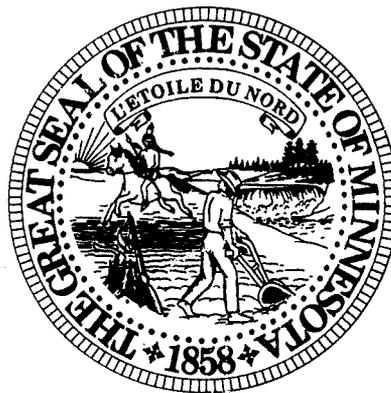


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**GOVERNOR'S
AND
ATTORNEY GENERAL'S
CRIME VICTIMS
TASK FORCE**



FINAL REPORT

APRIL 11, 1985

MINNESOTA
GOVERNOR'S/ATTORNEY GENERAL'S
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FINAL REPORT

STATEMENT FROM THE CHAIR

In April, 1984, Rudy Perpich, Governor, and Hubert H. Humphrey, III, Attorney General, created the Crime Victims Task Force. The Task Force consisted of individuals representing a broad range of interest and experience with victim's services. The Task Force's mandate was to review existing services to victims of crime, identify needs, and make recommendations on how to address those needs. The Task Force held a series of seven public hearings throughout the state, from September through December, 1984. In addition, it solicited information about existing services from over 900 individuals and organizations, ranging from criminal justice professionals to members of the business community, many of whom responded.

The result of those efforts is contained in the attached report. The Task Force attempted to set forth the needs and problems which were identified and raised during the course of the public hearings. Policy statements on the appropriate course of action relating to the needs and problems raised by victims were discussed to facilitate a consensus document. As a result, the Task Force was able to identify the primary concerns on the minds of victims in Minnesota.

Following this listing of victim's needs are the major recommendations of the Task Force. Included is a proposal to "institutionalize and coordinate" victims' services within the executive branch of state government. The Task Force also addressed other, specific recommendations. Finally, the Task Force also identified a series of concerns which it noted as needing further study and review.

In identifying needs and problems it was recognized that the State of Minnesota has made significant efforts in recent years to address victims' needs. For instance, in 1974, the Crime Victims Reparation Board was established. Three crime victim crisis centers were established in 1977. In 1983, the Legislature passed a Victims' Bill of Rights. This act provides notice of plea arrangements and an opportunity for victims to express concerns at the time of sentencing. It also provides victims with notification rights concerning the release of inmates from incarceration. This legislation extends the ability of courts to provide restitution at time of sentencing. In many instances the impact of this relatively new legislation is just beginning to be felt. As such, a number of the concerns raised by victims are already being addressed by these recent legislative enactments.

When compared nationally, Minnesota occupies a position in the vanguard of victim/witness rights reform. Nevertheless, we should never fear self-examination. We should always strive to make what

we have better. This Task Force has approached its work with that understanding. Although many things are being done right, the hope is to make what we have function better. Because of their background, Task Force members brought different perspectives to this enterprise. Yet, each recognized the need to insure that victims are not re-victimized by the system which is supposed to serve them.

The Task Force members agreed that the maintenance of a healthy, functioning criminal justice system is essential to the workings of a free and democratic society. Victims are essential, but often non-voluntary, participants in the criminal justice system. They did not ask to be victims. They are usually thrust into the system by circumstances not of their choosing. Yet the system cannot function without their cooperation. If victims refuse to cooperate as witnesses then those who commit crimes would go unpunished and the safety and order of society would be severely jeopardized.

Victims seek to become more involved in the criminal justice system, but in responding to that need we must be clear that we are not seeking just to placate them. Rather, it is important to recognize the fact that they make a valuable contribution to the working and order of the system. Victims must be viewed as more than mere "carriers of evidence." We must take every possible step to assure a greater sensitivity to their needs while working to limit the pain of their losses.

