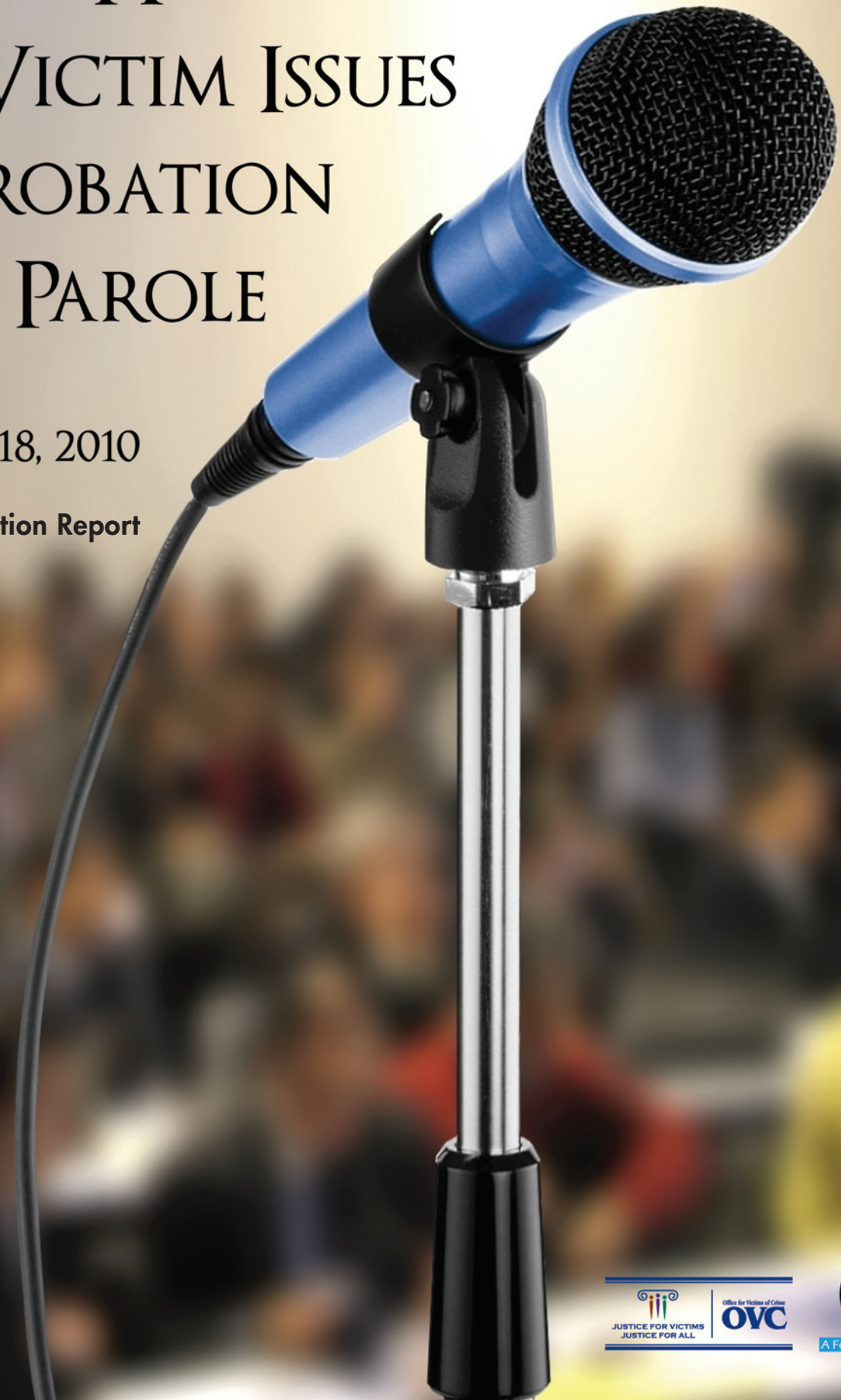


AMERICAN PROBATION AND PAROLE ASSOCIATION

PUBLIC HEARING ON VICTIM ISSUES IN PROBATION AND PAROLE

AUGUST 18, 2010

Recommendation Report



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RECOMMENDATION REPORT

Prepared by the American Probation and Parole Association

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"Seeds of change start with people who believe all things are possible."

