

PLEASE HELP ME

A Report on Mendocino County Victim Witness Program

March 16, 2011

Summary

The 2010-2011 Mendocino County Civil Grand Jury (GJ) received a complaint regarding the Victim Witness Assistance Program (VWP). The GJ reviewed the VWP's procedures and concluded that the complaint had no merit because the victim did not complete the program.

The VWP operates under the umbrella and direct supervision of the Mendocino County District Attorney's Office (MCDAO), and is funded through the State, MCDAO, and grants. The VWP provides comprehensive services to victims and witnesses of all types of crime in Mendocino County.

The VWP goals are to reduce trauma and insensitive treatment of victims/witnesses and to assist them in participating in the criminal justice system, while at the same time improving the system's understanding of the victims' needs. The VWP is victim driven, which means the victim must be willing to participate and complete the program.

The VWP staff assists in arranging law enforcement protection for the victim, notification of court dates, counseling referrals, and in filing applications to the California State Victim Compensation Fund.

Method

The GJ interviewed staff from MCDAO, Mendocino County Sheriff's Office (MCSO), VWP, and Project Sanctuary (PS); reviewed budgets, program documents, and the 2008 Victims Bill of Rights, known as *Marsy's Law*.

Background

The California Victim Witness Assistance Program, under Penal Code §13835, was established in the early 1970's and is administered by the Governor's Office of Criminal Justice Planning.

On November 4, 2008, the people of the State of California approved Proposition 9, the Victims' Bill of Rights Act of 2008, known as *Marsy's Law*, named after a female student was killed by her boyfriend in 1983. The justice system failed to notify the family that the defendant was released on bail.

Marsy's Law was opposed by every major newspaper in California, but yet the people passed the measure with a 54% vote, which placed California in the forefront of the National Victim Rights Movement. The law became the most comprehensive

Constitutional Victims' Rights Law in the United States with 16 rights for victims of crime, as defined in the California Constitution, Article I §28.

In 2010, the State of California discontinued funding for the Battered Women's Shelter Program. This represented a 25% loss of revenue for Project Sanctuary, resulting in lay-offs and reduction of services. In 2011, funding was reinstated due to pressure from the public.

Findings – General

1. Current funding for VWP is provided by California Emergency Management Agency (CalEMA), the District Attorney's budget, and various program grants.
2. The VWP serves women, children, men, and elder victims of violent crimes.
3. Non-profit organizations, local law enforcement agencies, and the MCDAO refer victims to the VWP.
4. The MCDAO provides VWP with copies of reports involving victims of violent crimes.
5. The Victim Witness Advocate contacts the victims and informs them of the following services offered by the program:

crisis intervention	emergency assistance	criminal protective order
court escort service	translation/interpreter	victim impact statement
notification of court dates	counseling referrals	transportation to court
advisement of case disposition	orientation to the Criminal Justice System	community resource referrals
property return	employer notification	restitution assistance

6. The VWP is victim driven. Victims should be willing to cooperate with follow-up investigations and the criminal justice process. Not every victim continues to use the VWP services.
7. The VWP has a Memorandum of Understanding (MOU) with the MCDAO, Project Sanctuary, Mendocino County Youth Project, and law enforcement agencies within the County.
8. The VWP staff consists of one Coordinator/Grant Writer, two Assistant II, and four Victim Advocates, two of which are bi-lingual. The program has three vehicles at their disposal, purchased with grant funds and used for victim/witness transportation and staff training. The VWP serves 3500 square miles in Mendocino County.
9. The California Victim Compensation Program (CVCP), under the California Victim Compensation Government Claims Board (CVCGCB) can provide assistance to pay bills and expenses that are the direct result of a violent crime. Victims must meet basic eligibility. The CVCP is the payer of last resort.
10. A VWP Advocate may assist the victim in completing an application to the State Victim Compensation Program, which may provide assistance with emergency relocation, wage loss, medical/dental, funeral/burial, and mental health counseling. Services are based on application approval.

11. The MCDAO notifies the VWP of any changes in case status and disposition, including any changes of court dates and times.
12. The VWP administers the Special Emphasis Victim Assistance (SEVA) Program, serving Native American and Latino victims; program goals are to reduce trauma and insensitive treatment of victims.
13. Historically, the Hopland Band of Pomo Indians has been supportive of the VWP by writing a letter in support of grant applications for Indian Gaming Distribution Funds, when available. The availability of Indian Gaming Distributions Funds has been negatively impacted by the economy.
14. The Victim Witness Protection Program is a separate program, which relocates the victims or witnesses of serious felonies with new identities, and is not administered by the VWP.