Legislative efforts supporting restitution, funding of battered women shelters, sexual assault services, crime victim crisis centers and the workings of a crime victims' reparations board tell us that we as a state are actively working to address victims' needs. The recommendations of this Task Force, if enacted, should help to substantially improve the overall delivery of victims' services.

Addressing victims' needs should not be at the expense of the criminal justice system or its components, but rather serves to enhance the system. Victims' rights and coordination of victims' assistance services have long been overdue. However, they need not be achieved at the expense of other components of the system such as basic constitutional rights afforded to those accused of crimes.

I am hopeful that the hard work and efforts of this Task Force will result in positive steps being taken to insure that Minnesota continues its role as a leader in addressing the plight of crime victims in this state.

Dr. William Kosiak
Chair

I. IDENTIFICATION OF NEEDS AND PROBLEMS

The following is a listing of the needs of Minnesota's crime victims and problems they face which were identified by the Task Force. This list is not all encompassing, but it does focus on the major observations made by the Task Force members.^{1/}

A. The Victim in the Criminal Justice System:

1. The monitoring and enforcement of the Victims Rights Act is necessary.
2. The treatment of crime victims by the criminal justice system and services available to crime victims must be evaluated on a regular, ongoing basis.
3. Victims find the criminal justice system to be very complicated. This is true even under the best of circumstances, such as in those instances where there is knowledge of crime victim centers, victim/witness programs, battered women programs or sexual assault programs.
4. Victims are often not notified or informed about the status of "their" case.
5. There is a need to reevaluate the role of the victim in the system from the very onset of the criminal proceeding, including bail and charging decisions.
6. The status of victims representatives should be elevated. Victims often need their support in the court process.
7. There is a need to extend the coverage of the Victims Bill of Rights to cover D.W.I. cases which have resulted in personal injury.
8. The criminal justice system needs to be more responsive in protecting victims from intimidation.

B. Crime Victim Services:

9. Victims services are inadequately funded. Without exception the providers of services, specifically sexual assault and battered women's programs, as well as the crime victim centers, urged the Task Force to seek

^{1/} The numerical order has no relation to any sort of ranking of victims needs.

improved sources of funding for their programs. The demand for the programs has been growing faster than their funding. There is insufficient funding for new projects or expanding into new geographic areas.

10. Victims services are distributed unevenly, geographically. Some areas have minimal amount of victim services, while other areas have none. The non-metropolitan areas seem to be less well served and victims are less aware of what services are available.
11. There are few, if any, places for those who suffer from post traumatic stress caused by crime to go in order to have their mental health needs addressed.
12. There is a need to find additional sources of funding to help crime victims.

C. Crime Victim Reparations:

13. The Crime Victims Reparations Board is inadequately funded. Currently, the Board's appropriation runs out with three months remaining in the fiscal year.
14. There is a lack of public awareness of the Crime Victims Reparations Board's existence and/or function. The lack of sufficient funding for compensation awards and staffing reduces the emphasis given to public awareness. There needs to be a greatly expanded dissemination of information regarding the Crime Victims Reparations Board, especially in out-state areas where most victims and even service providers were unaware of its existence.
15. The Crime Victims Reparations Board's membership, which currently consists of a lawyer, a doctor, and a sheriff, is too small. A larger, more diverse membership may enhance its responsiveness to the needs of victims.
16. There is a need for re-evaluation of several features of the reparations law, specifically:
 - a. the \$100 deductible provisions;
 - b. the motor vehicle exclusion;
 - c. the household and relative exclusions;
 - d. the \$25,000 maximum claim limitation;
 - e. the property loss exclusion;

- f. the definition of a victim;
- g. the ease of application, including the forms used and the notarization requirement;
- h. the reinvestigation of the victimization; and
- i. the requirements of application within one year of the offense and reporting of the offense within five days in cases of domestic child abuse.