-Tennessee First Lady Andrea Conte

INTRODUCTION

For the past two decades, the American Probation and Parole Association (APPA) has committed its mission, membership and resources to improving victims' rights and services throughout community corrections (pretrial, probation, and parole) processes. In 1991, APPA established a Victim Issues Committee, which has supported APPA's staff in developing victim-centered policies, protocols and training curricula for community corrections. These resources have become standards for the field for proactively engaging crime victims and survivors, and identifying and meeting their most important needs. Two Public Hearings held in the early 1990s provided the impetus for much of this groundbreaking work.

On August 18, 2010, APPA sponsored a Public Hearing with support from the U.S. Department of Justice Office for Victims of Crime (OVC). The three important goals of this Public Hearing were to:

- Seek input from crime victims and survivors, and those who serve them, about their most significant needs when their offenders are released to pretrial, probation or parole supervision.
- Increase community corrections professionals' knowledge and appreciation of crime victims' and survivors' experiences with the justice system, with an emphasis on their experiences with the community corrections phase, and help community corrections practitioners identify strategies for responding to victims' needs and rights more effectively.
- Obtain input about how APPA and its member agencies can collaborate with crime victims and survivors, victim assistance agencies, and allied professionals to best identify and meet the needs of victims throughout the community corrections processes.

The Witness Panel was comprised of six survivors and one victim advocate who testified about their experiences with the criminal justice system, including probation and parole (see Figure 1 on page 6.) The Listening Panel included the leadership of offices within the Office of Justice Programs (OJP) and the Office on Violence Against Women (OVW), U.S. Department of Justice; the leadership of APPA; and a staff member of the U.S. Congressional Victims' Rights Caucus. A list of representatives on the listening panel may be found on page 15.

Based on the testimony provided, this report provides a list of 10 recommendations for improving services to crime victims and survivors throughout the community corrections process. It also provides a brief summary of some of the salient points made by the witnesses during the hearing focusing on areas such as the interests and needs of victims, information and notification, restitution, access to victim assistance resources, fairness and justice, respect and recognition, and offender accountability.

RECOMMENDATIONS

The following ten recommendations were identified from the collective testimony of the witnesses at the APPA Public Hearing.

1. Pretrial, probation, parole and correctional agencies should: partner with victim assistance professionals to identify and address victims' safety needs through collaborative safety planning *prior* to an offender's release to the community; provide cross-training about the most effective victim safety and protection strategies; and utilize innovative technologies that strengthen offender supervision *and* increase victim safety.
2. Community safety can be enhanced by collaboration among pretrial, probation, parole, allied justice and victim assistance agencies, and community members to develop and empower public safety strategies.
3. Victims, survivors and advocates can help pretrial, probation, and parole agencies identify the types of information that are most important to victims.
4. Victim information and notification processes should *reflect* and *respect* the cultural diversity and unique needs of some victim populations within a specific jurisdiction.
5. Victim notification should provide victims with time to prepare for an offender's entry or reentry into a community, with efforts made to ensure the *accuracy* of such information.
6. A national automated victim information and notification system should be developed specifically to enforce the mandates of the Interstate Compact for Adult Offender Supervision.
7. There must be due diligence in ordering, monitoring, collecting and disseminating the legal and financial obligations of convicted offenders, including victim restitution and child support.
8. Victim impact statements offer vital information to pretrial, probation and parole officers that can improve offender case management and supervision in the community.
9. Victim assistance programs and processes within pretrial, probation, and parole agencies can be enhanced by developing partnerships with system- and community-based victim assistance professionals, who can collaborate to identify and address the most important needs of victims and help enforce their rights throughout the post-sentencing phases of their cases.
10. Pretrial, probation, and parole agencies should collaborate with system- and community-based victim service providers to sponsor programs that address offender accountability and reduce victim blaming, such as Victim Awareness Programs and Batterer Intervention Programs, among others.

Figure 1

VICTIM/SURVIVOR AND ADVOCATE WITNESSES

First Lady of Tennessee **Andrea Conte** is the Founder and President of *You Have the Power....Know How to Use It*. She is a nationally respected and revered advocate for crime victims and their rights, child advocacy centers, and crime prevention.

Mary Dodd is the Women's Circle Project Coordinator at the Reno-Sparks Indian Colony, in Reno, Nevada, where she assists victims of intimate partner violence. She previously worked as the Victim Services Program Coordinator, on the Pyramid Lake Paiute Reservation, for 12 years. She has publicly spoken on victim impact panels for youth and adult detention facilities regarding how the domestic violence-related murder of her mother, Elaine J. Garcia, had an impact on her family.

