

VICTIMS RIGHTS LEGISLATION:
AN ASSESSMENT OF ITS IMPACT
ON CRIMINAL JUSTICE PRACTITIONERS AND VICTIMS

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Chapter 1

INTRODUCTION

By the mid-1980's, what had begun several decades before as a grassroots movement had culminated in major legislative innovations to improve the criminal justice system's treatment of crime victims and to recognize victims' interests in the criminal justice system. On the federal level, Congress had enacted the Victim Witness Protection Act of 1982 and the Victims of Crime Act of 1984. On the state level, between 1980 and 1986 at least 36 states had enacted legislation providing victims certain "rights" in the criminal justice process.

Unlike crime victim compensation statutes and certain other victim-oriented statutes, the new "victims rights legislation" was primarily concerned with victims as participants in the criminal justice process. While the 36 states varied considerably in the specific "rights" they extended, all included at least some of the following:

- o Notice of forthcoming proceedings;
- o Consultation with officials prior to decisions about how the case will be handled;
- o Notice of major decisions in the case;
- o Opportunity to inform the sentencing court of the crime's impact;
- o Information about protection from intimidation;
- o Information about assistance in coping with the direct consequences of their victimization;
- o Prompt return of property held as evidence;

- o Transportation and escort services in connection with court appearances; and
- o Employer intercession.

In addition to the specific rights they did or did not provide victims, states varied considerably in the manner in which rights were provided. For example, sometimes these were extended to all victims; other times they were extended only to victims of felonies or violent crimes. Sometimes rights were to be initiated by criminal justice practitioners; other times, they required initiation by victims. Some legislative provisions designated responsibility for implementation to specific practitioners; others did not. Sometimes practitioners were given discretion about providing rights; other times, provisions were written in mandatory terms.

Despite these considerable differences, victims rights legislation as a whole was heralded by many victims, victim advocates and legislators as a considerable advance toward the better treatment of victims by criminal justice practitioners and a greater role for victims in the criminal justice process. Nevertheless, there was little documentation of this and, in fact, considerable documentation that criminal court decisionmaking processes and outcomes are not easily changed.¹ Thus, the study addressed in this report was undertaken to assess the impact of the legislation on victims and on the practitioners directly or indirectly responsible for its implementation.

¹Felony Justice: An Organizational Analysis of Criminal Courts, J. Eisenstein and H. Jacob, 1977; Justice By Consent: Plea Bargains in the American Courthouse, A. Rosett, and D. Cressey, 1976.

In the practitioner assessment, the study addressed questions about how prosecutors, judges, probation officials and victim witness advocates in states with victims rights legislation view the legislation, how they deal with victims, and how specific legislative or non-legislative factors influence their willingness or ability to provide information and services to victims and to extend their opportunities for participating in the criminal justice process. For example:

- o Do practitioners view their states' victims rights legislation as positive, neutral or negative with respect to the objectives of the criminal justice system and their own professional obligations?
- o Have they changed their practices and procedures to accommodate specific elements of the legislation? If so, how and to what extent? Have these changes affected their other duties? How?
- o How often do they implement various elements of the legislation, and what factors are likely to increase (or decrease) such implementation?
- o What are the benefits and drawbacks of the legislation?
- o Are sufficient resources available to implement the legislation?
- o Do they have specific suggestions for improving the legislation or other policies to facilitate implementation?

In the victim assessment, the study addressed questions about victim attitudes with respect to specific rights included--or not included--in the legislation. For example:

- o What do victims expect or want from the system?
- o How do victims view their treatment by the system?
- o What suggestions do victims have for improving their treatment?

The responses to these and other questions are discussed in sections of the report which follow.

Chapter 2

METHODOLOGY

The content and effects of victims rights legislation was examined through analysis of the specific provisions of the legislation in 36 states and structured interviews with practitioners in these states. The analysis was intended to explore the consequences of the legislation on the practices, policies, and procedures of prosecutors, judges, probation officials, and victim witness advocates. It was also intended to elicit these officials' opinions about victims rights legislation.

A. Legislative Analysis

When the project began in November, 1986, 36 states were identified as having victims rights legislation, i.e., legislation providing victims with rights to information and participation in the criminal justice process. A list of states included in the study is provided in Appendix A to this report. The various states' legislation differed considerably in both scope and content.

A detailed checklist was designed which enumerated the wide range of rights contained in the legislation, including advance notice of various proceedings, consultation prior to major decisions, notice of actions taken, victim impact statements, specific services, and information about financial assistance and intimidation protections. Potential features of

these legislative provisions were also set out in the checklist. These included whether the right was "automatic" or had to be requested by the victim; whether the right was extended to all victims or only to victims of felonies or violent crimes; whether or not a criminal justice official was designated as responsible for extending the right to the victim and, if so, who that individual was; and whether the "right" was mandatory or discretionary.