D. Child Victims, Sexual Assault Victims and Victims of Domestic Abuse:

- 17. There is a need for reevaluation of the role and handling of the child victims/witnesses by the criminal justice system.
- 18. There is a need for transition housing for battered women and their children, who leave their home for shelter from physical and mental abuse.
- 19. Sexual assault and battered women programs should remain in the Department of Corrections.
- 20. There is a need for mandatory arrest upon probable cause in domestic abuse situations as defined by Minn. Stat. § 518B.01, Subd. 2(a) and (b).
- 21. There is a need to better educate the courts and police on the following protection concerns, especially in rural areas:
 - a. the safety and welfare rights of abused people, typically women and children;
 - b. the right of children to be protected. This should take precedence over parental property-based rights of access when considering visitation arrangements;
 - c. indications of prior physical and/or sexual abuse to a child or spouse should be taken as serious indications of consistent future behavior when considering custody arrangements; and
 - d. the child's developmental needs. These should also take precedence over other considerations.

E. Minority Victims:

22. There is a need for better representation of minorities in the criminal justice system and victim service organizations.
23. The criminal justice system is perceived as a male oriented and male dominated system, and women victims often feel a great sense of gender discrimination.
24. The training of law enforcement officials needs to include sensitivity training in dealing with crime victims, including those of minority groups.

F. Miscellaneous:

25. There is a need for public education relating to the Minnesota Sentencing Guidelines.
26. There is a need for public education relating to plea negotiations.
27. There is a need to assure victim/witnesses, and in cases of minors, their guardian, that they will be compensated by employers when forced to miss work for participation in the court system.
28. There is a need for separate waiting rooms for victims/witnesses and offenders in courthouses.

II. MAJOR RECOMMENDATIONS.

- A. A Crime Victims/Witness Advisory Board should be created in the Office of the Attorney General. This Board's membership should include victims, victim assistance representatives, legislators, and members of the criminal justice system. This Board would review on a regular basis the treatment of victims by the criminal justice system and the need and availability of services to victims. It would advocate changes where necessary and monitor all victims legislation, whether state or federal. In addition, it will encourage and participate in the training of those in the criminal justice system and it will serve in an outreach capacity for victims. The Board would advise an Executive Director who would be in charge of the supervision and administration of the following:
1. Crime Victim Ombudsman;
 2. Crime Victims Reparations Board; and
 3. Crime Victims Centers.
- B. Recommendations Concerning the Crime Victims Reparations Board:
1. Funding should be increased for the Crime Victims Reparations Board.
 2. The membership of the Crime Victims Reparations Board should be expanded from its current number of three to a seven member board, with a more diverse membership which would include crime victims.
 3. If the Crime Victim/Witness Advisory Board is created, the membership of the Crime Victims Reparations Board should be enlarged to include at least one victim.
 4. The Crime Victims Reparations Board should be given more specific direction on how it is to provide information to law enforcement, and through them to crime victims, about the availability of reparations.

III. FURTHER RECOMMENDATIONS.

- A. Victims should be given the right of allocution at sentencing. The victim should be allowed to speak on the record at sentencing.
- B. There should be more inter-disciplinary training in how to deal with crime victims and their needs for law enforcement officers, members of the criminal court system, and those in social services.
- C. The battered women and sexual assault programs should remain in the Department of Corrections.
- D. Child victims and witnesses should be afforded appropriate protection in the criminal justice system. Standards should be developed for the treatment of children while they are involved in the system.

IV. RECOMMENDED FUNDING SOURCES.

The Task Force recognizes that the needs of crime victims cannot be alleviated without additional funding. Offenders should carry a significant part of this burden.

For the above stated reasons, the money collected in surcharges on criminal fines should be dedicated to assisting crime victims.^{2/}

V. APPENDIX

- A. Areas Worthy of Further Study and Consideration
 - 1. Victims should be given standing in the courtroom and allowed greater participation in criminal cases.
 - 2. Statewide standards for plea negotiation should be considered.
 - 3. Victims should have the right to be present at all court proceedings.
 - 4. Prosecutors should be given the opportunity to argue last in criminal trials.