Carroll Ann Ellis was the Director of the Victim Services Division of the Fairfax County (VA) Police Department for 20 years at the time of her testimony. Currently, she is the Training and Technical Assistance Team Lead with the Office for Victims of Crime Training and Technical Assistance Center. She is a nationally-recognized victim advocate who serves on the faculty of the National Victim Assistance Academy and on the Virginia Tech Independent Review Board, among many other entities where she advocates for victims of homicide and other violent crimes.

When Tommy Fiori was nearly killed by a hit-and-run drunk driver in June of 2009 in Ocean City, Maryland, his brother **Rick Fiori** was thrust into an existence of not knowing if each day would be Tommy's last. He and his family have been through Tommy's grueling rehabilitation, and experienced a court trial where their statutory rights as victims were not fully upheld. Fiori is a writer, actor and yoga instructor.

Elizabeth Page became a crime victim in 1988 when, in her job as a social worker, she was shot and paralyzed by a client suffering with paranoid schizophrenia. Today, she is a social worker who co-founded Disabled Crime Victims Assistance, Inc. which specializes in assisting crime victims with disabilities and their families.

Eighteen years ago, **Susan Russell** was stalked and then kidnapped, raped and nearly killed in her home state of Vermont. Since then, Russell has been a strong and dynamic advocate for crime victims, working at the local, state and national levels to support victims' rights and services and state constitutional amendments for victims' rights.

When Peyton Tuthill was sexually assaulted and murdered by a repeat offender in 1999, **Pat Tuthill** became a victim activist, founding the Peyton Tuthill Foundation that provides educational scholarships to homicide survivors and advocates for crime victims. She was a driving force behind the passage of the Interstate Compact for Adult Offender Supervision, and serves on its Interstate Compact Commission.

TESTIMONY OVERVIEW

In her opening remarks at the Public Hearing, the Office of Justice Programs' Principal Deputy Attorney General Mary Lou Leary spoke of the substantial progress that has been made to strengthen victims' rights and services throughout the criminal and juvenile justice systems. Although much has been accomplished, Leary noted:

Our goal now is to make sure that victims' rights are observed every single step in the process and that their needs are met and that they feel that they've been heard, that they're safe, that they are respected, and that they have their dignity as participants in the system.

Carroll Ann Ellis, former Director of the Victim Services Division of the Fairfax County Police Department, succinctly described the interests and needs of crime victims and survivors by saying, "Their needs are centered on safety, information, restitution, available resources and access to those resources, fairness, justice, respect and recognition from responsible systems that victims' needs are important and deserving of special services." The other witnesses validated Ellis' observation with their personal testimony that addressed each of these critical areas of need.

Readers should review suggestions made in this report within the context of current federal and state laws and local agency policies, procedures, and resources and, where possible, should consider possible ways to advocate for change to improve services to crime victims and survivors.

SAFETY

Victim safety and protection are paramount concerns of *all* witnesses. Kidnapping and rape survivor Susan Russell emphasized that “ensuring my safety and that of my family is and always should be first and foremost.” She recommended that discussions about victim safety begin “long before the offender is released,” and that all protection measures available to victims be explained to them by supervising officers.

Pat Tuthill, whose daughter Peyton was raped and murdered in 1999 by a repeat offender, identified the enforcement of the Interstate Compact for Adult Offender Supervision (ICAOS) as an important measure to promote victim safety. ICAOS requires that victims be notified when a probationer or parolee asks to be transferred, or is actually transferred, to be supervised in another state. “Victims live in fear, and the fear comes after an offender is released,” she said. “And when their whereabouts are unaccounted for, it becomes very traumatizing for the victim and the victim’s family, always looking over their shoulder.”

Carroll Ann Ellis stressed the importance of collaboration, training and technology to promote victim safety:

“Safety is, unequivocally, the primary concern of victims related to their offender’s return to the community. We believe our safety efforts can be enhanced in Fairfax County by increasing the best skills, practices, and resources of law enforcement, probation, and victim services.”

Safety is, unequivocally, the primary concern of victims related to their offender’s return to the community.” -Carroll Ann Ellis

Ellis recommended that community supervision agencies “utilize safety planning at a level that includes safety devices, technology, high-power equipment and other measures to ensure that victims are being afforded our best efforts.”

