenced to AS 12.55.185.

\*

AS 12.55, part of the Code of Criminal Procedure, generally addresses the subject of sentencing and postconviction proceedings. Bill sections 4 - 7 amend pertinent provisions of these criminal sentencing provisions.

Bill section 4 enumerates the rights of a victim in the sentencing process. If the victim requests, the prosecuting attorney is to provide specified information from the presentence report to the person making the request. The section authorizes the victim to submit to the court a written statement that the writer believes would be "relevant to the sentencing decision."

Bill section 5 provides that a victim has a right to comment in writing to the court on a motion filed by the perpetrator of a crime to modify or reduce the person's sentence (AS 12.55.085(d)). It also adds to the rights of a victim of a violent crime (i.e. a "crime against a person," that is, a person convicted under AS 11.41) or arson in the first degree to comment in certain postconviction proceedings. The postconviction proceedings addressed in this provision involve motions to modify or reduce sentence. If an offender files a motion to modify or reduce a sentence, the Department of Corrections is directed to provide notice to the victim so that the victim may submit written comments (AS 12.55.088(e)). The court is to provide the comments to the victim and to the offender or the offender's attorney (AS 12.55.088(f)) and the comments are to be considered by the court in conjunction with disposition of the motion (AS 12.55.088(g)). The responsibility to maintain a current address with the commissioner of corrections in order to

receive notice under this section rests with the victim, and that address may not be disclosed (AS 12.55.088(h)).

If more than one person may qualify to receive notice, bill section 6 directs the commissioner to designate one to represent all.

Bill section 7 incorporates a definition of the term "crime against a person," a term that is used in the preceding bill section, and amends the term "victim." The change in the definition of the term "victim" is particularly critical in that it is used not only in the sentencing provisions (AS 12.55), but is cross-referenced in other victim's rights-related provisions of state law affected by the provisions of this legislation. Note in the amended definition the inclusion of alternate parties in the event the person against whom the crime was perpetrated meets one of the several specified contingencies.

\*

AS 12.61 collects and reports the rights of crime victims. Bill sections 8 - 11 clarify and extend those rights.

Bill section 8 expands existing rights enumerated in AS 12.61.010(a) by adding to the list of enumerated rights the right to make a statement in conjunction with preparation of a presentencing report for a felony offender; the right to appear personally at the defendant's sentencing hearing, for sentencing for certain crimes, to present a written or oral statement; and the right to be informed by the prosecutor of the crimes for which the defendant has been convicted. A related change made in subsection (b) of AS 12.61.010 by the bill section deletes "victim's employers" from the scope of the chapter's coverage.

Bill section 9 adds to the list of duties of the prosecuting attorney with respect to the victim of a crime that is a felony or domestic violence assault in the event the victim makes a request. The provisions added include the duty to

- (1) confer with the victim about testimony before jury selection and trial;
- (2) notify the victim of
  - the defendant's conviction and the crimes for which convicted;

- the rights to make a statement for use in conjunction with preparation of the presentence report, and to appear personally at a sentencing hearing and to make a statement at the time of sentencing;
  - the address and telephone number of the office that will prepare the presentencing report; and
  - the time and place of the sentencing hearing;
- (3) notify the victim in writing of the final disposition of the case within 30 days.

Subsection (b) of AS 12.61.015 directs the prosecutor's office to advise the victim that the content of the material that may be presented in conjunction with the presentence statement or sentencing statement is limited, and describes the nature of what the victim may address in those statements.

AS 12.61.015(c) precludes imposition of liability in damages for a prosecuting attorney's failure to comply with the requirements of the section.

AS 12.61.017, another provision of bill section 9 makes it a violation for an employer of a crime victim to "penalize" or to threaten to penalize the victim who is subpoenaed or who is requested by the prosecution to attend a court proceeding for the purpose of providing testimony. The provision defines the term "penalize." Action contrary to this section is a violation, for which a penalty, not exceed a fine of \$300, may be imposed. However, another provision allows the victim to recover for interference by the employer actual damages and punitive damages (treble damages).

Bill section 10 provides that, where more than one person may qualify as a victim, the prosecuting attorney is to designate one person to act on behalf of all.

Bill section 11 adds to AS 12.61 the definition for the crime "domestic violence assault" and a cross-referenced definition of the term "victim" that is to be applicable to the chapter.

\*

Bill sections 12 - 19 are applicable to a victim's rights as they relate to the proceedings of the state's Parole Board.

Bill section 12 and 13 prescribe responsibilities of the board as it considers discretionary parole applications. The first bill section provides guidance to the board as to the notice to be given to a victim of a crime against a person or of an arson in the first degree who wants to receive notice of board deliberation with respect to the proposed change in the status of the offender. The second of the two sections imposes on the victim the requirements of maintenance of a current address while directing non-disclosure of that address to the prisoner or the prisoner's attorney.

Bill section 14 amends AS 33.16.120(c) to give victims the rights of attendance at meetings of the Parole Board and of comment, in writing or personally at the meeting, relative to proposed action that the Parole Board is considering concerning the offender.

Bill section 15 amends existing law to provide that the Parole Board must "make every reasonable effort" to notify the victim not only of its decision to grant discretionary parole, but also if it decides to deny discretionary parole. The section also specifies the information about the prospective parolee that is to be disclosed to the victim.

Bill section 16 makes a technical amendment with reference to payment of restitution. Since, elsewhere, the court is obliged to consider imposing a broader restitution obligation than merely restitution to the victim, a reference to "restitution . . . to a victim of the prisoner's crime" is deleted as too narrow a statement of the scope of the restitution obligation that may be imposed.

Bill section 17 incorporates language directing the commissioner of corrections to determine, among several persons who may qualify in the stead of the victim, the name of the individual who may speak or act for all.

Bill sections 18 and 19 assign certain additional responsibilities to the Parole Board when the governor refers to that board applications for executive clemency. The board is to give the victim of a crime against a person or arson in the first degree notice of an application for clemency and opportunity to submit written comment to the board as it considers the executive clemency request. The requirement is to be met only if the victim maintains a current mailing address and so requests, coupled with non-disclosure of

address language. Additional essential definitions are included.

\*

The responsibility of the Department of Corrections to a victim is addressed in bill sections 20 - 23.

Bill section 20 adds a new section, AS 33.30.013, that requires the commissioner of corrections to notify the victim if the offender escapes, is released on furlough, or is released on an early release program. The requirement is to be met only if the victim entitled to notice maintains a current valid mailing address on file with the commissioner. The section also details how the commissioner is to give that notice, adds nondisclosure of address language, and incorporates a liability disclaimer for failure to comply with the requirements imposed.

Bill section 21 revises existing law governing notice to victims of the possible release on a prerelease furlough of a prisoner convicted of a crime against a person or of first degree arson. The requirement of notice is to be met as to a victim who satisfies the requirements of AS 33.30.013. The victim may comment on the prospective furlough; the commissioner is to consider the comments received before making a final decision. If furlough is granted, the commissioner is to "a reasonable effort to notify . . . of an intent to release," and indicates the information that is then to be shared with the victim.

Under bill section 22, among a number of persons who may claim to act in the stead of the victim, the commissioner has a duty to choose one to represent all and to deal with the individual chosen.

Bill section 23 amends the definition of the term "crime against a person" by extending the definition to cover custodial interference.

\*

Bill section 24 adds a new program component in the Department of Law. Under the material added by that section, the department shall establish and maintain a victim assistance program--a paid supervisor and any volunteers--to manage the

victim assistance program and to recruit, train, and evaluate the efforts of the volunteers under this program.

The last substantive change, made in bill section 25, authorizes the victim of an offense by a minor to request permission from the court to attend any hearing scheduled for the minor under AS 47.10.070. The section also directs the commissioner of health and social services to select from among persons claiming to act in place of the actual victim one person to speak and act on behalf of all.

\*

The repeal made in bill section 26 deletes an unnecessarily limiting reference to "victim" in AS 12.61.020. A substitute definition applicable to the entire chapter is offered by bill section 11.

\*

Bill sections 27 - 29 directly amend pertinent court rules of criminal procedure.

The change made by bill section 27 when a presentence investigation shall be completed and the report made available to the parties and their counsel; the change abets exercise of the crime victim's right to comment in conjunction with preparation of the presentence report.

Bill section 28 adds a new provision that directs the trial court to consider the written statement submitted by a victim of a felony offense or domestic violence assault under AS 12.55.023 as the court prepares the sentencing report and considers claims for restitution.

The court rule additions made by bill section 29 parallel the changes set out in bill sections 5 and 6 covering postconviction relief for crime victims.

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Bill section 30, an uncodified provision, directs that the amendments and additions made by this bill are to apply "to proceedings against defendants initiated on or after the effective date of the Act." Since the bill does not itself specify an effective date, it becomes effective 90 days

Representative Dave Donley  
Page 9  
February 28, 1989

after signature, becoming law without signature, or by over-  
ride of any imposed veto.

JC:gc  
WkG7/064



# Alaska State Legislature

RECEIVED FEB - 8 1989

REPRESENTATIVE DICK SHULTZ

Member  
Finance Committee

P.O. Box V  
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## MEMORANDUM

TO: Representative Peter Goll  
 Representative Max Gruenberg  
 Co-Chairs, House Judiciary Committee

FROM: Representative Dick Shultz *DS*

DATE: February 6, 1989

RE: HB 36

\*\*\*\*\*

Attached is a letter dated February 3, 1989 from Ms. Regina Soltis of Healy, Alaska concerning House Bill 36 (Victim's Rights).

I thought it appropriate to share her concerns with you as you deliberate this piece of legislation in committee.

a:hb36

*Franklin*  
*placed in ~~Franklin~~ Members packets*

Rep. Mike Miller  
Rep. Richard Shultz  
Sen. Jack Coghill  
P.O. Box V  
Juneau, Alaska 99811

Regina C. Soltis  
P.O. Box 46  
Healy, Ak. 99743  
(907)683-2651  
February 3, 1989

Gentlemen:

At January 17's teleconference, I spoke to you regarding HB36 Alaska Crime Victim's Rights Act. After expressing my support for this bill, and my concerns in areas where I feel the bill is lacking, you asked me to send a letter listing these concerns.

THE VICTIM'S RIGHTS NEED TO BE PROTECTED THROUGHOUT THE ENTIRE JUDICIAL PROCESS:

After my own experience as a victim of a crime in Alaska, I see that the victim is an insignificant part of our judicial system. Just as the rights of the defendant are protected from the time that a charge is filed against him, the rights of the victim need to be protected from the time that charges are filed. This bill primarily addresses the rights of victims beginning with the trial.

THE DISTRICT ATTORNEY'S OFFICE SHOULD BE REQUIRED TO SPEAK WITH THE VICTIM BEFORE ANY SIGNIFICANT DECISION ABOUT THE DISPOSITION OF THE CASE IS MADE:

It appears to be common practice that charges are reduced or dismissed without the District Attorney's Office ever contacting the victim. Background information not appearing on the police report may give the information needed to make a wise decision. In my own case, the Fairbanks District Attorney's Office almost dismissed the charge of Fourth Degree Assault, a misdemeanor, against my assailant who had been abusing me for months. I found out about the impending dismissal indirectly since notice to the victim is not required of the District Attorney's Office. I began to write letters, the case was brought to trial, and the perpetrator was found guilty.

