

County of Santa Clara

Office of the District Attorney

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DATE: June 17, 2009

TO: Board of Supervisors

FROM: Dolores A. Carr *Dolores A. Carr*
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SUBJECT **Victim Witness Service Model Transition – Additional Information**

Unclaimed Grant Funds

During the May Budget Workshops, questions were asked about the amount of available grant funding that had been left unclaimed by Silicon Valley FACES. In my initial report-back, I detailed the past two years. Below is additional information. Since FY 2006, \$684,398.60 in grant funding available for services to victims in Santa Clara County has gone unclaimed under the current service provision model.

As background, there are two state funding sources for Victim Witness Assistance Services - - the California Emergency Management Agency (CalEMA) and the California Victim Compensation and Government Claims Board (VCGCB). These funds are currently available to Silicon Valley FACES to run their program and would be the funding source for a District Attorney-run program. The table below provides additional details.

FY 2006			Available, but Unclaimed
Grant	Award Amount	Actual Claim	
VW-BOC	1,077,250.00	985,561.29	91,688.71
<u>VW-OES</u>	<u>642,605.00</u>	<u>592,111.12</u>	<u>50,493.88</u>
Total	\$1,719,855.00	\$1,577,672.41	\$142,182.59

FY 2007			Available, but Unclaimed
Grant	Award Amount	Actual Claim	
VW-BOC	1,131,113.00	963,500.65	167,612.35
<u>VW-OES</u>	<u>646,384.00</u>	<u>623,352.58</u>	<u>23,031.42</u>
Total	\$1,777,497.00	\$1,586,853.23	\$190,643.77

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FY 2008			Available, but Unclaimed
Grant	Award Amount	Actual Claim	
VW-BOC	1,131,113.00	1,017,825.49	113,287.51
<u>VW-OES</u>	<u>990,904.00</u>	<u>617,792.61</u>	<u>24,812.39</u>
Total	\$2,122,017.00	\$1,635,618.10	\$138,099.90

FY 2009			Available, but Unclaimed
Grant	Award Amount	Forecasted Claim	
VW-BOC	1,131,113.00	919,871.11	211,241.89
<u>VW-OES</u>	<u>598,459.00</u>	<u>596,228.55</u>	<u>2,230.45</u>
Total	\$1,729,572.00	\$1,516,099.66	\$213,472.34

<u>Unclaimed FY 06 - 09</u>	<u>\$684,398.60</u>
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There is a pattern of the current provider under-utilizing resources available to them to provide services to victims and witnesses in Santa Clara County. I am confident that a program run within my Office would ensure all grant resources are fully utilized for service provision.

Service Model – Staffing Comparison

Below is more detailed information comparing the staffing of the current program run by Silicon Valley FACES and the proposed District Attorney program. Previous discussions comparing staffing have been incomplete because some of the FACES staffing is **not** funded by the two grant programs under consideration.

	<u>SV FACES *</u>		<u>District Attorney **</u>
Program Director	1.0	1	0.0
Accountant	0.0		1.0
Advocacy Unit			
Supervisor	1.0		0.0
<u>Advocates</u>	<u>5.5</u>	2	<u>5.0</u>
<i>Subtotal Advocacy</i>	<i>6.5</i>		<i>5.0</i>
Compensation Unit			
Supervisor	1.0		1.0
Assistant Supv	1.0		0.0
Analysts	7.0		5.0
Admin Assistants	3.5		0.0
<u>Account Clerks</u>	<u>0.0</u>		<u>4.0</u>
<i>Subtotal Compensation</i>	<i>12.5</i>		<i>10.0</i>
Total Staffing	20.0		16.0

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<u>Additional Resources</u>			
Interns	2.0	3	2.0
Volunteers	1.0	3	1.0

- * Source for FACES staffing is Victim Witness Mgmt Audit page I-5, figure I.1.
- ** Source for DA staffing is FY2010 Recommended Budget.
- 1 DA Program Director will be existing Deputy DA not paid from grants with no additional GF cost.
- 2 SV FACES has 3 additional advocates paid for by funds outside of the two grants in question.
- 3 DA will operate a more expansive use of volunteers and interns, but for this analysis, numbers are held to current FACES levels.

The District Attorney program would fund two fewer direct client service positions than are currently funded by the FACES program. The two other positions are supervisory in nature (Director and Assistant Supervisor).

I believe that efficiency gains from a reduction in turnover will compensate for having two fewer direct service positions. Turnover at FACES has been high historically, and once full-time County positions are established, we believe that the more competitive rates of pay and benefits will allow for a more stable and experienced workforce. We also plan to utilize our already robust internship program to avail ourselves of more resources in service to victims, at little to no cost.