^{2/} It is important to note that the Federal Victims of Crime Act of 1984 will provide a substantial funding for victims compensation and victim assistance programs.

5. A victim of a violent crime, as defined in Minn. Stat. § 611A.01, should be added to the Minnesota Sentencing Guidelines.
6. Additional funding sources for serving the needs of crime victims should be examined, including:
 - a. a percentage of the money collected in criminal fines;
 - b. a percentage of the proceeds received through the auction of stolen property;
 - c. bond forfeitures; and
 - d. the Federal Victims of Crime Act, which will, in the future, provide money from federal fines and penalty assessments for victim compensation and assistance.

B. Commentary

This section focuses on the needs and problems which provide the basis for the recommendations. It also will comment on specific data concerning certain particular findings.

The first set of needs and problems identified by the Task Force dealt with the treatment of crime victims in the criminal justice system. While the Task Force recognized that Minnesota's 1983 enactment of a victims bill of rights was a major step, it noticed that there is currently no mechanism in place to monitor and enforce these rights. Nor does an entity exist which is responsible for monitoring on a regular, ongoing basis, the treatment of victims by the system or for evaluating what services are available to them.

The Task Force recommends a Crime Victim/Witness Advisory Board be created to fill this void. Such a board would not only provide a monitoring of the criminal justice system and victim services, but would also serve as a panel educated as to the needs of victims and the realities and difficulties of the system, allowing it to provide valuable advice concerning legislation, whether state or federal. Of course, it would also be a source of proposals for change where it found change to be needed. Minnesota would not be the first to establish such a board. Other states have versions of what is proposed, including Massachusetts' Victim/Witness Assistance Board located in the Office of the Massachusetts Attorney General.

Further, the Task Force recommends creation of the position of Crime Victim Ombudsman. The ombudsman would not only be responsible for the investigation of reported violations of victims rights, but also would serve as a central source of information about the system and services available to crime victims and would develop procedures for referral of victims seeking services.

Victims, in general, seek a greater participation in the criminal justice process. An ombudsman at the state level would serve to require the system to respond to the needs and concerns of victims. In response to questions put to them by the Task Force, victims and victim representatives strongly supported the concept of a crime victim ombudsman.

The Task Force found that there was a perception among the public that the Office of the Attorney General had authority broader than which actually exists in law. Support for a more central role in the criminal justice system for the Attorney General's Office was indicated. For this reason, the Task Force recommends that the Crime Victim/Witness Advisory Board and the Crime Victim Ombudsman be located in the Office of the Attorney General.

The Task Force also recommends that the Crime Victim Crisis Centers and the Crime Victims Reparations Board be located in the Attorney General's Office, where both the Attorney General and the Crime Victim/Witness Advisory Board would be able to overlook the delivery of these important services.

The Crime Victim Crisis Centers originated in 1977, when the legislature required the Commissioner of Corrections to establish at least two such centers and to encourage the establishment of further centers as needed. Today, nearly eight years later, there are only three such centers located in Minneapolis, St. Paul, and Austin, serving the pressing needs of all types of crime victims. The Task Force heard testimony which demonstrated the significant utility of and need for these centers in other parts of the state. Clearly, the need for such centers is not limited to three Minnesota cities. By relocating the administration of these centers, the Task Force intends to encourage a more earnest evaluation of the desirability of similar centers in other cities. It must be noted that the current centers are not only funded through the Department of Corrections, but also receive significant, though smaller financial support from other sources, most notably the United Way.

The proposal to relocate the Crime Victims Reparations Board is based on the desire to coordinate the ombudsman and reparations board functions. Moreover, the Task Force understood the basis for the reparations board's current location in the Department of Public Safety to be merely for budgetary reasons. Minnesota's reparations program would be better served by locating it where it will be more closely supervised and monitored. The Task Force believes its location under the Attorney General and a Crime Victim/Witness Advisory Board would lead to a correction of some of its shortcomings. One of these shortcomings is the lack of public awareness about the Reparations Board. The Reparations Board has recognized that only 2 to 3 percent of potentially eligible victims ever even apply for reparations. It reports that its lack of funding and adequate staff, currently consisting of the executive director and a secretary, reduces the emphasis given to public awareness. In addition, the Minnesota reparations law has not been

significantly changed since its original enactment in 1974, though, as noted by the Task Force, there is a need to re-evaluate several of its features. This points to the need to evaluate the reparations law on a regular, ongoing basis.