I would like to see this bill changed to require the District Attorney's Office to contact the victim and discuss the case before a crime can be reduced or dismissed.

Also in my own case, I did not speak to the Assistant District Attorney about the particulars of the case until after jury selection. This was too late, due to rules of discovery to give the D.A. any supporting evidence that might have been used in the trial. I had witnesses and letters from the defendant which were, fortunately, used successfully as rebuttal evidence.

HB36 should be changed to require that the District Attorney's Office speak to the victim at least once before the trial about the case, and in time to use any evidence that the victim may have.

VICTIM'S RIGHTS SHOULD BE GRANTED TO ALL VICTIMS OF CRIMES AGAINST A PERSON.  
FELONY OR MISDEMEANOR:

Many of these rights are needed to protect a victim from a criminal who might cause the victim further harm.

The most obvious misdemeanor case would be when the defendant is initially charged with a felony, and then pleads to a lesser crime which is a misdemeanor. In other cases, however, felonies are committed, but can't be proven, and so a misdemeanor is charged. This victim needs just as much protection and help, often more, since the perpetrator will be on the streets sooner.

In cases of felonies or misdemeanors which are not crimes against a person, it should be up to the discretion of the judge to grant these rights after he or she is presented with the victim's statement by the District Attorney.

VICTIM'S RIGHTS SHOULD BE GRANTED EQUALLY TO ALL VICTIMS IN THE STATE OF ALASKA:

Although it seems that this should be a "given", it may help to re-examine this bill to ensure that the rights are equally granted. The victims assistance program to be maintained by the Department of Public Safety and the notices required of the District Attorney's Office as described in this bill will go a long way towards this end.

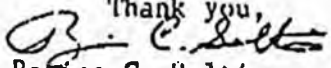
The degree of the victim's familiarity with the judicial system should not be a factor in granting these rights. In my own case, when the trial was postponed for six months, I assumed that this was routine. I had no idea that the defendant had his "prosecution diverted", and I didn't know what that meant when I did become aware of it three months later. Luckily, I had people around me who are familiar with the judicial process. I began writing letters asking why this was decided without ever discussing the case with me. The defendant was brought to trial because of my actions.

The victim should not have to stumble upon the facts of the proceedings, nor should they have to take the initiative in contacting the people who will be determining the disposition of their case.

Many victims live in villages and rarely visit our larger cities or deal directly with government agencies. Such people can be easily intimidated by official procedures and may not be able to take the steps that I did to ensure that their case goes to trial.

Rural victims should receive the same rights as those who live in urban areas. I am familiar with only the Fourth Judicial District where cases do not appear to be prosecuted to the same degree in the rural areas. This bill should ensure that the District Attorney's Office weighs each case on its own merits and not according to travel distance or inconvenience involved.

I would like to thank all of you for your interest in this area and for the opportunity to present my thoughts. I will be attending Tuesday's telephone conference.

Thank you,  
  
Regina C. Soltis



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

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January 12, 1989

MEMORANDUM

TO: Representative Dave Donley

ATTN: Michael Ward

FROM: Maria Gladziszewski *MG*  
Legislative Analyst

RE: Open Parole Board Meetings in Other States  
Research Request 89.122 (Revised)

You requested that we pose several specific questions to people associated with open parole board meetings in other states. I contacted representatives from the parole boards of nine states that have open or partially open parole board meetings.<sup>1</sup>

In general, the persons with whom I spoke were satisfied with their systems of parole hearings and support the concept of giving victims an opportunity to speak before parole boards. In all nine states, however, victims do not often choose to participate. Most parole hearings are held in prisons, and victims often do not want to go into the prisons to face the inmate. Several persons with whom I spoke suggested holding an additional meeting outside prisons, or allowing victims to speak in a room without the inmate present. Answers to your specific questions are summarized below.

Who is allowed to attend and participate in open parole board hearings?

The parole boards of Nebraska, North Dakota, Oklahoma and Tennessee operate under open meeting laws. Florida and Nevada have statutes that require parole board meetings to be open to the public, and Massachusetts has open parole hearings for those serving life sentences after convictions of first or second degree murder. In general, attendance is unrestricted, although the spokesperson from Oklahoma mentioned the size of the room as a limitation. In Arkansas and Rhode Island, separate meetings for those protesting parole (victims, sheriffs, district attorneys) are conducted outside prisons.

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<sup>1</sup> Florida, Massachusetts, Nebraska, Nevada, and Tennessee have full-time parole boards. The parole boards of Arkansas, Oklahoma and Rhode Island meet once a month, and the parole board of North Dakota meets six times a year.

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The number of people allowed to speak during the meeting was sometimes limited. In Florida, prior approval is required. Only five family members can speak on an inmate's behalf in North Dakota and Arkansas; in Oklahoma, only two protestors and two supporters can speak. There were no formal restrictions in other states, although some representatives said that the board could limit the numbers if they so desire.

#### Who actually attends the open parole board meetings?

Representatives from most states contacted reported that few (two to four) people attend a parole hearing for any specific inmate and that most of those attending are supporters of the inmate (i.e., family, friends, employers). Debbie Miller, Executive Director of the Tennessee parole board, said that those that attend are "mostly just anxious families...[who] view it as an extra visiting day." Representatives also report that, more often than not, no one but the inmate appears for the hearing.

Of the 200 cases before the Florida Parole Commission in Tallahassee on January 11, 1989, 70 cases had visitors attending; of those 70 cases with visitors, in only four cases were victims or victims' families scheduled to speak. Since enacting victim notification legislation on July 1, 1987, North Dakota has had only four cases (of approximately 550 cases in the last year and a half) in which victims testified. The spokesperson from Tennessee estimated that only the inmate testifies in 75 percent of their cases and that victims or victims' families appear in only five percent of cases. Protestors are scheduled to speak at seven of the 400 cases to be heard this month in Arkansas. The spokesperson from Nevada estimated that victims speak in less than five percent of the hearings in that state.

#### Are victims notified?

All of the states contacted report that they notify victims if at some point the victim had notified the prison that the victim was interested in knowing when the inmate would be up for parole. Arkansas, Florida, North Dakota, Rhode Island, and Tennessee have laws requiring victim notification.

#### Are open parole hearings beneficial to victims and their families?

Representatives from all of the states contacted responded favorably when asked if open hearings were beneficial to victims and their families. Several also mentioned, however, the importance of victim assistance programs prior to sentencing.

Don LaFratta, Director of Special Operations for the Massachusetts parole board, was a reluctant supporter of open parole board meetings. He said that they are beneficial to victims and their families but stressed that states should put their money "on the front end rather than the rear end of victims services." He noted that victims could use representatives at the courthouse

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to usher them through what was about to happen (what happens in court, how everything works, methods for victims to be reimbursed for medical expenses, etc.)

Are there any problems with the system? Do you feel open meetings are an extra burden on taxpayers for more security?

The only fiscal burden mentioned was that of locating victims in states with mandatory notification laws. Representatives from North Dakota, Rhode Island, and Massachusetts spoke of costs incurred for additional personnel needed to locate victims.

States did not report providing extra prison security on parole board hearing days; the spokesperson from Nevada mentioned that they would inform visitors to come early when many people were expected to attend a meeting so that they could all be cleared by existing security personnel. Arkansas conducts their protesters meeting in the break room at the administration building without any security.

What is the overall attitude towards open parole hearings?

Every state contacted reported positive attitudes toward open parole hearings. Some spokespeople mentioned that conducting open parole board meetings contributes to the public perception that all is "above board," and that openness "cuts down on suspicions that government operates in smoke-filled rooms or that something underhanded is going on."

Nearly all the persons with whom I spoke mentioned that victims and victims' families are often reluctant to face the inmate. Many also mentioned a reluctance on the part of victims to enter a prison. Arkansas and Rhode Island have attempted to increase victim participation by holding separate meetings for protestors outside of prisons. Florida conducts the entire meeting outside of the prison system without the inmate present. North Dakota holds separate meetings in the prison for victims and Nebraska will also hold separate victim meetings upon request.

James Marion, Director of the parole and probation department of North Dakota, sees open parole board meetings as positive not only because the victim has a chance to "vent feelings" about the inmate but also because they "force the victim to understand the criminal justice system." He also mentioned that open meetings 1) increase public awareness that inmates are eventually released and 2) help "develop good community-based strategies for offenders...[to] reintegrate these people back into society."

I hope this information is helpful. Please call me if you have additional questions.

RAYMOND E. GARY  
P.O. BOX 46  
III. ALY, ALASKA  
99743

TER COLL, CHAIRMAN  
HOUSE JUDICIARY COMMITTEE  
ALASKA STATE LEGISLATURE  
P.O. BOX V  
JUNEAU, ALASKA 99811

REP. COLL;

I HAVE LONG BEEN CONCERNED WITH THE TREATMENT THE VICTIM RECEIVES FROM THE CRIMINAL JUSTICE SYSTEM. I FEEL THAT HOUSE BILL 76 WILL BE A VERY GOOD FIRST STEP TOWARD SEEING THAT THE VICTIM RECEIVES SOME CONSIDERATION FROM THE CRIMINAL JUSTICE SYSTEM. I WOULD URGE YOUR COMMITTEE TO PASS THIS BILL.