Community safety was also a vital concern of several of the individuals providing testimony. When gunshot survivor Elizabeth Page’s offender, who has a mental illness, was being released, she spoke of concerns “not just for my own safety but for the community; not just for him, but for everybody else.” Susan Russell suggested that professionals who supervise offenders in the community provide information and support to jurisdictions where offenders are returning, empowering them to develop community safety strategies.

INFORMATION AND NOTIFICATION

Victims' need for information and notification extends far beyond simply the status or location of the offender. As Pat Tuthill articulated:

When offenders are incarcerated and a victim calls for information about the status of the offender, victims receive very little information. Yes they're here, yes they're incarcerated. I want to know, 'are they having disciplinary action? What programs are they taking? Why is that important to me as a victim?' Because when that offender comes up for parole, or in some states maybe probation, I want that history, I want that information. I do not want to trust a system that has already failed me once.

"A person victimized by crime is thrust into the law enforcement and criminal justice systems," Tennessee First Lady Andrea Conte noted. "And the very systems designed to protect the innocent can be confusing to crime survivors expecting truth and justice." Basic information about the status of the case and offender, victims' rights and victim services can help mitigate such confusion.

Susan Russell addressed the importance of providing survivors with accurate information. "Any information received needs to be accurate and clearly communicated to the victim," she said. "I have received letters from the Department of Corrections during the past decade that were inaccurate and misleading." Misinformation forces victims to spend a significant amount of time seeking the truth; as

Russell noted, "I recall it took several days and many phone calls before I finally received the right information and I'm someone who knows who to call!"

"We need to have knowledge. Knowledge is power, and we need to inform ourselves." -Pat Tuthill

Russell continued, "Notification of pending parole or release should occur with as much advance notice as possible – six months or a year. Even if the pending parole or release does not occur in this time frame, the victim has time to prepare. Victims need information, not just on the status of

the offender, but about his mindset, his intentions, his mental health status and his future plans. Where will he be living, what kind of work will he be doing, who will be supervising him? And if the offender is going to max out, as in my case, there are additional concerns in the fact that no one will be supervising him."

Pat Tuthill emphasized the importance of ICAOS in providing victims with information and notification. When offenders request or receive a compact transfer, change their address, or commit significant

violations of their conditions of supervision, Tuthill emphasized that “the victim has the right to be notified.” She also recommended that a nationwide automated victim notification system be established for ICAOS cases so that “we do not have to rely on each state and their own laws to provide the notification that victims need.”

First Lady Conte stressed the importance of ongoing communications with crime victims and survivors. “Advise the victim why the offender is being released,” she suggested. “Keep the victim informed regarding frequency of supervision, required classes, monitoring and so forth.” She summarized her recommendation by simply stating, “Victims have a right to know.”

“Victims need information, not just on the status of the offender, but about his mindset, his intentions, his mental health status and his future plans.” -Susan Russell

Carroll Ann Ellis stressed the value of providing victim information and notification in measures that reflect the cultural diversity of a jurisdiction:

Fairfax is a community with an extraordinary degree of cultural diversity, and a population of over one million people where immigrants are frequently victims of crime. To this end, we find that our support systems are still not adequate to meet the needs of victims who are fearful of police, the courts, and sentencing for family matters and, in the end, have no concept of probation, parole, or their rights as victims during prison and beyond.

There is a decided need for cultural sensitivity and a real need for information and education for victims whose needs are so great in these areas. Without information available in various languages, without understanding and consideration for victims with special needs, without the ability to recognize a gap and the creativity to fill the hole, we are failing in our efforts to provide services to victims. So we are challenged to develop programs and resources for various cultures, not necessarily specific to race and ethnicity alone.

RESTITUTION

When a judge orders restitution, it is often incumbent upon probation and parole officers to ensure that such financial and legal obligations are enforced. The survivor witnesses spoke unanimously about the critical importance of restitution to not only help victims recoup some of the financial losses they endured as a result of crime, but also to hold offenders accountable for their criminal actions.

For Tommy Fiori, restitution is needed to help cover more than one million dollars in losses he endured as a result of a drunk driving crash that nearly killed him: upwards of \$750,000 in medical bills, and over \$250,000 in lost income. His brother Rick Fiori explained that "restitution becomes the watermark for what you get, for what you have to show that attention was paid to what happened."

"In the eyes of victims, restitution is accountability in action..."

