

POLICY POSITION

28. Victims and Witnesses of Crime

Background

Victims and witnesses of crime have always played a vital role in the criminal justice system. The system's effectiveness depends on their cooperation; information supplied by victims and witnesses is often necessary for the apprehension and prosecution of offenders. The criminal justice system, traditionally offender-oriented, has failed to recognize the importance of the role of the victim and witness, ignoring the needs of those who innocently have been harmed physically, psychologically or financially. Instead, emphasis has been directed toward the apprehension, prosecution, punishment and rehabilitation of criminals; the recognition of defendant's rights; and the provision of medical treatment, legal counsel, room and board, and education.

Over the past decade, there has been a strong movement of people and organizations working toward rectifying this imbalance, and working for recognition of the rights of victims and witness and of the importance of their part in the criminal justice process. Victims rights groups and task forces have been formed to study the issue and legislation has been enacted on both the federal and state level.

The Federal Victim and Witnesses Protection Act of 1982 addressed the use of victim impact statements in sentencing for federal crimes, restitution, and prevention of intimidation. More recently, the Victims of Crime Act of 1984 was enacted to provide funding for the compensation of victims of crime. The Act created a fund supplied by fines for federal crimes (federal penalties increased by the Act), forfeited bonds, and the proceeds from contracts for the sale of literary or other rights arising out of the criminal activity (Act also address forfeiture of these proceeds). Fifty percent of the fund is to be disbursed to eligible crime victim compensation programs to be used for victim compensation. The remainder will help fund victim assistance programs. The act also amends the federal parole procedures to allow oral or other statements by the victim concerning financial, social, psychological and emotional harm or loss.

One of the most widely recognized rights of crime victims is that of compensation for harm as a result of the crime. Victim compensation programs have been enacted in over 39 states. Recently, legislatures have made changes to those programs in order to meet the "eligible program" requirements under the 1984 Act.

Other state laws enacted to assist victims and witnesses of crime include:

- Specific authority given to courts to order restitution.
- Forfeiture of profits from contract of sale for depiction of crime ("Son of Sam" laws)
- Increased witness fees.
- Comprehensive Victim/Witness Bill of Rights.

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- **Protection from intimidation.**
- **Notification of victim of proceedings and case disposition.**
- **Use of victim impact statements: in sentencing procedure; in parole release hearings.**
- **Provision of a victim advocate**
- **Expedient return of seized property**
- **Job protection for participation in criminal proceedings.**

States have also recognized the particular needs of certain types of victims and witnesses. For example, some laws mandate stiffer sentences for crimes against the elderly; many states provide increased services to sexual assault victims; alternative methods of obtaining testimony of children are used, and include exclusion of the public from the court room, use of videotape, and use of closed circuit television during trial.

Recommendation

The Southern Legislative Conference commends the federal government for recognizing the importance of crime victims and witnesses to the effectiveness of the criminal justice system by passing the Victims of Crime Act of 1984. The SLC supports continued action by individual states to further respond to the rights and needs of victims and witnesses of crime.

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