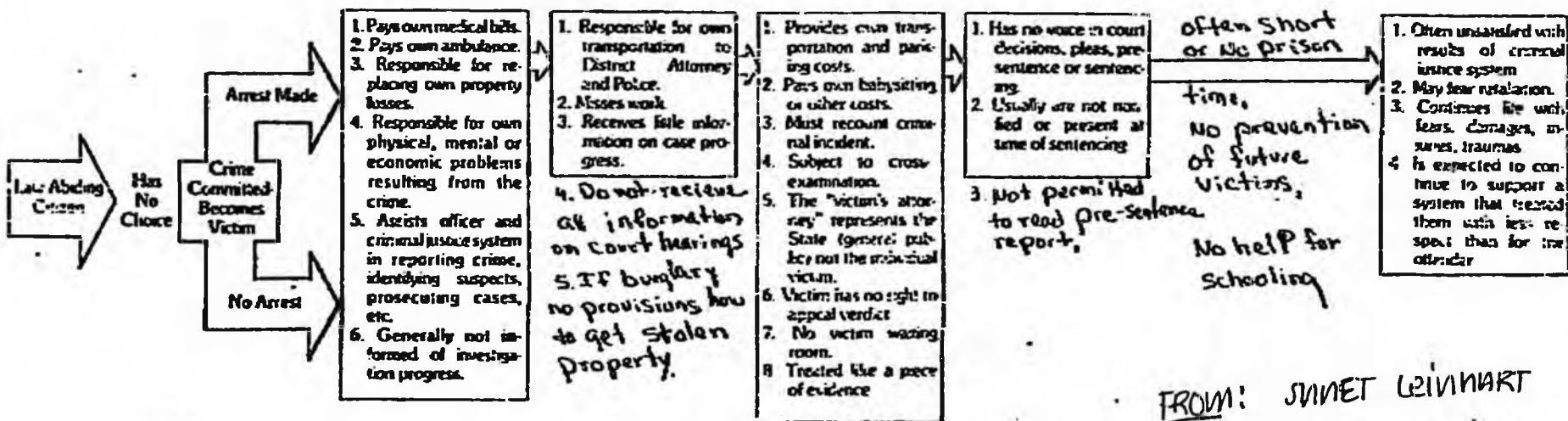
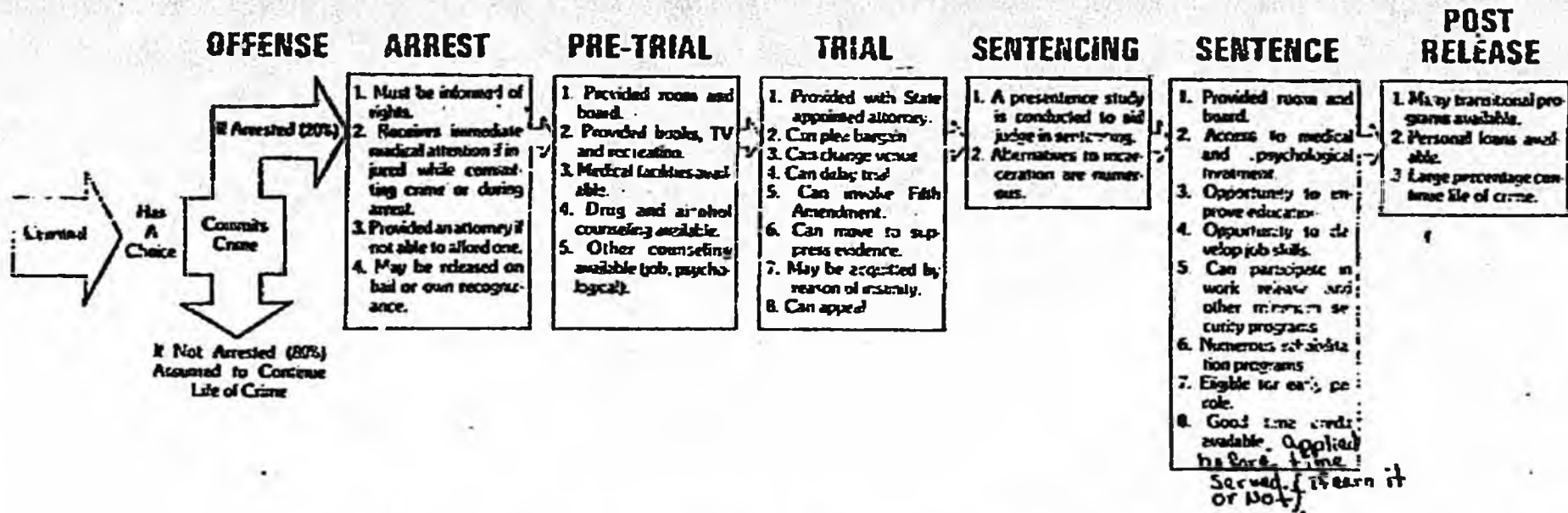
THANK YOU;

RAYMOND E. GARY

Hayden  
reply after  
Tomson's hearing

A victims point of view

# THE CRIMINAL INJUSTICE SYSTEM



*if a child victim right to testify outside the threatening presence of defendant*

FROM: JANET LEVINHART  
 Victims for Justice  
 619 E 5th Ave.  
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National Institute  
of Justice

Research in Brief

August 1987

## Victim Appearances at Sentencing Under California's Victims' Bill of Rights

Edwin Villmoare and Virginia V. Neto

Should the victim of a crime be given the right to initiate or intervene in a criminal prosecution? According to Professor Abraham S. Goldstein of Yale Law School:

[T]he victim deserves a voice in our criminal justice system, not only in hearings on the amount of restitution to be paid him but also on the offenses to be used as the basis for such restitution.... [T]he victim should have a right to participate in hearings before the court on dismissals, guilty pleas, and sentences....

1 "Defining the Role of the Victim in Criminal Prosecution," 52 *Mississippi Law Journal* 515, 518 (1982).

The December 1982 Report of the President's Task Force on Victims of Crime encouraged victim participation but recommended a more limited approach:

Judges should allow for, and give appropriate weight to, input at sentencing for victims of violent crime.... [E]very victim must be allowed to speak at the time of sentencing. The victim, no less than the defendant, comes to court seeking justice.... Defendants speak and are spoken for often at great length, before sentence is imposed. It is outrageous that the system should contend it is too busy to hear from the victim.

By the time the Task Force report was published, the voters of California had already enacted legislation giving victims the right to allocution at felony sentencing hearings, i.e., the right to speak. Proposition 8, California's Victims' Bill of Rights, includes Penal Code Section 1191.1, which specifies the following:

The victim of any crime, or the next of kin of the victim if the victim has died, has the right to attend all sentencing proceedings under this chapter and shall be given adequate notice by the probation officer of all sentencing proceedings concerning the person who committed the crime.

### From the Director

The past decade has seen a dramatic rekindling of public concern for the needs of the victims of crime, a concern richly supported by continuing research into the questions of what those needs are and how they can best be met.

When California voters in 1982 enacted Proposition 8, called the Victims' Bill of Rights, that new law included a provision that the victim or the victim's surviving kin would be permitted to address the court before any felony sentencing.

The National Institute of Justice then sponsored research by the McGeorge School of Law at the University of the

Pacific to study the implementation of this right to allocution." If we learned how allocution worked in the early days of its implementation in California, other States considering victim legislation would benefit from the California experience.

This *Research in Brief* gives the results of that investigation. Although few victims availed themselves of this right and some judges were skeptical of its value, an overwhelming four-fifths of the victims and two-thirds of the prosecuting attorneys thought the victim's right to allocution was a proper and necessary contribution to justice.

Like other National Institute research into victim problems, this study's findings again stress the victim's need and

desire to know what is going on in the case against his or her criminal assailant, and how important it is for the victim to be a full partner with the criminal justice system from the very start of that case. Thus the study recommends that procedures for notifying victims of the progress of a case and their allocution right be improved, and that victim participation in the case be encouraged at an earlier stage than sentencing. Thoughtful legislative draftsmanship, supported by sound research and experience, can continue to ease the traumas of the victims of crime and hasten achievement of our ideals of justice.

James K. Stewart  
Director  
National Institute of Justice

The victim or next of kin has the right to appear, personally or by counsel, at the sentencing proceeding and to reasonably express his or her views concerning the crime, the person responsible, and the need for restitution. The court in imposing sentence shall consider the statements of victims and next of kin made pursuant to this section and shall state on the record its conclusion concerning whether the person would pose a threat to public safety if granted probation....

To study California's implementation of the new right to allocution at felony sentencing, the National Institute of Justice sponsored an exploratory study by the Center for Research, McGeorge School of Law, University of the Pacific. This *Research in Brief* highlights the study's findings.

## Major findings

**Effects.** In California, victim appearances seem to have had little effect on the criminal justice system or on sentencing. The vast majority of victims surveyed for this project did not use the allocution right. In fact, in less than 3 percent of the cases did the victim appear. The possible impact of the victim allocution right is severely limited by the high percentage of cases plea bargained, by California's determinate sentencing law, and by victims' lack of awareness of the right.

**Victim desire for information.** In general, victims are more interested in information about their cases than they are in the right to participate. Some victims, in fact, exercised the allocution right at sentencing primarily to find out what was going on in their cases.

However, 80 percent of the victims interviewed indicated existence of the right was important. Many victims showed limited understanding of the criminal justice system and had trouble ascertaining what stage a case had reached or why a particular action had been taken.

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*Points of view or opinions expressed in this publication are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.*

*The Assistant Attorney General, Office of Justice Programs, coordinates the criminal and juvenile justice activities of the following program Offices and Bureaus: National Institute of Justice, Bureau of Justice Statistics, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime.*

**Ice problems.** Form letters sent by probation departments are an inadequate means of communicating the existence of the allocution right. More personal and direct communication is required if victims are to learn about and understand the right.

**Victim impact statements.** Victim impact statements included in the pre-sentence reports prepared by the local probation departments provide many victims with a satisfactory opportunity to express their views. An informal interview with a sympathetic probation officer is often preferable to a recitation in open court.

## Scope and methods

The project had two major objectives: to study the implementation of the allocution right by State and local agencies, and to assess the extent of victims' awareness of the right and their use and reaction to it.

**Agency survey.** In the fall of 1982, the project surveyed agencies statewide to learn about the activities and attitudes of officials related to the allocution right. Questionnaires were sent to probation departments, district attorneys, and Superior Court presiding judges in all of California's 58 counties and to all 35 victim-witness programs operating in mid-1983.

The questionnaires covered four major issues:

- victim notification of the allocution right,
- assistance to victims by the criminal justice system in the exercise of the right,
- the extent of victim appearances, and
- perceptions by officials of the new right and its implementation.

Forms were returned by 33 probation departments (57 percent), 25 district attorneys (43 percent), 33 Superior Courts (57 percent), and 22 victim-witness programs (63 percent). According to the survey results, 3 percent or fewer of felony crime victims make statements at sentencing hearings.

**Case surveys.** To assess victim response statewide, the project sought to identify and interview two groups of victims: Those who exercised the right and those who were entitled to

but did not. There were major obstacles in locating victims: County agencies did not maintain systematic data, such as victim names and addresses, and many district attorneys and police tended to "protect" victims and inhibit researchers' access to them.

To overcome these difficulties, the project surveyed victims in three cooperating counties with computerized recordkeeping systems: Alameda, Fresno, and Sacramento. The computerized systems enabled project staff to review large numbers of files and extract victim data that were otherwise inaccessible or unavailable.

At the project's request, the district attorney's offices and the Superior Court clerks in each of the three counties generated a list of felony cases resulting in conviction and sentencing for a year and a half that overlapped to some extent the statewide agency survey.

There was a total of 1,293 cases generated by the 3 counties that contained the information needed to identify and contact victims. The data included the names and addresses of the victims. Next of kin were identified primarily by searching district attorney and coroner files. The felonies were principally burglary, robbery, assault, rape, child molestation, kidnapping, and homicide. Burglary was included to compare responses to property and personal injury crimes.

The project analysis identified 59 cases in which victims (or next of kin) made statements at sentencing. The percentage of victims identified as exercising their allocution right in the case surveys compared to the total number of sentencings in the three counties is similar to the 3 percent appearance finding of the statewide agency survey.

**Victim interviews.** Project staff succeeded in locating and interviewing 171 victims. The district attorneys' case survey accounted for 147 of the 171 victims, and the sentencing orders sent by the Superior Court clerks accounted for the remaining 24.