-Tennessee First Lady Andrea Conte

In his brother's case, the victim advocate told the prosecutor, "I want to make sure you ask for restitution." The prosecutor replied, "Oh, this judge never orders restitution." Fiori noted that "our victim advocate said, 'Well, I didn't ask if he orders it; I want you to ask for it'." With a restitution order on the books and with

support from attorneys at the Maryland Crime Victims Resource Center, the Fiori family has been able to take civil action against the drunk driver. Due diligence in ordering and collecting restitution makes a difference.

Homicide family survivor Mary Dodd spoke of the financial challenges that many intimate partner violence victims endure in Indian Country. After an offender is paroled, she said, "some of the women (are) pretty much on their own....trying to support their children, and I hope that would be taken into consideration."

First Lady Conte summed up the purpose and value of restitution to victims and survivors. "In the eyes of victims, restitution is accountability in action, and restitution can't just be referenced in the margins," she said. "It is a mainstream, high-priority concern."

ACCESS TO AVAILABLE RESOURCES

All of the witnesses spoke eloquently of the importance of victim assistance resources to help survivors understand and exercise their rights; to receive financial remuneration to offset the often devastating financial impact of crime; and to help them navigate their journeys through the justice process and services available in the community. Yet in difficult economic times, the needs of victims are too often greater than the capacity of system- and community-based justice and victim assistance programs to meet them.

As a result, collaboration and partnerships among criminal and juvenile justice and victim assistance professionals and agencies are essential to identify and meet the many diverse needs of victims. As Carroll Ann Ellis explained: "Like most communities, we find ourselves on overload with limited funding, while needing special programs, better connections and more frequent and effective collaboration with probation and a host of other organizations tasked with service provision to victims and the community."

"....along the entire path, a light was shone." -Rick Fiori

Rick Fiori spoke of his family's difficult journey following the drunk driving crash involving his brother Tommy, describing victim assistance services as a beacon of hope. "It gives you an opportunity to remember how along the entire path, a light was shone," he said. "There were people there who really led us through the process. They were there step by step. They told us it was going to be hard, it was going to be long, but they were going to be there with us every step of the way."

First Lady Conte believes that more can be done to ease a victim's access to participation and support. For example, she encouraged the use of video conferencing of parole hearings, where victims can "attend" a parole hearing at a remote site closer to their home. "The immediate advantages are that the victim does not have to be in physical proximity to the offender, and the victim does not have to take a full day off from work to travel..." she explained.

FAIRNESS AND JUSTICE

The victim has a vital role in seeking and ensuring justice and fairness.

Victim or survivor empowerment is a key tenet in their ability to recover in the aftermath of criminal victimization. As Mary Dodd noted, laws and victims' rights are too often "confusing" to victims. The victim has a vital role in seeking and ensuring justice and fairness. She believes that "letting the victims know that their part of the process is very important" can help facilitate the healing process.

A highly empowering component of seeking "justice" for many victims is the victim impact statement. As Rick Fiori explained, "It gives us solace to know that victim impact statements are in a file somewhere, so that when this offender comes before one of you for probation, that they (impact statements) are going to be taken into account." Fiori summarized the importance of victim impact statement to survivors and their loved ones: "It really gives us confidence that the voice of the victim will not be lost, that it is out there somewhere even if I'm not here at a panel."

RESPECT AND RECOGNITION

Pretrial, probation, and parole agencies and personnel can show respect for victims by proactively engaging them in community corrections processes, recognizing their critical role in justice processes, and validating that they were hurt by the crime committed against them.

"What happened to me was a total shock and impact to me and my family." -Elizabeth Page

As Elizabeth Page explained, "What happened to me was a total shock and impact to me and my family. And with family, it's such a big impact on them when a person becomes disabled because of a crime." She urged that the unique needs of victims with disabilities be identified and addressed by justice and victim assistance officials.

First Lady Conte also urged continuing support for state victim compensation funds which, she said, "aid the victim's emotional and physical recovery, and demonstrate government's regard for victims."

OFFENDER ACCOUNTABILITY

The witnesses all recognized the important role of probation and parole agencies in promoting offender accountability and encouraged collaboration with victim assistance and other allied professionals to encourage convicted offenders to accept responsibility for their criminal actions.

In interpersonal violence cases, Mary Dodd recommended ongoing training for probation and parole officers that addresses the tactics often used by batterers to avoid personal accountability and responsibility. For example, she suggested asking "...are they not taking responsibility, are they placing blame on the victim?" as a starting point in cases involving intimate partner violence.