Relevant legislation in each of the 36 states was reviewed and all pertinent information was recorded on the checklist. (See Chapter 2, "Legislative Overview," for additional detail on the legislative survey.)

B. Telephone Surveys

Structured telephone surveys, averaging 30-35 minutes, were conducted with practitioners in each of the 36 states. A stratified random survey method was employed which resulted in the conduct of 278 interviews: 84 with prosecutors, 77 with probation officials, 74 with judges, and 43 with victim witness advocates.

B.1 Content of the Surveys

The surveys were designed to elicit officials' perceptions of the effects of victims rights legislation, including the following:

- o the frequency with which victims are provided advance notice of court proceedings and continuances and the factors which affect the likelihood of victims receiving such notice;
- o the frequency with which victims are consulted prior to reaching major case decisions and the factors which affect the likelihood of being consulted;

- o the frequency with which victims are notified of case outcomes and the factors which affect the likelihood of their being notified;
- o the frequency with which victims are informed about intimidation protections and the factors which affect the likelihood of their being informed;
- o the frequency with which victim impact statements are prepared; the officials' role with respect to victim impact statements; the types of information provided in the statements; and the statements' effectiveness and impact on the court;
- o the frequency with which victims are notified of services;
- o the impact of victims rights legislation on victims, officials, and the court system; and
- o officials' satisfaction with and suggested changes to victims rights legislation.

Copies of the surveys administered to prosecutors, judges, probation officials, and victim witness advocates are provided in Appendix B to this report.

B.2. The Sample

The 36 states included in the study were divided by population size into large and small states. In the 18 larger population states, counties were divided by population into (1) 250,000 or more, (2) 150,000 - 249,999, and (3) 100,000 - 149,999. Within each of the 18 larger states, a random number selection process was employed to select one county in each of these three population groups to participate in the study, for a total of 54 counties. The prosecutor for each selected county was identified and asked to participate in a telephone survey.

In the smaller 18 states, two county population sizes were used: (1) 250,000 or more and (2) 100,000 - 249,999. As

with the larger states, a stratified random sample process was used to select two counties (one from each population group) to participate in the survey, for a total of 36 counties. Again, the prosecutor for each selected county was contacted and asked to participate in the survey.

Of the 90 prosecutors (54 from larger population states and 36 from smaller population states) contacted, 84 agreed to be interviewed, a response rate of 94%. Once the prosecutors were interviewed, the chief probation officers in their counties were contacted. Of the 84 probation officers contacted, 77 were successfully surveyed, a response rate of 92%. The chief judge in each of the 84 counties was also asked to participate and a total of 74 judges was included in the study, a response rate of 88%. Of the 84 counties included in the sample, 60 of the prosecutors indicated their offices had victim/witness staff. Victim/witness advocates in these offices were asked to participate in the survey; 43 victim advocates were ultimately interviewed, a 72% response rate.

Prosecutors, chief probation officers, chief judges, and victim witness directors were all given the option of answering the telephone survey themselves or appointing a representative. With very few exceptions, officials chose to participate directly in the survey rather than select an alternate.

Chapter 3

LEGISLATIVE OVERVIEW

At the time the study began, thirty-six states had enacted substantial victims rights legislation. The statutes of these states were reviewed for the study. (See Appendix A for a list of these states.)

While certain of the statutes resemble each other, the legislation exists in several forms. In many states, rights are enumerated in one comprehensive "bill of rights" or set of "fair treatment guidelines." Generally this compendium of rights is supplemented with additional statutes either providing more rights or elaborating in detail on the enumerated rights.

Rather than enacting a "comprehensive" victims rights statute, some states have enacted discrete statutes establishing specific rights. Sometimes these are enacted together as a "package;" other times, they are enacted separately.

Certain statutes (e.g., restitution statutes) which may be thought of as "victims rights" statutes may not necessarily have had "victims rights" as their primary aim.

The content of victims rights legislation varies with respect to: (1) the rights provided, (2) victim eligibility, (3) designation of implementation responsibility, and (4) the mandatory or discretionary nature of the rights. These factors were examined in the statutes of the thirty-six states included in the study.

A. Rights Provided

Victims rights legislation generally encompasses some or all of the following:

- o rights to information and assistance to help victims cope with their victimization;
- o rights to information and services to facilitate victims' required participation in the criminal justice system; and
- o rights to notice, attendance, input, and information to facilitate further, optional, participation in the system, such as providing information to or consulting with decisionmakers.

B. Victim Eligibility

Victims rights legislation often extends rights only to victims who report the crime to the police and/or cooperate with the investigation and prosecution of the case.

Many rights (particularly notification rights) are contingent upon a victim's providing an up-to-date address and telephone number (though apparently under some statutes the victim need not provide information for this particular purpose if the address and telephone number are already on file).

Victims' eligibility may depend on the seriousness of the crime. While many statutory provisions pertain to all crime victims, others pertain only to victims of felonies or violent crimes.