Each of the 171 victims was interviewed by telephone. The interviewers asked about details of the crime and characteristics of the victim; the source and degree of the victim's knowledge of the appearance right; and the de-

gree, kind and circumstances of victim participation. The effects of participation and nonparticipation on the victims were part of the interview.

Interviews were conducted with both victims who appeared at sentencing (29 of 171 victims) and those who did not. Their responses were then compared. Besides the 29 victims who actually appeared at sentencing, only 47 of the remaining 142 indicated they knew of the allocution right. (It should be noted that the 171 victims interviewed were not necessarily typical victims. Hence, their responses may not be representative.)

### Legal framework

The victim's opportunity to exercise the allocution right is constrained by legal factors. Penal Code Section 1191.1 confines the right to allocution to felony sentencing in Superior Court. There is no right to allocution in Municipal Court, where almost all misdemeanor cases are tried. California operates under a determinate sentencing law that limits sentencing choices. Further, in cases involving a plea, the sentencing judge considers only the crime(s) that the defendant pleads to.

Thus, the only real opportunity for the victim to affect the sentence by allocution is in a case that reaches Superior Court, and only to the extent permitted by determinate sentencing and plea bargaining. In instances where crimes are not charged, or charged but later dismissed or dropped, victims have no allocution right.

It should be noted that allocution is not a victim's only way to communicate with the sentencing judge. Since the 1920's, presentence reports prepared by probation departments have included victim impact statements. These statements became mandatory in 1978. Victims may also write the court directly.

### Agency implementation

**Probation departments.** Nearly all departments appeared to be sending notification announcements to victims of the allocution right as required by the Code. The departments reported only a minimal increase in their workloads.

otification almost always consisted of form letters. Contents of the notice were not uniform among the probation departments due to the vagueness of Section 1191.1, the lack of central administrative or legislative guidelines, and the need to implement notification procedures quickly.

Despite differences in the style of notification letters, victim appearance rates at sentencing did not differ noticeably from one county to another. Some form letters were less personal than the letters and phone calls used to solicit victim impact statements.

Probation departments reported difficulty in locating some victims because of incorrect names or addresses provided by other law enforcement agencies. No followup notices were sent. Eighty-five of 149 victims (57 percent) who responded to the question in the victim survey about the notice did not remember receiving one.

**Superior Court.** In the statewide agency survey, some judges expressed concern about possible lack of due process in the allocution process. The statute does not address the procedures under which victims are to be heard. Consequently, judges' practices differ

Of the judges responding, nearly half indicated they allow cross-examination of the victim by the defense. One-fifth of the judges also require the victim to speak under oath, especially when facts of the case or details of the crime are discussed. Some judges accept comments from victims without an oath unless facts of the case or details of the crime are raised. Two-fifths of the district attorneys said that, in their experience, victims spoke under oath. No systematic records of the procedures used in victim allocution are maintained.

**District attorneys.** District attorneys, who have the most contact with victims after an arrest and often consider themselves victim advocates, were not mandated to inform or assist victims regarding allocution. Nevertheless, according to the victim interviews, the district attorney was the most common source of information on the allocution right.

**Victim-witness programs.** While less than one-third of the victims interviewed remembered any contact with a victim-witness program, over half of the victims knew about the victim-

witness program. Relatively few victims recalled learning about the right to allocution from victim-witness programs.

### Victims and allocution

Despite the great amount of publicity about the Victims' Bill of Rights, mandatory notification of victims, and victims' contact with various agency personnel, only 44 percent of the 171 victims interviewed were aware of the right to appear at sentencing. (What the actual level of knowledge was among all victims in the three counties can only be estimated, but it probably was much lower, considering that the 171 victims interviewed were a more economically stable and highly educated sample than is typical of felony victims.)

Approximately half of the victims who were aware of the right first learned about it from district attorneys, 21 percent from the probation officer, 15 percent from victim-witness programs, and 10 percent from other criminal justice personnel such as police. Only a few mentioned the Victims' Bill of Rights as their source of information.

Although probation departments in California are legally responsible for notifying victims of their allocution right, the sequence of events in criminal proceedings may account for the higher proportion of victims who recalled being informed of the right by district attorneys' offices. When someone is charged with a crime, the victim may begin a series of meetings, phone calls, and correspondence with the district attorney. Not until there has been a conviction does probation prepare a presentence report and send notification of the right to allocution and the schedule of the sentencing hearing.

**Reasons for not exercising the right.** Of the 47 victims interviewed who knew of the right but did not exercise it, 43 explained their reasons for not doing so. Thirty-seven percent were satisfied with the criminal justice system's response. This was especially true in burglaries. Some of these victims were satisfied by district attorney's assurances that the criminal would receive the maximum sentence possible. Thirty percent believed that their appearance before the judge would make no difference.

For 28 percent the reasons for not appearing were more personal: they were either too upset, afraid of retaliation, or confused. One victim, who was also a witness in the case, thought that being barred from the courtroom during the trial precluded her involvement at the sentencing hearing.

Some were discouraged by a district attorney or probation officer, only to regret later that they had not expressed their views. (In the statewide agency survey, some officials indicated concern that an oral statement might be counterproductive, fearing, for example, that a victim might become hysterical.) For another 5 percent, an appearance was considered too costly in lost wages, child care, or travel expenses.

Victims often presented themselves to project interviewers in a passive mode, explaining that "no one told me I should," or "they don't seem to care," or "I was busy."

**Reasons for exercising the right.** Of the victims interviewed who made a written or oral statement, 34 percent said their primary reason was a desire to express their feelings to the judge, 32 percent to perform their "duty," and 26 percent to achieve a sense of justice or to influence the sentence.

One victim of a terrifying armed robbery wanted to show the criminals that the victims could make life miserable for them. Another man, whose brother was unable to care for himself after a severe assault, said, "I needed to say something because my brother is unable to speak for himself."

Several victims who knew their attackers personally asked the court to provide psychological help for the offenders, usually for the good of the offenders as well as the safety of others. A man assaulted by a friend advocated probation and restitution because he knew the high costs of incarceration and the undesirable conditions in prison.

Bound up with victims' reasons for making a statement at sentencing were the results they sought: 56 percent sought a long or maximum sentence; 15 percent emotional relief; 12 percent financial restitution; and 17 percent a variety of other objectives, including a light sentence.

**Content of victims' statements.** Of all the points raised in victims' statements, the most common (made by 47 percent of victims interviewed) was that the perpetrator should be punished or locked up. Twenty-five percent stressed one or more of the following: the effects of the crime, qualities of the criminal (usually highly negative ones), good qualities of the victim, or details of the crime. A few mentioned the need to protect society; others suggested alternative sentences, such as probation and restitution.

Nearly half the persons preparing statements received some help, most frequently from family members or friends, sometimes from a victim support group such as Mothers Against Drunk Drivers, and occasionally from a private attorney or the district attorney.

### Was Section 1191.1 necessary or effective?

**Victims' perspectives.** The victims interviewed indicated that making a statement at sentencing had two main potential effects—an emotional effect on the victim and a perceived effect on the sentence. Over half the appearing victims (54 percent) reported they felt different after making their statement to the judge. Of these, 59 percent expressed positive feelings of satisfaction or relief, 25 percent felt angry, fearful or helpless, and 10 percent felt dissatisfied.

Less than half (45 percent) of those victims who spoke at sentencing felt their participation affected the sentence. Even those who felt they had an effect were inclined to view the sentence as too lenient. In fact, they held this view in the same proportion as persons who had no involvement in sentencing at all. Most discouraged were those who made statements but felt they were not heeded: 82 percent of these victims thought the sentence was too light. Victims who spoke at sentencing were often the victims of serious crimes, yet as a group they reported a higher frequency of probation sentences in their cases than those who did not appear. (It should be noted that victims seeking restitution in California are forced to request a sentence that excludes a prison term. Direct restitution to the victim is available only when probation is granted.)

Its infrequent use of the allocation right and mixed reactions to it, over 80 percent of all victims interviewed indicated that the existence of the right was important. Victims also expressed a strong desire for more information about the right and the progress and dispositions of their cases.

**Officials' perspective.** Two-thirds of the judges saw no need for the allocation right. An equally large majority of district attorneys thought it was needed. Judges pointed out that the presentence report provides all the necessary information. One judge wrote:

Any review of the impact of victim's statements should not fail to take into account the rules of court sentencing criteria. By the time that the victim comes to court, a well-prepared probation report having been reviewed by a well-prepared judge leaves little room for modification of an intended decision. A victim's emotional appeal to the court cannot carry more weight in place of the facts and criteria.

When asked whether the right was "effective," 81 percent of probation officers answered "minimally or not at all" (often because of the role of victim impact statements) compared with 69 percent of judges and 48 percent of prosecutors; less than 2 percent indicated that the right had been very successful. Sixty-six percent of district attorneys, compared with 40 percent of judges, thought that victim appearances increased the amount (as opposed to the frequency) of restitution awarded.

Judges indicated that, while the actual appearances had little overall impact on the sentences, they believed the right had benefits:

- It does allow victims to air their grievances or "get it off their chest." To this extent they may feel the system is paying more attention to them.
- Prop. 8 has been a real significant step toward victim recognition and awareness. It is as important as a public statement as it is as a court tool.

Prosecutors wrote:

- Judges are constrained by law, logic, and justice. In a majority of cases nothing the victim says is really going to impact.
- Members of the judiciary who were responsive to victims' rights before, continue to be so, and others who place defendant's rights paramount...also continue.

## Conclusion

Allocation at sentencing will be a modest right wherever it is established because plea bargaining effectively resolves the vast majority of all sentences before the victim can have a say. In fact, since plea bargaining may result in the dismissal of criminal charges, plea bargaining deprives some victims of the right to allocution altogether. If the intent behind the

allocation right is to give victims an opportunity to comment on and influence the sentences for the crimes committed against them, victim participation must exist at earlier stages in the prosecution of cases. This is particularly true within a determinate sentencing system.

There is no doubt that victims deserve much greater attention and assistance than they have received in the past or are currently receiving. Victim participation in the prosecution of crimes raises complex legal and social issues. If victim participation is to be more than symbolic, additional resources will have to be invested in the criminal justice system and a number of existing procedures changed. Victims' rights cannot be grafted onto the existing system without generally remaining simply cosmetic, nor can they be made potent without creating profound changes throughout the entire system.

The question remains as to whether society is prepared to embark upon a process so potentially complex, expensive, and unpredictable.

*Edwin Villmoare served as project director and Virginia V. Neto as project coordinator for Victim Appearances at Sentencing Hearings Under the California Victims' Bill of Rights. The full report of this study, prepared under a grant to the McGeorge School of Law, University of the Pacific, can be purchased from the Superintendent of Documents, U.S. Government Printing Office (stock number 027-000-02171-01), and is available in free microfiche (NCJ 104915) from the National Institute of Justice (NCJRS (phone 800-851-3420 or from Maryland, Alaska, and the Metropolitan Washington, D.C., area, 301-251-5500).*

## Previous studies

Recent literature on victims has focused on the importance of victim involvement and satisfaction with the criminal justice system. For some victims, appearing at sentencing hearings is the culmination of a series of actions after the crime. Their participation may stem from satisfaction or displeasure with prior criminal justice contacts. Similarly, their appearance at sentencing may leave them with positive or negative feelings about the system.

