

## **History of Victim Rights in Massachusetts**

**provided by the Massachusetts Office for Victim Assistance (MOVA)**

In April, 2004, MOVA celebrated a significant milestone in the history of the Victim Rights Movement in Massachusetts. Yet, the advent of victim rights in the criminal justice system and the passage of the Victim Bill of Rights in 1983 were not the beginning of the Victim Rights Movement. We owe an enormous debt of gratitude to those truly at the forefront--the grassroots activists of the Women's Rights and Civil Rights Movements in the sixties and seventies, and survivors of rape and domestic violence whose courage and powerful activism raised awareness, demanded change, and initiated a new societal response to victims.

During the 1970s, many individuals became concerned about the harmful effects of the insensitive treatment of victims and witnesses by police, prosecutors, and judges. Through their grassroots activism, survivors and their supporters highlighted the fact that victims were revictimized in the criminal justice system. Victims often turned to other victims for validation and support, leading to the creation of the first rape crisis centers and battered woman's programs in Massachusetts, and other survivor organizations such as Parents of Murdered Children (POMC) and Mothers Against Drunk Driving (MADD).

Early victimization studies highlighted what survivors already knew--that an astounding proportion of crimes was never reported because victims feared getting involved with law enforcement. When victims did report, however, they were so distressed by their court involvement and fearful of retaliation by the defendant that they refused to testify. Lack of reporting and the resultant dismissal of cases caused criminal justice officials to begin to focus on the concerns of victims and witnesses. Grassroots organizations began meeting on behalf of rape victims and battered women together with criminal justice personnel. One significant

outcome of this collaboration was the creation of the National Organization for Victim Assistance (NOVA) in 1975-76 that assumed a leadership role in promoting the needs and interests of victims in the criminal justice system.

These efforts led to the development of strategies to address the needs of victims and witnesses, including victim compensation and victim assistance programs. The first prosecutor-based victim-witness programs in the country began in 1974 and were funded by the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice. Crime victim issues gained even greater national prominence with President Reagan's establishment of the President's Task Force on Victims of Crime in 1982. The Task Force reviewed available literature on criminal victimization and held hearings around the country to obtain testimony from crime victims, victim service providers, and others. In December 1982, the Task Force issued their report, which has served as a blueprint for change over the past two decades. One of its recommendations was for the establishment of victim-witness units in prosecutors' offices to provide accompaniment and support during court appearances; notification of the progress of the case as it proceeds through the system; assistance with input into bail determinations, plea bargaining, victim impact statements at sentencing; information on victim compensation; and intercession on behalf of victims and witnesses with employers and creditors.

In the early 1980s, when federal funding declined for victim assistance programs, many programs sought alternative means to sustain their services. The rising crime rates, awareness of secondary victimization and non-cooperation of victims in the criminal justice system, the elimination of federal funding, and the Task Force's recommendations resulted in action by Congress and a majority of state legislatures. Congress passed the Victim and Witness Protection Act of 1982 (VWPA), which provided for victim restitution, victim impact statements

at sentencing in federal courts, and redress for intimidation or retaliation against victims by defendants because of their testimony.

Three other significant national developments occurred in the field of victim assistance since then. First, Congress enacted the Victims of Crime Act of 1984 (VOCA) to provide federal funding to the states for victim compensation and victim service programs. VOCA funding is derived from criminal fines imposed on offenders convicted in federal court, and today, supports almost 100 victim service programs across the Commonwealth, which have grown over the years to meet the specialized needs of diverse survivor populations. Second, the Office for Victims of Crime (OVC) was established to coordinate federal efforts on behalf of crime victims. Finally, in the 1980s and 1990s, states enacted crime victim bills of rights and state constitutional amendments. These initiatives set the legal foundation for criminal justice agencies to provide the supportive services of Victim Witness Advocates. Today, all fifty states and the District of Columbia have crime victim compensation programs and victim bills of rights.

The Massachusetts Victim Bill of Rights (Massachusetts General Laws, Chapter 258B) became law in March 1984; however, most District Attorneys in the Commonwealth had established victim-witness assistance programs almost a decade prior to its enactment. This statute codified the roles and responsibilities of victim witness assistance programs and enumerated the rights and services to be afforded to victims and witnesses of crime. It was the responsibility of each District Attorney to create a program to implement these rights. These requirements remain in effect today.

To oversee implementation of the Victim Bill of Rights, the statute established the Victim and Witness Assistance Board (VWAB), which is chaired by the Attorney General, and includes two District Attorneys and two victim/public members appointed by the Governor. The Board

governs the Massachusetts Office for Victim Assistance (MOVA), the country's first independent state victim assistance agency, which focused initially on guiding the implementation of the Victim Bill of Rights. The statute also created a source of funding for these services, comprised of fines assessed against criminal offenders.

Since 1984, the Massachusetts Legislature enacted several other amendments to the Victim Bill of Rights to enhance the criminal justice system's treatment of victims and witnesses of crime. For example, a 1986 amendment provided that victim impact statements be included in Parole Board records, and a 1989 amendment prevented subpoenaed victims or witnesses from being subject to "discharge or penalty" by an employer. In 1995, after the Victim and Witness Assistance Board conducted a comprehensive review of the existing law, the Legislature enacted major revisions to the Victim Bill of Rights.

The original Victim Bill of Rights and subsequent revisions have addressed the bill's goals for prosecutors and victim witness advocates--to minimize additional harm and secondary injury to a victim in the aftermath of crime *and* to aid in the criminal prosecution.

In the eleven District Attorneys' Offices in the Commonwealth and in the Attorney General's Office, Victim Witness Advocates work tirelessly to ensure that victims and witnesses are treated with respect and dignity, and are afforded all of the rights to which they are entitled. In addition, Victim Service Units have subsequently been created in other criminal justice agencies, at the Parole Board, the U.S. Attorney's Office, the Criminal History Systems Board, the Department of Correction, the Department of Youth Services, the Sex Offender Registry Board, and Sheriffs' Departments. The assistance that DA's Offices and other criminal justice agencies provide for victims and witnesses aids victims in their recovery, gives them a voice in the system, and supports their participation in the criminal justice process.

## A Look to the Future

The Victim Rights Movement in Massachusetts has dramatically improved the public's understanding of the challenges survivors face and the system's response to them. We are enormously grateful to the early grassroots and government leaders who have advocated so successfully on behalf of victims. We also know that we have much more work to do. While the strengths of the Victim Bill of Rights are noteworthy, there are also a number of shortcomings. It has now been almost another decade since the last comprehensive review of the existing Victim Bill of Rights. Inspired by this important milestone year and our desire to continuously advance victim rights, MOVA is undertaking another review of the existing law. Our Victim Rights Law Project is currently underway and has included research of other states' statutes and direct feedback through regional focus groups and individual interviews with survivors and providers statewide. This project will culminate in a new blueprint for advancing victim rights in the Commonwealth.