Legislation also frequently requires that to be eligible for rights, victims must expressly request them.

To distinguish which victims are eligible for specific rights, legislative provisions have been classified as relevant to "all victims" or relevant to "victims of felonies and violent crimes only" for the purposes of this study.

Provisions have also been classified as contingent "upon victim request" or "not upon victim request."

The legislative requirements relating to reporting and cooperation as well as providing current residence information were not singled out for examination since they were not expected to impact significantly on practitioners' practices. With regard to the former, it was presumed that most practitioners are reluctant to extend rights to non-cooperative victims whether or not the legislation expressly exempts these victims. With regard to the latter, it was presumed that even if practitioners are not explicitly exempted from extending rights to victims who fail to provide current addresses, most are unlikely to read the legislation so broadly as to require them to "track down" victims who have moved.

C. Designation of Responsibility

Some victims rights legislation provides rights without identifying who is responsible for their implementation (e.g., "victims shall be notified of the final disposition of the case"). More often, however, the legislation explicitly designates a responsible party (e.g., "the prosecutor shall notify victims of the final disposition of the case"). Since the provisions of the legislation examined in the study extended from the filing of the charges through the imposition of sentence, the designated party was generally the prosecutor, although the police, court, and victim/witness staff were mentioned in a number of instances. (If the study had been broadened to include investigation and post-sentencing stages of the criminal justice process, considerably greater mention

of police, parole board and correctional officials would have been expected.)

Sometimes the designation is so general as to have questionable meaning (e.g., "law enforcement, criminal justice agencies, and the court system shall ensure . . .").

For the study, provisions were categorized as having "designated responsibility" or "no designated responsibility." If responsibility is designated, the responsible party or parties is indicated.

D. Mandatory/Discretionary Nature of Rights

Victims rights legislation may be written in either mandatory or discretionary terms. In addition to telling words such as "shall," "should" and "may," a number of other factors were considered prior to designating particular provisions "mandatory" or "discretionary."

It is common for victims rights legislation to include language about the extent to which rights are to be implemented, e.g., "to the extent practical," or "to the extent resources permit."

In several states, provision of rights and services may be a condition of funding for victim programs or centers, but not necessarily a requirement for victims in jurisdictions within the state which do not have funded programs. Elsewhere, rights may be extended to victims across the state, although the only "penalty" for criminal justice agencies' failure to implement them is denial of reimbursement or personnel to cover the costs of implementation.

As noted above, the rights may be contingent on actions of the victim such as reporting/cooperating and provision of a current telephone number and address, as well as a specific request for the right.

Finally, regardless of how mandatory the substantive provisions of the legislation may appear on their face, only one state provides an affirmative remedy (injunctive relief) if the rights are not provided, and most explicitly state that failure to provide the rights does not constitute a cause of action against the state or its employees.

Thus, even if the legislation states that "the prosecutor shall notify the victim . . . ", the requirement may not be binding if the victim did not report the crime or cooperate with the system or if the victim failed to provide a current address and telephone number. Similarly, the requirement may not be binding if there are insufficient resources for notification. Moreover, even if these conditions are met, there may not be any effective means to compel practitioners to implement the right. Examined in this light, few victims rights provisions can be considered truly "mandatory."

The above notwithstanding, the study attempted to distinguish between rights which the legislation merely "encouraged" or "authorized" practitioners to provide and those which the legislation expected practitioners to provide. Based on the same rationale discussed under "Victim Eligibility," provisions conditioning required implementation on victims' reporting to or cooperating with officials or providing them current addresses were disregarded in making "mandatory" and

"discretionary" distinctions. The same was true of provisions disclaiming remedies for failure to provide rights or services.

Language which conditioned implementation on sufficient resources was problematical for project staff because of its potential as an "escape hatch" for practitioners reluctant to provide victim rights. However, since its ostensible purpose is to recognize legitimate resource limitations which may affect practitioners' ability to provide rights rather than to provide practitioners "discretion" with respect to implementation, such language was also disregarded in making "mandatory" and "discretionary" distinctions.

On the one hand, legislation which extends certain rights to victims in localities with funded programs--but not to victims in localities not served by funded programs--was in most instances designated "discretionary." On the other hand, if the legislation extends rights to victims generally and the only "penalty" for agencies which do not implement them is denial of reimbursement or personnel for this purpose, the legislation was not necessarily designated "discretionary."

Finally, since requirements that victims request certain rights in order to be eligible for them are treated separately (i.e., "upon victim request," "not upon victim request"), they were also disregarded in the "mandatory/discretionary" determination.

E. Rights to Information and Assistance about Financial Assistance

While the typical victims rights provision addresses the victim's interaction with the criminal justice process, a number of states have recognized an obligation for the criminal justice system to help victims cope with the direct effects of their victimization as well. For example, twenty-two of the states in the study require the criminal justice system to provide victims information or assistance in applying for crime victims compensation or other available financial aid.