A study of victim involvement in communities near Toronto (Hagen, 1982) analyzed various activities—contact with police and prosecutor, knowledge of the case outcome—in terms of their relationship to victims' attitudes toward the disposition. The findings indicated that victims who attend court are more likely to reduce their demands for severe sentences, suggesting a link

between involvement and acceptance of case disposition.

A survey conducted of New York victims by Lou Harris and Associates (Bucuvalas, 1984) reported that overall victim satisfaction with the police and the district attorney is enhanced if the victim receives victim services. Victim-witness agencies, however, have continued to be concerned about the lack of witness cooperation. In evaluating this "persistent phenomenon," Davis (1983) suggested that victims might be more cooperative if they were given a chance to have their opinions heard in court.

A National Institute of Justice study, *The Criminal Justice Response to Victim Harm* (Forst and Hernon, 1984), found that victims expressed more satisfaction with the system if they had knowledge of the case outcome and if they felt they had influenced the disposition of the case. In general, victims

placed more emphasis on being informed than on participating in the process. The same study reported that judges consider the presenter's investigation report useful information about victim harm; however, much of the presentence investigation report is based on information obtained from second-hand sources, not from the victim. Thus, even from the judicial perspective, it may not be a true alternative to the right of allocution at sentencing.

An NIJ experiment, Structured Plea Negotiation (Clark et al. 1984) called for victim participation in plea bargaining. Evaluation of the research indicated that most victims tended to be satisfied with their attendance, but believed their presence, statement, or both at the plea negotiation conference had no impact on case disposition. These findings echo the results reported (Heinz and Kerstetter 1980) on a similar experiment in Dade County, Florida, in 1977.



# National Institute of Justice

## Research in Action

James K. Stewart, Director

August 1988

## Victim assistance programs report increased workloads

by Barbara Webster

Victim assistance programs, whether they are independently operated or sponsored by law enforcement, are feeling the impact of increased police arrests in cases of domestic violence and increased reports of child abuse and sexual assault.

Funding for most victim assistance programs, including local and State support, has increased significantly in the past few years. In addition, the hard work that victim advocates have devoted to promoting their services seems to be paying off: The majority of programs report increased referrals, particularly self-referrals and referrals from police.

In spite of these gains, most victim assistance agencies report needs for further increases in police and other referrals, improvements in interagency coordination, and a better public understanding of victims' needs.

This *Research in Action* summarizes results of surveys completed by victim assistance program administrators as part of the National Assessment Program. It describes the major problems and needs reported by two groups: Programs administered by criminal justice agencies (prosecutors, police,

and sheriffs); and independently operated multiservice agencies. These agencies (1) were not administered by a government agency and (2) provided services to victims of several different types of crimes.

The National Assessment Program (NAP) surveys seek to identify key needs and problems in local and State criminal justice systems.<sup>1</sup> To accomplish this, the National Institute of Justice (NIJ) sponsored a national survey of approximately 2,500 practitioners from a sample of 375 counties across the country. Included were all 175 counties having populations greater than 250,000 and a sample of 200 counties having less than 250,000 population. Persons receiving surveys in each county included the police chief of the largest city, sheriff, jail administrator, prosecutor, chief trial court judge, trial court administrator (where applicable), and probation and parole agency heads. On the State level, wardens, commissioners of corrections, and State attorneys general were surveyed.

The questionnaire addressed five general areas, with questions tailored to each group of respondents. The general areas were the following:

- Background characteristics—descriptive data including staff size, budget totals, caseloads, services provided, etc.
- Criminal justice system problems—current significance of criminal justice problems identified in an earlier survey.
- Workload—factors contributing to workload increases.
- Staffing—recruitment, retention, and training needs.
- Policies and procedures—management, management information, and the specific operations in which the respondents are involved.

To gather information about victim assistance programs, a set of questions about victim assistance was included in the questionnaires distributed to prosecutors, police, and sheriffs; and a special questionnaire was distributed to independent multiservice victim assistance agencies.<sup>2</sup>

Exhibit 1  
Criminal justice sponsors of  
victim assistance programs in survey sample

Type of agency	Total number of NAP survey respondents	Number/percent with victim assistance programs	
Prosecutors	225	174	77%
Police	281	95	34%
Sheriffs	209	78	38%

Barbara Webster wrote this report for the Institute for Law and Justice, Inc., Alexandria, Virginia, which conducted the 1986 National Assessment Program for the National Institute of Justice.

## Victim assistance programs report increased workloads

### Programs sponsored by prosecutors, police, and sheriffs

Exhibit 1 shows that 77 percent of responding prosecutors administer victim assistance programs, compared with 34 percent of police and 38 percent of sheriffs. The median number

of full-time staff members is 3 for prosecutor-based programs, 2 for police, and 1.7 for sheriffs.

Police and sheriffs' departments respond to victims of all types of crime, regardless of whether the offender is ever identified or apprehended; however, no victim assistance program has

sufficient resources to effectively serve all victims. Most programs, therefore, target particular groups.

Victim assistance programs administered by police and sheriffs tend to give priority to victims of sex crimes and domestic violence. Most prosecutors' programs focus on cases for which charges have been brought. Thus, the focus on victims of violence is not quite so pronounced among programs sponsored by prosecutors: approximately two-thirds assist victims of burglary compared to only one-third of police and sheriffs' programs (Exhibit 2).

Ninety percent of prosecutors with victim assistance programs serve children who have been abused or sexually assaulted. More than 90 percent of the prosecutors also report that an increase in child victim cases over the past 3 years has significantly contributed to increased workloads. Similarly, 64 percent of responding police departments and 55 percent of the sheriffs report that domestic violence arrests have increased workloads.

The increased reporting of these crimes may reflect the success of victim advocates over the years in several areas:

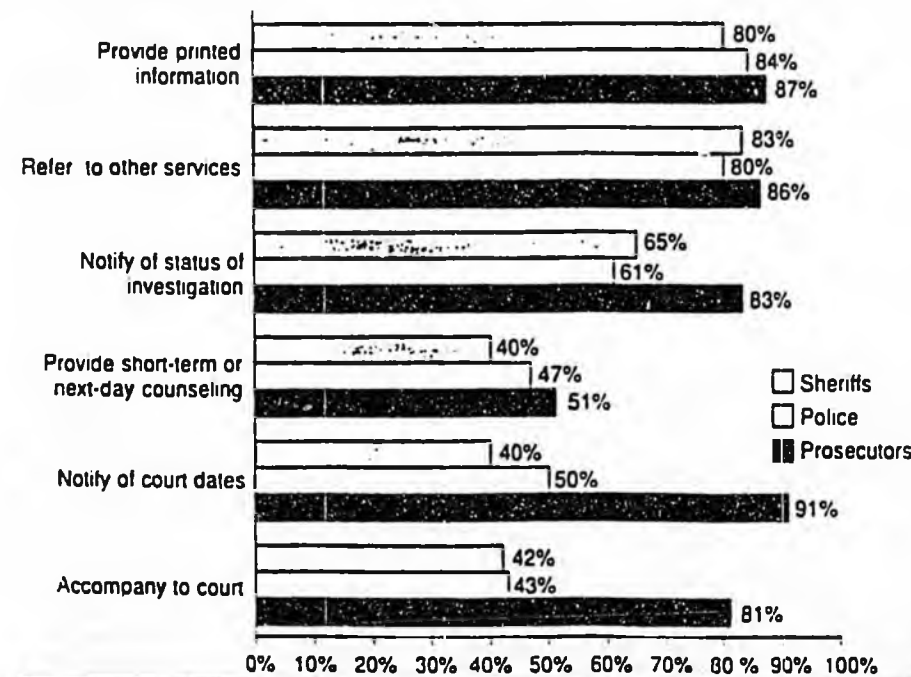
- Lobbying for laws that require medical professionals, educators, and others to report suspected abuse.
- Encouraging laws that allow, and department policies that require, more police arrests in domestic violence cases.
- Conducting public education campaigns that encourage victims to report sexual and domestic crimes.
- Providing training and advocating for more sensitive treatment of child domestic assault victims by police, prosecutors, hospital personnel, and others.

Exhibit 3 compares the types of services most commonly provided by prosecutor, police, and sheriff-sponsored victim

### Exhibit 2 Types of victims served

Victims by crime type	Percent of programs with services		
	Prosecutors (%)	Police (%)	Sheriffs (%)
Family, friends of homicide victims	76	39	49
Rape and other sex crimes	89	79	80
Domestic violence	69	73	70
Assault	66	65	54
Child abuse and sexual abuse	90	63	63
Robbery	57	38	30
Burglary	62	34	36
Auto theft	27	7	8
Larceny	32	14	22

### Exhibit 3 Services commonly provided by law enforcement programs



assistance programs. As might be expected, prosecutor programs are about twice as likely as those sponsored by police and sheriffs to notify victims and witnesses of court dates and to accompany victims to court.

Many prosecutor-based programs, however, have moved beyond simply providing "witness management" services. Like police and sheriff programs, about half the prosecutor programs provide short-term or next-day counseling, and more than 80 percent make referrals to various service agencies.

### Independent programs of victim assistance

Exhibit 4 shows budget and staff size for independent victim assistance programs. The agencies responding represent a considerable range in program size: The largest agency has a budget of \$2 million, while the smallest uses an all-volunteer staff and has a budget of \$1,300. Many of these programs depend heavily on volunteer staff.

Budget increases of at least 30 percent from 1983 to 1986 are reported by 68 percent of the independent agencies. These increases cannot be attributed solely to Federal Victims of Crime Act (VOCA) funds, and suggest growing local and State support for victim assistance.

Exhibit 5 shows those services provided by more than half the respondents. A smaller percentage provide notice of or accompany victims to lineups (42 percent), arrange for emergency loans (28 percent), and notify victims of parole hearings (22 percent). A few agencies offer such specialized services as suicide intervention, death notification, and restitution programs.