While relocating the Crime Victims Reparations Board may bring about a greater public awareness and supervision of it, the major obstacle to a more effective program is its lack of adequate funding. This obstacle was recognized by the Task Force. For this reason the Task Force recommends that those who commit crimes should share the burden for victim services, including reparations, through a dedication of the surcharges on criminal fines and penalties to victims programs. These surcharges should be mandated rather than remain discretionary.

The Task Force is also aware that beginning in 1985, Minnesota can qualify for over \$200,000 in federal funding annually for victims compensation. This fund, established by the Federal Victims of Crime Act of 1984, pools money from federal fines and penalty assessments for distribution to the states to be used for compensation to victims and other victim assistance programs. The federal money which will be allocated for victim compensation in 1985 is based on 35% of what each state spent in the past fiscal year on its program. This money alone encourages Minnesota to expand the awareness and eligibility of victims for reparations, bearing in mind that the federal act prohibits using the money to lessen the state's commitment. Indeed, an increase in state allocations will serve to increase the potential for federal money in future years.

The dilemma of inadequate funding extends beyond crime victims reparations. Without exception the providers of victim services, specifically sexual assault and battered women's programs, as well as crime victims centers, urged the Task Force to seek better funding sources. Again, the Task Force recommends changes in the current surcharge as one step on the path to improving the funding to service providers. The Federal Victims of Crime Act will also provide another source of funding for victim assistance programs, based on a per capita formula and the size of the federal fund's pool of criminal fines and penalties. This fund may provide as much as an additional \$988,000 for victim services, with priority given to programs which provide services to victims of sexual assault and domestic violence. This federal victims legislation also prohibits the supplanting of state and local funds with the federal grants, in order that victims services are able to retain their present support while expanding victim services.

The Task Force also discovered that the funding problems cause an uneven distribution of victims services, geographically. This geographic disparity in services is illustrated by the location of crime victim crisis centers in only three cities: Minneapolis, St. Paul, and Austin. Outstate programs are forced to cover broad geographic areas. For instance, battered women's programs are distributed among eleven different geographic regions. Yet, nearly

50% of these programs are located in one region, which essentially consists of the Twin Cities-metropolitan area. Naturally, this distribution of services correlates with population distribution. Yet programs or shelters located in non-metropolitan areas are less accessible to those who need their services.

The Southwest Women's Shelter located in Marshall is an example of how geography makes delivery of services more difficult. This shelter serves an area which covers ten counties in southwestern Minnesota. The result, as put by its co-director, is that it is "stretched to the limit."

A Crime Victim/Witness Advisory Board, if created, would have as an important task of evaluating on an ongoing basis the geographic distribution of victim services. The board would serve other functions, including studying the treatment of child victims and witnesses on a regular basis, looking at the victimization of the elderly, and the treatment of minorities by the criminal justice system.

Minnesota has truly made major strides in recent years in addressing the needs of crime victims. A Crime Victim/Witness Advisory Board, along with a Crime Victim Ombudsman, could keep it on a steady path of progress in this area.

During the course of its public hearings, the Task Force heard numerous complaints from victims who feel the criminal justice system has not responded to their needs. By acting in a positive fashion on the Task Force's recommendations, the legislature will be taking a major step in enhancing public confidence in the criminal justice system. The result will be citizens who have greater confidence in a system which is suppose to facilitate justice and order. When people feel better about the society in which they live, we all benefit. Addressing victims' needs serves not just victims, but society as a whole.