In most of the states with this right, provision of information is mandatory and not dependent on a request by the victim. The right is usually extended to victims of all crimes. Most states designate a responsible individual to provide the information, and in most instances this is the prosecutor. (Table 3-1)

Table 3-1
Right to Information/Assistance
About Financial Assistance

<u>Total N = 36</u>	<u>N with right = 22*</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		95%	(21)
Upon victim request only		5%	(1)
Victims of all crimes		82%	(18)
Victims of felonies & violent crimes		18%	(4)
Discretionary		14%	(3)
Mandatory		86%	(19)
Designated responsibility**		77%	(17)
Police	(5)		
Prosecutor	(11)		
Victim Advocate	(4)		
No designated responsibility		23%	(5)

*Applicable in 2 states only if there is a funded program or a victim/witness advocate.

**Subgroups of "designated responsibility" in this and following tables may exceed the total N since more than one agency may be designated as responsible.

F. Rights to Alleviate Criminal Justice System Demands

The criminal justice system often places demands on victims regardless of their interest or willingness to be involved with the criminal justice process. For example, by expecting or requiring victims to provide evidence, the system may expose them to intimidation by the offender. By designating their property as evidence, it may deprive them of their belongings for a lengthy period. Requiring their attendance at criminal justice proceedings may present them with difficulties such as dealing with disgruntled employers and getting to the courthouse. Such demands are the subject of various victims rights provisions.

Over half the states in the study recognize victims' rights to information about available protections from intimidation. Most of these provisions call for such information to be provided to every victim, irrespective of the practitioner perception of the existence of intimidation. Generally, the provisions are mandatory, and the prosecutor or police are designated to provide the information. (Table 3-2)

(Several other types of legislative provisions relate to victim intimidation. Virtually all states proscribe intimidating or harassing witnesses. In recent years, a number of these obstruction of justice statutes have been amended to extend protections to victims as well as witnesses. However, in most cases their primary purpose is to maintain the integrity of the criminal justice process, rather than to protect victims. In addition to, or in lieu of, providing

victims information about available protections from intimidation, some statutes declare that victims have the right to be free from intimidation and harassment. Finally, well over half of the study states recognize a victim's right to be provided a separate waiting room or other separation from the defendant in the courthouse.)

Table 3-2
Right to Information about Available
Protections from Intimidation

<u>Total N = 36</u>	<u>N with right = 20</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		90%	(18)
Upon victim request only		10%	(2)
Victims of all crimes		70%	(14)
Victims of felonies & violent crimes		30%	(6)
Discretionary		20%	(4)
Mandatory		80%	(16)
Designated responsibility		75%	(15)
--Police	(6)		
--Prosecutor	(11)		
--Other	(3)		
No designated responsibility		25%	(5)

Victims deprived of their property--initially because of a crime and then because of the criminal justice system's wish to preserve the "best" evidence--have the right to assistance in obtaining prompt property return in most of the states in the study. Generally, the right is mandatory, not dependent on a request from the victim, and not limited to victims of felonies and violent crimes. Police and prosecutors sometimes share responsibility for ensuring implementation of this right. (Table 3-3)

Table 3-3
Right to Have Property Promptly Returned

<u>Total N = 36</u>	<u>N with right = 29</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		79%	(23)
Upon victim request only		21%	(6)
Victims of all crimes		72%	(21)
Felony & violent crime victims		28%	(8)
Discretionary		17%	(5)
Mandatory		83%	(24)
Designated responsibility		79%	(23)
--Police	(24)		
--Prosecutor	(15)		
--Court	(7)		
No designated responsibility		21%	(6)

The particular demands placed upon victims who are required to participate in the criminal justice process are addressed by additional rights. Two typical ones call for criminal justice personnel to explain victims' absence from work to their employers and to provide victims transportation to the courthouse.

Statutes requiring employer intercession usually apply to victims of less serious as well as serious crimes, are not dependent on victim request, and are mandatory. Prosecutors, and sometimes police, are usually assigned responsibility for contacting employers. (Table 3-4) (Apart from their victim rights legislation, some states proscribe termination of employees based on absence because of witness status.)

Table 3-4
Right to Employer Intervention

<u>Total N = 36</u>	<u>N with right = 21</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		81%	(17)
Upon victim request only		19%	(4)
Victims of all crimes		86%	(18)
Felony & violent crime victims		14%	(3)
Discretionary		14%	(3)
Mandatory		86%	(18)
Designated responsibility		81%	(17)
--Police	(7)		
--Prosecutor	(13)		
--Victim advocate	(1)		
No designated responsibility		19%	(4)

While significantly fewer states in the study provide rights to transportation than provide rights to employer intercession, again, these rights are usually available to victims of misdemeanors as well as felonies. (Table 3-5)

Table 3-5
Right to Transportation Services

<u>Total N = 36</u>	<u>N with right = 8*</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		88%	(7)
Upon victim request only		12%	(1)
Victims of all crimes		100%	(8)
Victims of felonies & violent crimes	--		(0)
Discretionary		25%	(2)
Mandatory		75%	(6)
Designated responsibility		100%	(8)
--Prosecutor	(3)		
--Victim Advocate	(2)		
--Other	(3)		
No designated responsibility		---	(0)

*In 2 states service is required only as a condition of funding.