Elizabeth Page stressed the fact that victims often have important information about the offender that can contribute to improved case management and offender supervision in the community. She noted that "hearing their voices, hearing their needs, and hearing that they may have clues that are important to you – especially if it is a mental health offender – this might be very important for the protection of the community, the protection of even yourself, and for the victim."

"...are they not taking responsibility, are they placing blame on the victim?" -Mary Dodd

First Lady Conte highlighted the fact that "97 percent of convicted felons will eventually be released into society. If a released offender returns to society with unchanged attitudes and behavior, they are likely to reoffend" she said. "Recidivism rates don't lie."

Conte recommended widespread adoption of victim impact programs for convicted offenders who are incarcerated or under any form of correctional supervision. "Victim impact programs are designed to increase sensitivity, accountability, self-awareness, and responsibility as the offender is confronted with the impact of his or her crime on the victim, the victim's family and the community," she explained. She also praised the Batterers Intervention Program offered by the Tennessee Board of Probation and Parole.

CONCLUSION

Each witness expressed gratitude to APPA and the Listening Panel for the opportunity to more clearly define victims' needs and concerns throughout pretrial, probation, and parole processes. Yet their individual and collective testimony identified many areas in need of improvement.

"While it is true that APPA has been and continues to be at the forefront in advocating for enhanced services for victims, we still have a great deal of work to do," Carroll Ann Ellis said.

OVC Acting Director Joye Frost expressed the sentiments of the Listening Panel when she said that what the APPA Public Hearing "points out is that victims play, and should play, such an important role in our criminal justice system." Frost recognized the importance of the hearing's witnesses speaking out in order to "change the system so that it doesn't happen to others, so that other families don't have to continually struggle with navigating the criminal justice system."

Frost also observed, "I sometimes think that crime victims are literally the canary in the mine." She expressed frustration that "we find out about the disconnects, the gaps, the missing links, the total lack of focus or resources....through the voices of victims, and that should not be."

Frost's observations provide the foundation for future actions by APPA, its members and allied professionals across the Nation: to listen to the powerful voices of victims; to recognize their important role throughout all justice processes; and to create ongoing partnerships that identify and fill gaps in victim services in the post-sentencing phases of their cases.

FOR MORE INFORMATION

In 1999, the American Probation and Parole Association, with funding from the Office for Victims of Crime, published *Promising Victim-Related Practices and Strategies in Probation and Parole*. This resource is available online at <http://www.ojp.usdoj.gov/ovc/publications/infores/probparole/probparole.pdf>

Currently, APPA, with funding from OVC, is updating some of the information in this document and will be publishing a series of fact sheets on select promising victim-related practices in probation and parole. In addition, APPA will be developing and delivering a training program based on this information to further enhance community corrections practitioners' ability to serve and meet the needs of crime victims.

For more information on this project, call 859-244-8031 or email cabner@csg.org.

LISTENING PANEL REPRESENTATIVES

Mary Lou Leary has been the Principal Deputy Assistant Attorney General of the Office of Justice Programs (OJP) since September 2009, and served with distinction for the U.S. Department of Justice from 1999 to 2001. She also served as Director of the National Center for Victims of Crime in Washington, DC for four years.

James Burch is the Acting Director of the Bureau of Justice Assistance, where he has served on staff since for nearly 15 years, including as Deputy Director for Policy at BJA.

Joye Frost is the Acting Director of the Office for Victims of Crime (OVC). She has worked in the victim assistance, health care and disability advocacy fields for more than 30 years in the United States and Europe.

Scott Matson is the Senior Policy Office for OJP's Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) Office.

Jeff Slowikowski is the Acting Administrator of the Office of Juvenile Justice and Delinquency Prevention, where he has served in various capacities since 1990.

Darla Sims works with the Campus, Culturally- and Linguistically-specific programs at the Office on Violence Against Women, and previously managed APPA's domestic violence technical assistance project.

Cindy Brignon co-chairs the Victim Issues Committee for APPA, and is the Victim Services Coordinator for the Dallas County Community Supervision and Corrections Division

Barbara Broderick is the President of APPA, and is the Chief Probation Officer of Maricopa County (Arizona).

Carl Wicklund is the Executive Director of APPA. In 2008, he received the "Allied Professional Award" from the U.S. Congressional Victims' Rights Caucus.

Rachel Latta is a staff member of the U.S. Congressional Victims' Rights Caucus.