### Exhibit 4 Characteristics of independent victim assistance programs

n=36	
Median annual operating budget (1986)	\$200,000
Percent reporting at least 30% budget increase since 1983	68%
Percent reporting inadequate funding levels	44%
Median number of full-time staff	5
Median number of part-time staff	3
Median number of volunteers	20

### Exhibit 5 Services provided by over half the victim assistance programs

#### Services provided by 92-100% of respondents

- Provide victims with information about their rights and various criminal justice processes
- Provide short-term supportive counseling
- Make referrals to mental health agencies
- Make referrals to social service agencies
- Advocate for victims with employers, social service agencies, and other criminal justice agencies
- Accompany victims to court.
- Train or conduct educational programs for professionals, service clubs, schools, colleges, and others

#### Services provided by 66-92% of respondents

- Provide "next-day" crisis counseling
- Assist victims in applying for State victim compensation
- Assist victims in preparing victim impact statements

#### Services provided by 50-66% of respondents

- Provide on-scene crisis counseling
- Provide transportation
- Train law enforcement officers
- Notify victims of court dates

### Exhibit 6 Average rankings of criminal justice system problems

Most serious	Least serious
1.....2.....3.....4.....5.....6.....7	
	A A A A A
Coordination^	
Staff shortages^	
Public's lack of understanding^ of criminal justice system	
	Jail crowding^
	Prison crowding^
	Lack of staff skills^
	Agency management^

## Victim assistance programs report increased workloads

Exhibit 7  
Victims served by independent agencies

Type of crime	Percent of agencies providing services (%)
Surviving families of homicide victims	83
Rape and other sex offenses	89
Domestic violence	81
Child abuse and sexual assault	83
Robbery	81
Assault	83
Burglary	72
Auto theft	56
Larceny	58
Other crimes	67

When asked what services they would like to expand, the service mentioned most frequently (by 36 percent of the respondents) was counseling. This included 22 percent who wanted to expand short-term supportive counseling and 14 percent who saw a need to provide on-scene crisis counseling.

The victim assistance respondents were asked to rank order a list of seven criminal justice system problems identified in 1983 in the previous National Assessment Survey. The average rankings are shown in Exhibit 6. Lack of coordination among criminal justice agencies and staff shortages are the two most serious problems for respondents. These are followed by the public's lack of understanding of criminal justice agencies.

Exhibit 7 shows the percent of responding agencies that provide services to victims of various types of crimes.

Independent agencies are more likely than programs sponsored by criminal justice to serve victims of property crimes such as burglary, larceny, and

auto theft. A somewhat higher percentage of independent programs (81 percent) than prosecutor, police and sheriffs' programs (69 to 73 percent) serve domestic violence victims. About 83 percent of independent programs serve assault victims compared to about two-thirds of programs sponsored by law enforcement agencies. Approximately 82 percent of the independent victim assistance agencies surveyed report significant increases in workloads in the past 3 years: 15 percent report slight increases; and 3 percent indicate caseloads are about the same. No agency reported a decrease.

Factors reported as contributing to increased workloads are listed in Exhibit 8. Independent programs seem to have achieved considerable success in publicizing their services: 82 percent report that self-referrals have contributed significantly to their workloads. In addition, nearly three-fourths of the respondents are experiencing increased workloads because of more police referrals.

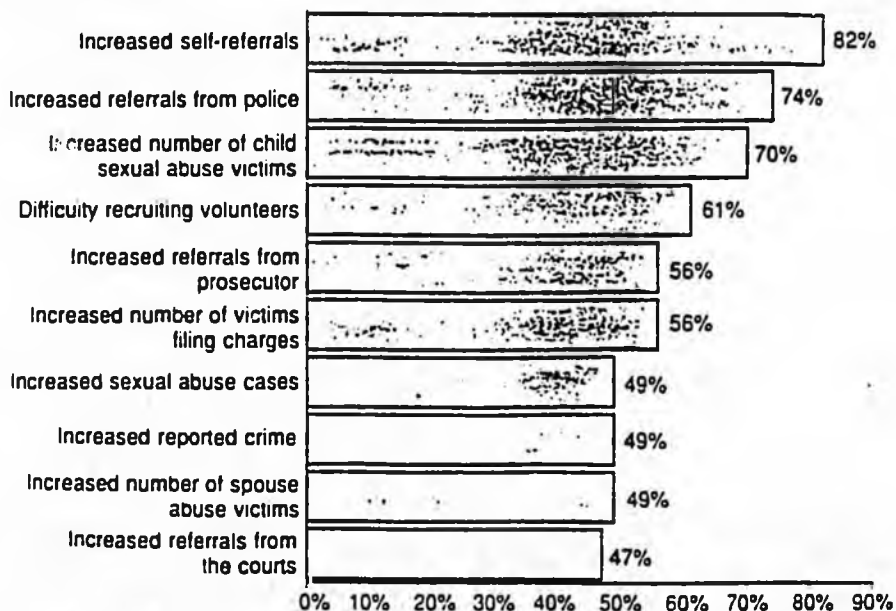
Seventy percent of the respondents report that increases in child sexual abuse victims have contributed to the rise. A median number of three persons receive services in connection with each case of child abuse or child sexual assault.

Asked to list successful measures they have taken to manage their workloads, many respondents emphasized specialized staff training and services, for example, conducting crime-specific advocacy training, hiring posttrial advocates, and adding counselors who specialize in working with victims of violent crimes and sexual assault.

Victim assistance directors were asked to indicate the degree in nine different areas to which staff training needed improvement. More than half the respondents report a need for training on each of the following five topics:

- Legal issues and statutory updates (66 percent).
- Stress management (61 percent).
- Midlevel supervision (61 percent).

Exhibit 8  
Factors contributing to increased workload



**Exhibit 9  
Victim notification needs**

	Percent reporting a need for improvement in procedures (%)
Charging and plea-bargaining decisions	89
Parole hearings, decisions, or dates	89
Bail decisions	86
Court dates and schedule changes	81
Status of police investigation	79

- Fundraising and proposal writing (60 percent).
- Advocacy and negotiation skills (58 percent).

Thirty-nine percent of the respondents report a need for improved training on crisis intervention and counseling, and one-third cite a need to improve staff knowledge of the local criminal justice system. The majority of agencies (67 percent) indicate they are satisfied with their access to information about model programs and professional contacts. Many respondents who report improvements in staff training mention increasing the number of training sessions and conference opportunities for staff, and holding cross-training sessions with other agencies.

The survey of independent programs included a series of questions to determine how criminal justice and social service system policies and procedures affected victims' needs for information, protection, and participation. Respondents were also asked to identify problems regarding other professionals' understanding of victims' needs.

Clearly, the survey respondents feel that many of victims' needs for information and notification are not being met. The two areas cited as

needing the most improvement were (1) notification about charging and plea-bargaining decisions, and (2) notification of parole hearings, decisions, and dates. Exhibit 9 shows that more than three-fourths of the respondents believe there need to be more effective procedures for ensuring notification of important dates, decisions, and case status.

In an effort to improve notification, several agencies report regular, or even daily, communication with the prosecutor's victim-witness unit. They also report benefits to victims that have resulted when prosecutors use computerized case-tracking systems.

Agency directors were also asked about the need to improve measures to protect victims from threats, harassment, and revictimization. As shown in Exhibit 10, three of the four greatest needs for protection relate to domestic violence.

Almost as important to the respondents are the needs for secure court waiting

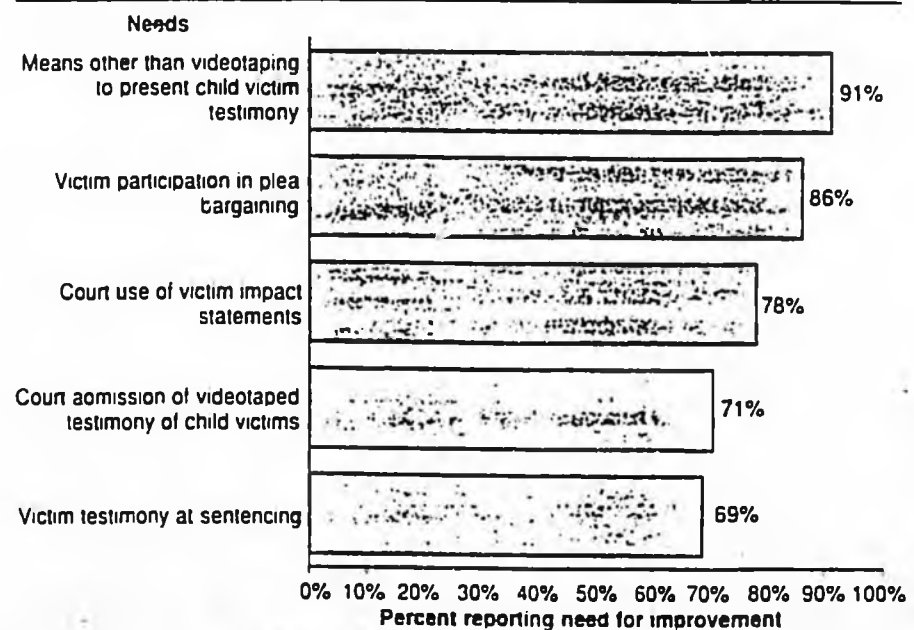
**Exhibit 10  
Victim protection needs**

	Percent reporting a need for improvement in procedures (%)
Increased arrests for domestic assault	88
Investigations of threats and harassment by suspects	83
Police system to track and record domestic assaults	80
Procedures to remove batterers from the home	76

areas for victims (cited by 72 percent) and a system to check criminal records of people who work with children (60 percent). Forty-four percent still see a need in their communities for measures to keep domestic violence victims' locations confidential once they leave their homes.

The respondents cited several additional measures they have taken to

**Exhibit 11  
Victim participation in the criminal justice process**



## Victim assistance programs report increased workloads

Exhibit 12  
Improvements needed in professional response to victim needs

	Percent identifying need for improvement (%)
<b>Training for mental health professionals in:</b>	
Assisting spouse abuse victims	61
Treating spouse abusers	72
Handling victim trauma	72
<b>Hospital personnel handling of:</b>	
Rape/sexual assault victims	53
Spouse abuse victims	68
Families of homicide victims	70
Other assault victims	71
<b>Law enforcement training in victim crisis reactions</b>	<b>84</b>
<b>Social service agency sensitivity to victims</b>	<b>86</b>

protect victims from further harm, including the following:

- "Our early outreach project involves daily contact with the police to identify new victims."
- "We provide police training on the spouse abuse law and police coordination with the clerk's office."
- "We hold classes once a month for police officers."

Victim advocates also stress the need for increased victim participation in the decisionmaking processes of courts and prosecutors. According to the survey respondents, developing appropriate ways to handle child victim testimony is the most critical issue related to victim participation. Additional needs for increased victim participation are shown in Exhibit 11.

Training for victims in becoming better witnesses, often in cooperation with the prosecutor's office, was one of the most frequently cited projects to improve victim participation. Related activities

included working with the prosecutor to develop a victim-witness handbook, and meeting regularly with the county attorney to discuss information flow. One agency provided a unique service: Preparing restitution evaluations for the municipal court on request.

A lack of understanding of victims' needs by other professionals can also present obstacles to providing needed services. The majority of victim assistance program directors indicate that improvement is still needed in how victims are treated by mental health professionals, social service agencies, law enforcement, and hospital personnel. Exhibit 12 shows some areas in which the respondents report the need for improvement in how other professionals respond to victim needs.