G. Rights of Access to the Criminal Justice Process

Perhaps the most significant elements of victims rights legislation are those that recognize victim interests in the criminal justice proceedings themselves. These provide for victims to be notified in advance about proceedings, to have the opportunity to be consulted about or provide input into certain decisions, and to be notified of the decisions.

G.1. Advance Notice of Proceedings

Victims rights legislation commonly accords victims the right to advance notice of proceedings, either generally or at specific stages of the process. Sometimes such notice is required only for victims who are scheduled to appear, but in most cases it is required for non-witness victims as well. Victims who choose to be present, or to provide input at particular proceedings, need to know when the proceedings will take place. Advance notice also alerts victims that important decisions are imminent.

Of the thirty-six states included in the study, eleven provide victims a general right to advance notice of forthcoming proceedings, five provide the specific right to advance notice of plea hearing dates, eight provide advance notice of the trial date, and fifteen provide advance notice of the sentencing hearing date. (Notice of the sentencing hearing date may be implicit in a number of other states which call for notifying victims of their right to attend or participate in the sentencing hearings.) Some states provide both a general right to advance notice and one or more other rights to notice about specific hearings. Advance notice is generally

mandatory, and the prosecutor is usually the designated party responsible for providing it. (Tables 3-6 through 3-9)

Table 3-6
Right to Advance Notice of Forthcoming Proceedings

Total N = 36	N with right = 11	<u>%</u>	<u>N</u>
Not dependent on victim request		73%	(8)
Upon victim request only		27%	(3)
Victims of all crimes		73%	(8)
Felony & violent crime victims		27%	(3)
Discretionary		18%	(2)
Mandatory		82%	(9)
Designated responsibility		64%	(7)
--Police	(1)		
--Prosecutor	(6)		
--Other	(1)		
No designated responsibility		36%	(4)

Table 3-7
Right to Advance Notice of Plea Hearing Date

Total N = 36	N with right = 5	<u>%</u>	<u>N</u>
Not dependent on victim request		40%	(2)
Upon victim request only		60%	(3)
Victims of all crimes		20%	(1)
Felony & violent crime victims		80%	(4)
Mandatory		100%	(5)
Discretionary		---	(0)
Designated responsibility		100%	(5)
--Prosecutor	(5)		
No designated responsibility		---	(0)

Table 3-8
Right to Advance Notice of Trial Date

<u>Total N = 36</u>	<u>N with right = 8</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		50%	(4)
Upon victim request only		50%	(4)
Victims of all crimes		50%	(4)
Felony & violent crime victims		50%	(4)
Discretionary		38%	(3)
Mandatory		62%	(5)
Designated responsibility		100%	(8)
--Police	(1)		
--Prosecutor	(8)		
--Victim advocate	(1)		
No designated responsibility		---	(0)

Table 3-9
Right to Advance Notice of Sentencing Date

<u>Total N = 36</u>	<u>N with right = 15</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		73%	(11)
Upon victim request only		27%	(4)
Victims of all crimes		40%	(6)
Felony & violent crime victims		60%	(9)
Mandatory		100%	(15)
Discretionary		---	(0)
Designated responsibility		100%	(15)
--Prosecutor	(12)		
--Court	(1)		
--Other	(2)		
No designated responsibility		---	(0)

G.2. Prompt Notice of Continuances

Postponements and continuances are common in the criminal justice process. To reduce wasting victims' time and expense in appearing at proceedings which have been postponed or cancelled, victims rights legislation often requires that they be provided prompt notice when proceedings they are required to attend will not proceed as scheduled. Of the thirty-six states in the study, thirty provide victims with this right. (Table 3-10)

Table 3-10
Right to Prompt Notice of Continuances

Total N = 36	N with right = 30	<u>%</u>	<u>N</u>
Not dependent on victim request		83%	(25)
Upon victim request only		17%	(5)
Victims of all crimes		73%	(22)
Felony & violent crime victims only		27%	(8)
Mandatory		70%	(21)
Discretionary		30%	(9)
Designated responsibility		83%	(25)
--Prosecutor	(29)		
--Other	(2)		
No designated responsibility		17%	(5)

G.3. Prior Consultation/Submission of Statement

Victims rights legislation extends to victims various rights to be consulted by criminal justice officials before the officials make major decisions about the case. While the officials maintain decisionmaking authority, victims have the opportunity to ensure their concerns are at least presented for consideration. The study looked at legislation providing victims consultation rights prior to pretrial intervention/diversion decisions, dismissal, and presentation of plea agreements to the court. It also looked at legislation allowing victim input prior to the court's acceptance of a plea agreement or imposition of sentence.