Findings - Project Sanctuary

15. Project Sanctuary, Inc. (PS) is a private non-profit organization supported by State and local funds, United Way, and contributions from individuals.
16. PS began in the Fall of 1977, in response to the need for emergency shelter and support for abused women. In the Fall of 1980, a Rape Crisis Service was added to provide emergency response and counseling to survivors of sexual assault. In 1991, PS established an office in Fort Bragg to serve the coastal communities.
17. PS, a mandated reporter of crimes against children, offers services to prevent and lessen the effects of violence against adults and children by providing the following:

24-hour crisis line, collect calls accepted	shelter for women and children
counseling	support groups
paralegal assistance	education, including self-defense classes

18. Budget reductions prevent PS Advocates from escorting clients to court.

Findings – Civil and Criminal Justice Process

19. A domestic violence restraining order is a civil court order, signed by a judge that orders the abuser to stop the abuse or face serious consequences. It offers civil legal protection from domestic violence to both female and male victims. A victim should not rely on a restraining order for protection; they should provide for their own safety.

20. In order to obtain a Domestic Violence Protective Order in California, one of the following must occur to the victim by the perpetrator:

causes or attempts to cause physical injury	sexual assaults	molests, attacks, strikes, batters, or stalks victim
threatens or harasses victim, either in person or through phone calls, emails, etc.	destruction of victim's personal property	disturbing the peace of the victim

21. There are three types of Domestic Violence Restraining Orders:

- Emergency Protective Order, with the approval of the judge, can be issued by the arresting officer in the field; it is good for five business or seven calendar days and gives the victim time to go to court to ask for a domestic violence order,
- Temporary (ex parte) Restraining Order is obtained in court; valid until the court hearing date for the restraining order; at which time the victim can request a *“peaceful contact order.”* The judge could order *peaceful contact* or order the abuser to leave the home and have no contact with the victim,
- Restraining Order After the Hearing: a judge can grant to a victim a restraining order lasting up to five years; however, if there is no termination date, the order will last three years after the date of issue.

22. A victim can obtain a criminal protective order under Penal Code §136.2, either before trial or after trial, as a probation condition when a criminal charge is filed. A victim can also obtain a domestic violence restraining order (Family Code §6300 et seq.) in civil court regardless of whether or not criminal charges have been filed.

23. The victim may request the restraining order to be withdrawn and may discontinue participation in the VWP.

24. If the victim has no physical injuries, the perpetrator may be charged with a misdemeanor. If there are physical injuries, the perpetrator may be charged with a felony.

25. Bail can be provided by a bail bondsman for a 10% fee, which can be financed. The on-call judge may increase the bail beyond the bail schedule in extreme circumstance.

26. Upon the victim's request, the MCSO can notify the victim of the defendant's release from jail.

Findings – The Vine Program

27. The Victim Information and Notification Everyday (VINE) is a national, free, confidential service, available 24-hours a day, seven days a week, in English and Spanish.

28. The VINE system is an anonymous, computer based telephone program that provides victims with two important services: information and notification of defendant status. A victim should not solely depend on the VINE service for protection, and should take precautions.
29. The VINE system can now notify victims by e-mail.
30. A problem arises when the victim changes their telephone, email address, or cell number and fails to notify the system.

Recommendations

The Grand Jury recommends that:

1. Mendocino County District Attorney's Office continue to provide the grant support to the Victim Witness Assistance Program from their budget, (Finding 1)
2. Mendocino County District Attorney's Office utilize asset forfeiture funds to augment Victim Witness Assistance Program funding, (Finding 1)
3. Victim Witness Assistance Program continue *outreach* to encourage those who drop from the program to continue, (Findings 6, 23)
4. Victim Witness Assistance Program staff continue to actively pursue annual grants for program funding, (Findings 1,8,12-13)
5. the arresting/investigating officer be required to inform the victim that *upon request*, s/he can be notified by the Mendocino County Jail staff when the offender is released from custody, (Finding 26)
6. the arresting/investigating officer must inform the victim that, if the offense warrants, an Emergency Protective Order is available immediately and will be issued on site, (Finding 21)

Discussion

The VWP fulfills its grant and program obligations by having communication and cooperation with the following agencies; the MCDAO, law enforcement, non-profit organizations, including Project Sanctuary and Mendocino County Youth Project.

Before the Victims' Bill of Rights, *Marcy's Law*, was enacted, victims did not receive public attention. Since the Law passed, victims are receiving the consideration and respect they deserve.

In the past, domestic violence offenses were not taken seriously. In recent years, law enforcement has given victims more consideration and understanding. Victims should be given the opportunity by officers to receive a Temporary Restraining Order, *No-Contact Order*, when the offense warrants it.

The public should be aware and report to law enforcement any abusive behavior they observe.

Required Responses

Mendocino County District Attorney's Office (Findings 1, 3-4, 7, 11, 19-26; Recommendations 1-2)

Victim Witness Program (Findings 1-14, 23; Recommendations 3-4)

Mendocino County Sheriff's Department (Findings 21, 25-26; Recommendations 5-6)

Chiefs of Police, Fort Bragg, Willits, and Ukiah (Findings 21, 25-26; Recommendations 5-6)

Requested Responses

Project Sanctuary (Findings 15-18)