Overall, agency directors believe professionals need to make fundamental changes in their beliefs about crime victims. One respondent expressed the view that "mental health centers need to make some major changes in their intake procedures and their theoretical basis for treatment of clients prior to

any training." Another emphasized the need for professionals to "recognize that the vast majority of crime victims are not, nor do they become, mentally ill as the result of victimization."

Notably, the hospitals' handling of rape and sexual assault victims is viewed more favorably by the respondents than is the handling of any other kind of victimization by any type of professional. These encouraging results reflect the success of more than a decade of effort by victim advocates.

To increase the public's and other professionals' understanding of victims' needs, agency directors emphasize three techniques they consider successful:

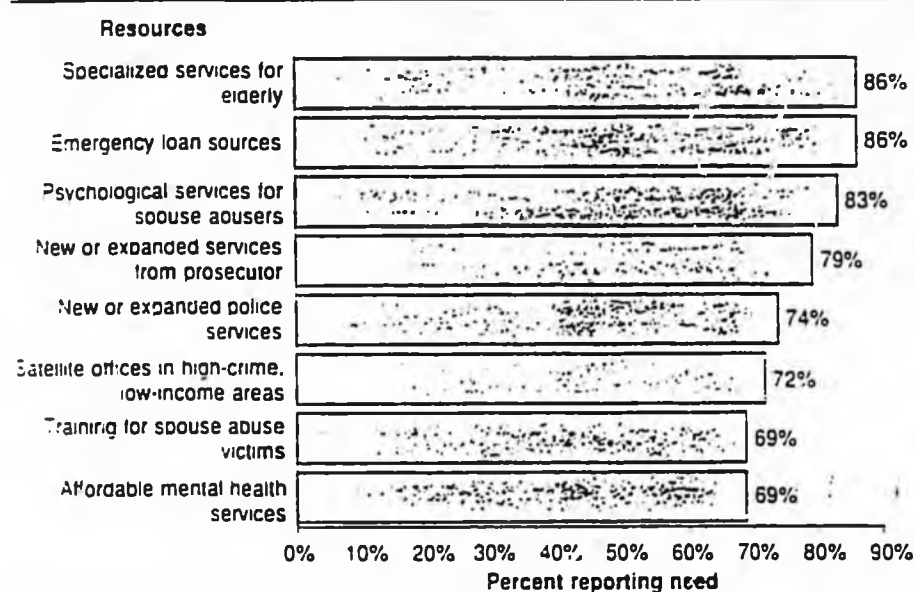
- Providing professional training to hospital personnel, law enforcement officers, mental health workers, and social services providers.
- Assisting victims with preparing impact statements.
- Making community presentations and sponsoring media campaigns.

Independent program administrators were asked to rate their communities' needs for 12 different support services for victims. The community resources rated as most needed are listed in Exhibit 13.

To address shortages of community resources for victims, respondents mentioned the following as useful approaches:

- Forming community task forces and coordinating councils, including specialized groups, e.g., a child sexual assault core team, a domestic violence task force, and a county victim-witness policy board.
- Using decentralized approaches, e.g., creating satellite offices; and using "a decentralized model of community groups running neighborhood-based victim projects with support from the DA's office."

Exhibit 13  
Community resources needed for victims



- Developing a victim fund.
- Advocating to establish a police sex crimes unit.

The questionnaire results were sharply divided regarding the need for less restrictive eligibility requirements for State victim compensation. Thirty-seven percent of the respondents do not consider this important, while 63 percent report it as a significant need. Comments on State compensation also mentioned the needs for larger rewards and reduced processing time, and the desire to include hit-and-run and drunk driving victims among those eligible for compensation.

### Summary

Crime victims need a wide variety of services in the aftermath of trauma and throughout the criminal justice process. This survey included only two types of programs—those sponsored by law enforcement agencies (police, sheriffs, and prosecutors); and independent, multi-agency victim assistance agencies.

Victims of violent personal injury crimes and property crimes are served by both types of programs.

The survey results do not include the views of those who administer specialized programs such as battered women's shelters and rape victim companion programs. Not surprisingly, however, increased domestic violence arrests and increased reporting of child sexual abuse have resulted in special challenges to the programs that were surveyed.

Several directors of independent agencies emphasized the need to serve all victims. Nevertheless, most independent programs—like those sponsored by law enforcement agencies—are focusing their limited resources on victims of rape, domestic violence, assault, child abuse, and child sexual assault.

At the end of the survey, independent agencies were asked to list the most pressing problems in the criminal justice system that prevent them from serving victims adequately. The issues

most frequently cited (by approximately one-third of the respondents) are:

- Lack of referrals, particularly from the police. Considerable progress in obtaining police referrals was noted earlier; however, continued work in this area is reported as a significant need.
- Territoriality and poor interagency coordination.
- Lack of public and other agencies' awareness of victims' needs.

Different problems emerge as a primary concern 3 years down the road:

- Funding.
- Jail and prison crowding.

A number of agencies see their efforts to improve their credibility and communication with law enforcement agencies as resulting in increased referrals. Ten agencies list lack of referrals as a current problem, compared to only three who see this problem continuing 3 years from now.

Increased media attention and recognition in the community has also resulted in increased program utilization. However, while many program directors are encouraged by the results of their outreach efforts, they also anticipate "the inability of the criminal justice system to meet increased levels of victim participation."

Although victim assistance program directors express considerable frustration, their responses to questions on successful projects indicate significant progress over the years in fostering a greater public and professional awareness of victims' needs.

### Notes

1. The first National Assessment Program survey was conducted for NIJ in 1983 by Abt Associates, Inc., Cambridge, Massachusetts. The 1983 survey did not include questions specifically about victim assistance.

## Victim assistance programs report increased workloads

2. The National Organization for Victim Assistance (NOVA) helped construct the questionnaire, reviewed the draft, and provided the consultants with access to its mailing lists to develop the survey sample. In addition, several NOVA board members who also administer victim assistance programs pretested the questionnaire and provided valuable comments on how to

improve the final product. The National Coalition Against Domestic Violence also provided expert advice in developing the questionnaire.

*Points of view or opinions expressed in this publication are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.*

*The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program Offices and Bureaus: National Institute of Justice, Bureau of Justice Statistics, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime.*

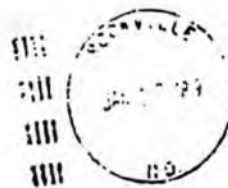
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U.S. Department of Justice  
National Institute of Justice

Washington, D.C. 20531

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ENGAX029  
ARTHUR B. HAMILTON  
COUNCIL ON DOMESTIC VIOLENCE &  
SEXUAL ASSAULT  
DEPT. OF JUSTICE  
BUREAU OF JUVENILE JUSTICE  
AK 79011-

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An act relating to victims of crime, claims by victims of crime"  
Sponsor: Donley, Gruenberg, et al  
Requestor: Judiciary

Agency Affected: Public Safety  
BRU: Council on Domestic Violence and Sexual Assault  
Component: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		66.6	66.6	66.6	66.6	66.6
TRAVEL		9.0	15.0	18.0	18.0	18.0
CONTRACTUAL		35.0	53.0	71.0	89.0	95.0
SUPPLIES		1.0	1.0	1.0	1.0	1.0
EQUIPMENT		6.4				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		118.0	135.6	156.6	174.6	180.6

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		118.0	135.6	156.6	174.6	180.6
FEDERAL FUNDS						
OTHER						
TOTAL		118.0	135.6	156.6	174.6	180.6

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME		1	1	1	1	1
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Section 19 establishes a victim assistance program in the Department of Public Safety. This program is to consist of a victim assistance supervisor and volunteers.

The first year will be devoted to developing and establishing the victim assistance program. Volunteers are to be recruited for five Superior Courts in the first year: Anchorage, Juneau, Nome, Fairbanks and Bethel. Personnel consists of an Associate Coordinator (Range 18, at 52.8) and a half-time Clerk/Typist III (Range 8, at 13.8). Travel funds are for the Victim Assistance Supervisor to make two trips to each site. Contractual

Prepared by: Barbara Miklos  
Division: Council on Domestic Violence and Sexual Assault

Phone: 465-4356  
Date: 1/12/89

Approved by Commissioner: Arthur English  
Agency: Department of Public Safety

Date: 1-12-89

received  
1-13-89

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includes 30.0 for training of volunteers. Training will be on-site at each of the five sites. Other contractual costs are telephone, printing of brochures and other materials, etc. (5.0). Supply money is for the purchase of program and office supplies. Equipment funds will be used to purchase a computer to keep track of volunteers and word processing.

In future years, training costs will increase as new sites are added. There are fifteen communities with a Superior and/or District Court. It is anticipated that three sites could be added each year. Training is projected at 6.0 per site. Also, staff travel costs will increase as sites increase.

*old note*

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: "An Act relating to victims of crime."  
Sponsor: Reps. Donley, Gruenberg  
Requestor: \_\_\_\_\_

Agency Affected: Department of Corrections  
BRU: Administration & Support  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	109.6	109.6	109.6	109.6	109.6	109.6
TRAVEL	3.4	3.4	3.4	3.4	3.4	3.4
CONTRACTUAL	6.3	6.3	6.3	6.3	6.3	6.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLABS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>119.3</b>	<b>119.3</b>	<b>119.3</b>	<b>119.3</b>	<b>119.3</b>	<b>119.3</b>

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	119.3	119.3	119.3	119.3	119.3	119.3
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>119.3</b>	<b>119.3</b>	<b>119.3</b>	<b>119.3</b>	<b>119.3</b>	<b>119.3</b>

**POSITIONS:**

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

See Attached.

*Susan E. Knighton*  
Susan E. Knighton, Director

Prepared by: \_\_\_\_\_  
Division: *Administrative Services*

Phone: 465-3376  
Date: 1-18-89

Approved by Commissioner: \_\_\_\_\_  
Agency: Corrections

Date: 1-18-89

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

## FISCAL NOTE

Page 2

The Department of Corrections would experience fiscal impact due to longer parole hearings that would be necessary. The increases are in per diem and daily fees paid to board members and overtime for correctional officers providing security. (Sec. 13)

Additional costs will be required to accomplish the service of process on prisoners (Sec. 2) and to accomplish notifying victims of motions to reduce sentences (Sec. 8). This fiscal note proposes to set up a centralized victims' right unit consisting of two experienced probation officers. (\$54.0 X 2 = \$108.0)

Sec. 13. Per Diem	+ 3.4
Board Member Compensation	+ 6.3
Correctional Officer OT	+ <u>1.6</u>
	\$ 11.3
Sec. 2 & Sec. 8. 2 Probation Officers	\$108.0

## FISCAL NOTE

**REQUEST:**

Revision Date: February 16, 1989 Agency Affected: Department of Law  
 Title: "An Act relating to the rights, entitlements... due to the victims of crimes..." BRU: Prosecution  
 Sponsor: House Judiciary Components: Third Judicial District  
 Requestor: House Judiciary Fourth Judicial District

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		144.4	144.4	144.4	144.4	144.4
TRAVEL		5.6	7.0	9.1	12.6	9.8
CONTRACTUAL		46.6	47.5	55.9	69.3	59.3
SUPPLIES		10.0	7.6	8.2	8.8	8.8
EQUIPMENT		31.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>238.1</b>	<b>206.5</b>	<b>217.6</b>	<b>235.1</b>	<b>222.3</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	238.1	206.5	217.6	235.1	222.3
FEDERAL FUNDS						
OTHER						
TOTAL						

**POSITIONS:**

FULL-TIME	-0-	4.0	4.0	4.0	4.0	4.0
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Please see the attached analysis.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: February 16, 1989  
 Approved by Commissioner: *Richard I. Pegues / FOR* Douglas B. Bailly, Atty. Gen. Date: February 16, 1989  
 Agency: Department of Law

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# CONTINUATION of FISCAL NOTE ANALYSIS

No. 1

For Bill/Resolution No. CSHB 36(Jud)

CSHB 36 (JUD)  
HOUSE 2/17/89

The committee substitute for HB 36 makes changes to the bill, requiring revision of the Department of Law's fiscal note, which was originally submitted on November 10, 1988.