The relatively few states which provide victims the right to consult with the prosecutor prior to pretrial diversion and dismissal extend the right to all victims, do not require the victim to request it, and, with one exception, make it mandatory. (Tables 3-11 through 3-12)

Table 3-11
Right to Be Consulted Prior to
Pretrial Diversion

Total N = 36	N with right = 5	<u>%</u>	<u>N</u>
Not dependent on victim request		100%	(5)
Upon victim request only		---	(0)
Victims of all crimes		---	(0)
Felony & violent crime victims		100%	(5)
Discretionary		---	(0)
Mandatory		100%	(5)
Designated responsibility		100%	(5)
--Prosecutor (5)			
No designated responsibility		---	(0)

Table 3-12
Right to Be Consulted Prior to
Dismissal of the Case

<u>Total N = 36</u>	<u>N with right = 5</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		100%	(5)
Upon victim request only		---	(0)
Victims of all crimes		---	(0)
Felony & violent crime victims only		100%	(5)
Discretionary		20%	(1)
Mandatory		80%	(4)
Designated responsibility		100%	(5)
--Prosecutor (5)			
No designated responsibility		---	(0)

Nearly a third of the study states provide victims the right to be consulted before the prosecutor presents a plea to the court. The right is generally mandatory and, more often than not, extended to all victims. (Table 3-13)

Table 3-13
Right to Be Consulted
Prior to Presentation of Plea to Court

<u>Total N = 36</u>	<u>N with right = 11</u>	<u>%</u>	<u>N</u>
Victims of all crimes		36%	(4)
Felony & violent crime victims only		64%	(7)
Discretionary		9%	(1)
Mandatory		91%	(10)

Six of the states in the study which provide victims the right to consult with the prosecutor prior to presentation

of plea agreements also provide them the opportunity to present oral or written statements to the sentencing judge prior to the judge's acceptance of the agreements. In addition, four states which do not explicitly provide for consultation with the prosecutor do allow victim input to the court. (Table 3-14)

Table 3-14
Right to Provide Statement to Court
Prior to Acceptance of Plea Agreement

<u>Total N = 36</u>	<u>N with right = 10</u>	<u>%</u>	<u>N</u>
Victims of all crimes		50%	(5)
Felony & violent crime victims only		50%	(5)
Mandatory		90%	(9)
Discretionary		10%	(1)

G.4. Victim Impact Statements

Virtually every state allows some type of victim input at sentencing. Since a determination of guilt has been made, legislators seem more willing to recognize a valid victim role at this stage of the proceedings. Nevertheless, the extent of victim input varies considerably from state to state as does the means by which victim impact information is conveyed to the court.

G.4(a). Written Statements

Of the thirty-six states in the study, thirty-four provide for written victim impact statements. Twenty-three of these provide for probation officers or prosecutors to prepare victim impact statements. Twenty-one provide for victim-prepared statements. Ten states provide for both officially-prepared and victim-prepared statements. (Table 3-15)

Table 3-15
Preparation of Written
Victim Impact Statements

N = 36	
Officially-prepared and victim-prepared	10
Officially-prepared only	13
Victim-prepared only	11
No provision for written statement	2

With several exceptions, the legislation calls for officially-prepared statements to be incorporated into or attached to the presentence investigation reports required by the court prior to sentencing. While most legislation authorizing victim-prepared statements calls for these to be submitted to officials for forwarding to the court either in

connection with the presentence report or otherwise, several statutes provide for victims to submit these directly to the court.

Official responsibility for victim impact statements generally vests in the probation department. Probation officials in twenty-seven of the thirty-six study states are given varying degrees of responsibility for victim impact statements. In about three-quarters of these, they are responsible for the actual preparation of victim impact statements, usually in connection with the presentence investigation report. Probation officials' responsibility to contact victims to solicit impact information is explicit in some of these statutes, and implicit in others (e.g., those which require probation officials to include information about the victim's state of mind or opinion about the sentence). Others provide no direction as to how the information for the statement is to be obtained.

Approximately a quarter of the twenty-seven states assigning victim impact responsibilities to the probation department only require probation officials to forward to the court written statements they have received from victims. Some legislation requires solicitation of statements, but generally this is not the case.

Several of the twenty-seven states call for probation departments to prepare their own victim statements and, in addition, to forward victims' statements to the court.

In nine other states, prosecutors are responsible for either preparing victim impact statements or forwarding

victim-prepared statements to the court. One of these states provides for both preparation of statements and forwarding of statements submitted by victims. The extent of affirmative action on the part of the prosecutor also varies among these states.