Implementation Planning

Transitioning the Victim Witness service model will require notable logistical and personnel planning. To ensure a functioning transition on July 1, 2009, my staff has proceeded as outlined below. Please note that these steps have been undertaken as prudent planning measures, not in an effort to preempt your decision as to whether the service model should shift. If you decide to accept my recommendation to bring the program in-house, we will be ready on Day 1 to provide services.

The most critical component of successful implementation is to have experienced personnel in place to serve clients. Since new County positions would be created effective July 1, 2009, leaving no time for recruitment, hiring, and training, I executed a Request-for-Proposal (RFP) to engage experienced contractors on an interim basis until the new County positions can be filled. This RFP was posted broadly and in compliance with all County contracting requirements. It was also provided to all Board offices for your information. The vast majority of current FACES employees responded to the RFP and we will have a full complement of experienced interim contract staff in place on Day 1. It should be noted that the filling of the permanent County positions will adhere to all County recruitment guidelines, and service as a contractor will neither advantage nor disadvantage these individuals in that subsequent process.

Another critical aspect of the transition is an appropriate facility out of which to operate. I will utilize the first floor of our West Wing as the main location of the new Victim Witness Assistance Center. The floor is already well-suited to this purpose, and with minor modifications will serve the program well. There will be a separate entrance and waiting area, as well as office space and conference rooms. Soon after implementation, I

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will integrate staff to my North and South County locations as well. Other logistical considerations that have been addressed are computer system integration, accounting support, telephones, publications updating, signage, and website presence.

Of critical importance is the ability to use the state computer system. The main grant provider of the program, the California Victim Compensation and Government Claims Board (VCGCB), has agreed to provide two staff members for training on its computer system as well as for oversight purposes. These state resources will be provided at no cost to the County. State staff has committed to be on-site for the first two weeks of the new program, and are available longer if needed. Training for current District Attorney staff in appropriate integration and utilization of victim services has been scheduled as well.

Victim and Witness Safety

There were concerns raised by FACES about victim and witness safety in the District Attorney-run model. I have a highly trained staff of peace officers in my Bureau of Investigation which will provide added safety for victims and witnesses who come to my Office. A “duty officer” is assigned daily to assist in any high risk situations and there is also a back-up operations officer.

We are better able to transport victims and witnesses to court and accompany them when they leave court, where safety is at issue. This is very important when the perpetrator is out of custody and comes to and leaves court at the same time as the victim or witness.

My Office’s Witness Relocation and Assistance Program relocates victims and witnesses when credible evidence exists of a substantial danger of intimidation or retaliatory violence by the perpetrator or his/her agents. Priority is given to those victim and witnesses involved in matters such as organized crime, gang activities, drug trafficking, human trafficking and cases involving a high degree of risk to the witness.

District Attorney-run model is the best practice

Fifty-four (54) out of fifty-eight (58) counties utilize a law enforcement model. It is indisputable that those who assist victims and witnesses of crime should all work as a team. Doing so produces a better outcome for victims. We would become a one-stop shop, an important factor in serving the public.

A DA-run program would stop the overlap and unnecessary, expensive duplication of services. We already provide victim/witness services, especially in the area of victim restitution.

I would be able to provide our north and south county offices with Victim Witness Assistance staff. The current model is based in San Jose, with little outreach beyond central San Jose.

In-house advocates would have immediate access to CJIC which contains all information about court dates and the status of the case. Giving victims this information is one of the

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requirements of Marsy's Law. There would be regular and frequent opportunities for cross-training between advocates and our prosecutors.

Having advocates in our offices would allow our lawyers to access them for court accompaniment easily; currently, the main focus is helping victims apply for financial compensation from the state. Having advocates to support victims in court, and getting through the complex criminal justice system is also crucial;

Assistant DA Rolanda Pierre-Dixon, who will oversee the program, is well known in the community for her victim advocacy. In fact, she has taught for fifteen years at The California Victims Services Training Institute (CVSTI), which provides weeklong training sessions twice a year, one for entry level advocates and one for advanced victim advocates.

Conclusion

Finally, and perhaps most importantly, we would enhance our ability to ensure any exculpatory evidence that advocates might receive would be turned over promptly to the defense, thus fulfilling our legal obligation pursuant to the constitutional mandate of *Brady v. Maryland*. FACES representatives claim their model allows them to keep information confidential from our office, a fundamental misunderstanding of their role. Since we contract with FACES to provide services for victims, we would be required to turn over information gathered by victim/witness staff which would be helpful to the defense.

In summary, there are many operational reasons that make a District Attorney run model more efficient and effective, and in fact, the best practice.