Section 9 of the bill adds a new subsection to AS 12.61 that requires that upon request of the victim of a felony, or a domestic violence assault, the prosecuting attorney shall: (1) confer with the victim about the victim's testimony before the trial of the defendant; (2) give prompt actual notice to the victim of the defendant's conviction and the crimes of which the defendant was convicted, including advising the victim of his or her right to make a written or oral statement for use in preparation of the defendant's presentence report, and including advising the victim of his or her right to appear personally at the defendant's sentencing hearing to present a written or oral statement, and advising of the address and telephone number of the office that will prepare the presentence report, advising of the time and place of the sentencing proceeding, and advising of the types of information that a victim may include in a statement a victim provides for a presentence report or a sentencing hearing.

This section would also require that the prosecuting attorney notify the victim in writing of the final disposition of the case within 30 days after final disposition of the case. It appears that notification of final disposition would be required at both the trial and appellate levels. Similarly, a preceding section grants the right to victims to be informed by the prosecuting attorney at any time after the defendant's conviction of the record of all the defendant's convictions.

Currently, about 18,000 new criminal matters are referred to the department's criminal division each year. It is estimated that of this number, about 2,000 are felony cases covered by this bill. Furthermore, many felony cases have multiple victims. Although the department does not keep separate statistics for misdemeanor domestic violence assaults, it is believed that there are about 300 of these offenses, each year. Consequently, this bill has the potential for generating a substantial body of new work at all of the department's prosecution offices. Most of this required work would be handled by paralegals and legal secretaries. The requirement for prosecutors to confer with victims before the trial of the defendant in felony and domestic violence assault cases, is generally already being met.

The majority of the new work, however, will occur at Anchorage and Fairbanks because of the higher number of covered crimes at those locations. It will therefore be necessary to add a legal secretary at both Anchorage and Fairbanks to handle the additional workload that will be caused by this section of the bill, at a start up cost of \$95,300, and recurring annual costs of \$80,600, thereafter.

Section 24 of the bill would amend AS 44.23.020(b) to establish and maintain an assistance program, within the Department of

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 36(Jud)

No.  
CSHB 36 (JUD)  
HOUSE 2/17/89

Law, to ensure that crime victims receive information about the rights, entitlements, and services that are provided by law. It is anticipated that the department would employ a full-time senior paraprofessional, together with a full-time clerk typist, to develop and operate a citizen volunteer victim assistance program. The paraprofessional would be responsible for recruiting, organizing, and guiding volunteers throughout the state to provide information and assistance to victims of crimes.

During the first year, staff work will be devoted to developing and establishing the program at five locations having superior courts. Initially, volunteers will be recruited and trained at Anchorage, Bethel, Fairbanks, Juneau and Nome. Each year thereafter, three or more new sites will be added, until volunteer groups are established in all 15 locations where felony trials are regularly held. Fiscal note costs for the volunteer program include 5.0 for start up training at each location, except for Anchorage where 10.0 will be required. Annual recurrent training will cost 2.5 for each site. Travel costs include two onsite visitations by the victim assistance coordinator during the first year's operation at each site, dropping to one onsite visitation per location, after the first year. Other costs include printing, mailing, communications, and word processing. This is an important element because of the necessity to keep volunteers fully updated and informed. Costs will be about 0.5 per location. In addition to the efforts the department makes, the success or failure of the volunteer program will be determined, in large part, by the efforts of individual volunteers. Although the department cannot assure the success of a volunteer program, it will certainly attempt to accomplish this goal. It should also be pointed out that the state will be financially liable for any claims that result from the operation of a state sponsored volunteer assistance program. Lastly, the estimated annual operating cost for the volunteer assistance program will be \$142,800.

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. \_\_\_\_\_

No. 1  
CSHB 36 (JUD)  
HOUSE 2/17/89

## Fiscal Summary - CSHB 36

	<u>Prosecutor Responsibilities</u>		<u>Volunteer Programs</u>		<u>TOTAL</u>
	<u>Leg Sec I(Anc)</u>	<u>Leg Sec I(Fai)</u>	<u>Assoc Atty. I(Anc)</u>	<u>Clerk Typist(Anc)</u>	
Per Svcs	32.3	34.2	48.0	29.9	144.4
Travel	-0-	-0-	5.6	-0-	5.6
Contractual	4.1	4.1	35.1	3.3	46.6
Supplies	1.8	1.8	3.7	2.7	10.0
Equipment	8.5	8.5	6.0	8.5	31.5
<b>TOTAL</b>	<b>46.7</b>	<b>48.6</b>	<b>98.4</b>	<b>44.4</b>	<b>238.1</b>

Position Title <b>Legal Secretary I</b>		No. of Positions <b>1</b>	Range/Step <b>10B</b>	Desig. Unit <b>CCU</b>
Time Status <b>PPT</b>	Staff Month <b>12</b>	Location <b>Anchorage</b>		Election District <b>8/9/10/11/12/13</b>
Type of Expenditure		Justification		
1	2	3		
Salary	22,020	<p>This full-time position is needed to provide for the victim notification and liaison requirements of the proposed victims' rights bill. The granting of rights to victims to be informed of the dates of all criminal proceedings involving the defendant relating to the case in which the victim is involved, to provide oral and written statements in respect to presentence reports, and notice of final disposition in several thousand criminal trials, will cause a substantial additional workload for the state's prosecution support staff.</p> <p>Allocation to the Legal Secretary I class is recommended because of the large amount of written notice to be handled, and the need to provide accurate, timely case scheduling and victim's rights information to victims.</p>		
Benefits	10,256			
Premium Pay				
Other				
<b>Total Personal Services</b>	<b>32,276</b>			
Travel	-0-			
Contractual	4,100			
Commodities	1,300			
Equipment	8,500			
Other				
<b>Total Cost</b>	<b>46,676</b>			
Funding Source for Total Cost				
Federal Receipts	1002			
Q. P. Match	1003			
General Fund	1004	46,676		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For  
New Position**

Agency Department of Law  
 DRU Prosecution  
 Component Third Judicial District

Page \_\_\_\_\_  
 Revised Date \_\_\_\_\_

**FY 90**

No.  
 CSHB36(JUD  
 HOUSE2/17/:

Position Title <b>Legal Secretary I</b>		No. of Positions <b>1</b>	Range/Step <b>10B</b>	Org. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Fairbanks</b>		Election District <b>19/20A/21</b>
Type of Expenditure		Justification		
		This full-time position is needed to provide for the victim notification and liaison requirements of the proposed victims' rights bill. The granting of rights to victims to be informed of the dates of all criminal proceedings involving the defendant relating to the case in which the victim is involved, to provide oral and written statements in respect to presentence reports, and notice of final disposition in several thousand criminal trials, will cause a substantial additional workload for the state's prosecution support staff.		
Amount		Allocation to the Legal Secretary I class is recommended because of the large amount of written notice to be handled, and the need to provide accurate, timely case scheduling and victim's rights information to victims.		
1	2	3		
Salary	23,628			
Benefits	10,615			
Premium Pay				
Other				
Total Personal Services		34,243		
Travel		-0-		
Contractual		4,100		
Commodities		1,800		
Equipment		8,500		
Other				
Total Cost		48,643		
Funding Source for Total Cost				
Federal Receipts	1002			
Q. P. Match	1003			
General Fund	1004	48,643		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For  
New Position**

Agency Department of Law  
 DRU Prosecution  
 Component Fourth Judicial District.

Page \_\_\_\_\_  
 Revised Date \_\_\_\_\_

**FY 90**

No. 1  
 CSHB36(JUD  
 HOUSE2/17/90

Position Title <b>Associate Attorney I</b>		No. of Positions <b>1</b>	Range/Step <b>17A</b>	Barg. Unit <b>PY</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Anchorage</b>		Election District <b>8/9/10/11/12/13</b>
Type of Expenditure		Amount		
1		2		3
Salary		34,920		
Benefits		13,045		
Premium Pay				
Other				
<b>Total Personal Services</b>				<b>47,965</b>
Travel				5,600
Contractual				35,100
Commodities				3,700
Equipment				6,000
Other				
<b>Total Cost</b>				<b>98,365</b>
Funding Source for Total Cost				
Federal Receipts 1002				
O. P. Match 1003				
General Fund 1004				98,365
I-A Receipts 1006				
CIP Receipts 1061				
Other				
<b>Justification</b> This senior paraprofessional position is needed to coordinate and guide victim assistance volunteers throughout the state. Starting with five locations in FY 1990, the position will be responsible for recruiting volunteers who will provide information and assistance to victims of crime. The position will be responsible for establishing and developing the program on a statewide basis. Volunteer groups will eventually be located in 15 communities. The position will develop and maintain operating manuals and victims' rights information brochures and pamphlets.				

**Request For  
New Position**

Agency Department of Law  
 BRU Prosecution  
 Component Third Judicial District.

Page  
Revised Date

**FY 90**

Position Title Clerk Typist III		No. of Positions 1	Range/Step 8B	Derg. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District 8/9/10/11/12/13
Type of Expenditure		Amount		
1	2	3		
Salary	20,136			
Benefits	9,768			
Premium Pay				
Other				
Total Personal Services		29,904		
Travel		-0-		
Contractual		3,300		
Commodities		2,700		
Equipment		8,500		
Other				
Total Cost		44,404		
Funding Source for Total Cost				
Federal Receipts	1002			
G. P. Match	1003			
General Fund	1004	44,404		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Justification**  
This position is needed to handle typing, filing and communications for the volunteer victim assistance coordinator and the volunteers at various volunteer sites throughout the state. Timely updating and transmittal of operating policy, and training guides is an ongoing process, which will be very important to the operation of a volunteer program. This position will be responsible for all of the clerical tasks associated with the program.

**Request For  
New Position**

Agency Department of Law  
DRU Prosecution  
Component Third Judicial District

Page \_\_\_\_\_  
Revised Date \_\_\_\_\_

**FY 90**

No. 1  
CSHB 36 (JUD)  
HOUSE 2/17/88