In one other state, the only legislative provision relating to written victim impact statements authorizes the victim to submit such a statement directly to the court.

The two remaining states have no legislative provisions for written victim impact statements. (Table 3-16)

Table 3-16
Responsibility/Authority for
Written Victim Impact Statements

N = 36

Probation Officer

Prepares probation statement <u>and</u> forwards victim's statement, if submitted	4
Prepares probation statement only	16
Forwards victim's statement only	7

Prosecutor

Prepares prosecution statement <u>and</u> forwards victim statement, if submitted	1
Prepares prosecution statement only	3
Forwards victim statement only	5

Victim

Submits to court as sole statement*	1
-------------------------------------	---

No Provision

2

*While only one of the states studied provides for victim transmittal of written victim impact information directly to the court as the sole mechanism for making written statements available to sentencing authorities, legislation in 21 study states authorizes victims to submit victim impact statements to probation (11), the prosecutor (6), and/or directly to the court (6, including 5 states which also require an officially-prepared statement).

Legislation in approximately a third of the thirty-six study states is quite general about the contents of written statements, speaking, for example, of including information about "the impact which the defendant's criminal conduct has had upon the victim," or "describing the effect of the defendants' offense." Such legislation leaves the preparer considerable discretion about information to include.

The other two-thirds of the states studied are more specific as to the type of information which can or should be included in written statements. Legislation requiring officially-prepared written statements enumerates specific types of information to be included in the reports somewhat more often than that providing for victim-prepared statements. States which authorize or require both officially-prepared statements and victim-prepared statements do not necessarily specify the same elements to be included in each.

Regardless of who the legislation requires or authorizes to prepare the statement, the specific type of information most frequently mentioned for inclusion is the financial impact of the crime on the victim. (This is not surprising for several reasons. Such information is generally regarded as relatively "objective," especially if it is verified. Moreover, at present there is considerable emphasis on victim restitution which necessitates some determination of the financial losses to be reimbursed.) Many statutes also

mention the impact of the crime on the victim's physical and psychological well-being. The impact on the victim's relationship with family and friends and the victim's opinion of a proposed sentence or sentence recommendation are least frequently indicated. (Tables 3-17 through 3-18)

Table 3-17
Information Authorized/Required in
Officially-Prepared Victim Impact Statements

N authorizing/requiring statements =	23
N authorizing/requiring 1 or more elements =	17
Financial information	17
Physical information	13
Psychological information	13
Relationship information	8
Victim opinion/recommendation re sentence	4

Table 3-18
Information Authorized in Victim-Prepared
Victim Impact Statements

N authorizing statements =	21
N specifying 1 or more elements =	12
Financial information	10
Physical information	8
Psychological information	9
Relationship information	4
Victim opinion/recommendation re sentence	3

G.4(b). Oral Statements

Of the thirty-six states in the study, twenty-two provide victims with the right to make an oral statement at the sentencing hearing. A number of these allocution statutes admonish victims that oral statements shall relate only to the facts of the case, and many are explicit about their contents. As is the case with statutes relating to written victim impact statements, information about financial losses is explicitly mentioned more often than any other type of information. Few

statutes encourage victims to give an opinion about the sentence, and even fewer encourage them to speak about the crime's impact on their social relationships. (Table 3-19)

Table 3-19
Information Authorized in Oral Impact Statements

N authorizing oral statements = 22
N specifying 1 or more elements to be included = 16

Financial information	13
Physical information	7
Psychological information	7
Relationship information	2
Victim opinion/sentence recommendation	5

G.5. Notice of Case Outcome

Provisions about victim notification of case outcome range from the general to the specific. Of the 36 states in the study, 22 require or authorize notice of the "final disposition." Six states (four of the 22 plus two others) specify a right to notice of outcome of "the trial" or, even more specifically, of the "conviction" or "acquittal." Eight states (seven of the 22 states which specify notice of the final disposition plus one other) specify victims' right to notification of the sentence. Nine states (six of the 22, plus an additional three) specify victims' right to information about the status of the case.

While many of the provisions only require notice if a victim requests it, most make such notice mandatory upon request. The prosecutor is generally designated to provide the notice. (Tables 3-20 through 3-23)

Table 3-20
Right to Notice of Final Disposition

<u>Total N = 36</u>	<u>N with right = 22</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		45%	11
Upon victim request only		55%	12
Victims of all crimes		77%	17
Felony & violent crime victims only		23%	5
Discretionary		18%	4
Mandatory		82%	18
Designated responsibility*		86%	19
--Police	5		
--Prosecutor	14		
--Judge	1		
--Other	7		
No designated responsibility		14%	3

Table 3-21
Right to Notice of Trial Outcome/
Conviction/Acquittal

<u>Total N = 36</u>	<u>N with right = 6</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		17%	1
Upon victim request only		83%	5
Victims of all crimes		67%	4
Felony & violent crime victims only		33%	2
Discretionary		33%	2
Mandatory		67%	4
Designated responsibility		100%	6
--Prosecutor	4		
--Other	2		
No designated responsibility		---	0

Table 3-22
Right to Notice of Sentence

<u>Total N = 36</u>	<u>N with right = 8</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		38%	3
Upon victim request only		62%	5
Victims of all crimes		88%	7
Felony & violent crime victims only		12%	1
Discretionary		---	0
Mandatory		100%	8
Designated responsibility		75%	6
--Police	1		
--Prosecutor	3		
--Other	2		
No designated responsibility		25%	2

Table 3-23
Right to Information About Case Status

<u>Total N = 36</u>	<u>N = 9</u>	<u>%</u>	<u>N</u>
Not dependent on victim request		78%	7
Upon victim request only		22%	2
Victims of all crimes		89%	8
Felony & violent crime victims only		11%	1
Discretionary		33%	3
Mandatory		67%	6
Designated responsibility		78%	7
--Police	1		
--Prosecutor	4		
--Judge	1		
--Other	3		
No designated responsibility		22%	2

Summary

The victims rights legislation of the 36 states in the study varied considerably in the rights provided and in the manner in which they were provided. Most common rights pertained to providing prompt notice of continuances, assisting with property return, providing information about financial assistance and intimidation protections, and interceding with employers. Rights pertaining to specific proceedings were somewhat less frequent, with notification of the final disposition, advance notice of the sentencing date in particular and forthcoming proceedings in general, and consultation about pleas the most common.

While a number of states require victims to request rights, most do not except with respect to notice of case outcome. With the exception of consultation rights which are most frequently limited to victims of felonies and violent crimes, rights are usually extended to all victims. Most rights are mandatory and the criminal justice official responsible for implementing the rights is usually designated. In the great majority of cases, this is the prosecutor.

All states provided some means for transmittal of victim impact information to the sentencing court. All but two provided for written impact statements prepared by probation officials, the victim or both. Over half allowed oral statements by victims. About half of the victim impact statutes specified that information about the financial, physical, and psychological impact should (or could) be included.

Chapter 4

PROSECUTORS'S SURVEY

Eighty-four prosecutors from the thirty-six study states were interviewed. The survey included both structured and unstructured questions.

Part I: Prosecutor Responses to Structured Questions

Structured questions addressed to prosecutors concerned the frequency with which their offices provide victims certain types of information and consult with them, factors likely to increase such notice and consultation, and perceptions of victim impact statements. Prosecutors without victim/witness staff were also asked about the frequency certain services were provided to victims.

I.A. Advance Notice of Plea Hearings, Trial, and Sentencing

Advance notice of the date, time, and place of proceedings alerts victims that important decisions in their cases may be made and, where it is desirable and allowed, facilitates their attendance at the proceedings.

Most of the prosecutors surveyed indicated they usually give felony victims advance notice of trial dates. This is not surprising since--as a number of respondents pointed out--victims are ordinarily witnesses for the state.

By contrast, only slightly over half the respondents said they usually give felony victims advance notice of plea hearings. Some commented they saw no need for the victim to be notified of forthcoming plea hearings since the "bargain" is

struck prior to the hearing, rendering any appearance by the victim superfluous.

Three-quarters of the respondents said they usually provide felony victims advance notice of sentencing hearings.

(Table 4-1)

Table 4-1
Frequency of Advance Notice To Felony Victims

	<u>N</u> ¹	<u>Not Usually</u> ²	<u>Sometimes</u>	<u>Usually</u>
Plea Hearing	(70)	21%	26%	53%
Trial	(84)	1%	2%	97%
Sentencing	(78)	15%	10%	75%

Respondents who said they do not routinely provide advance notice of trial, plea hearings, or sentencing hearings were asked whether certain conditions might increase the likelihood they would provide advance notice. Virtually all said they would be more likely to provide such notice if the victim were to request it. Most said the nature of the charges and the presence of violence would also affect the likelihood of notice. (Table 4-1(a))

¹ In this and succeeding tables throughout the report, "not applicable" and "don't know" responses are excluded, accounting for variation in the N.

² Frequencies were requested "on a scale of 1 to 5, with 1 being 'almost never' and 5 being 'almost always'." For simplification in this table and in similar ones throughout the report, responses of 1 and 2 are reported together in a "not usually" category, responses of 3 are reported as "sometimes," and responses of 4 and 5 are reported together as "usually."

Table 4-1(a)³
Factors Likely to Affect Non-Routine Notice

Violent Crime	(53)	91%
Nature of Charges	(55)	93%
Victim Request	(55)	98%

When asked whether they provide advance notice in misdemeanor cases the same, somewhat less, or considerably less than they provide such advance notice in felony cases, a third of the respondents answered that it is given about the same and the remainder said it is given somewhat or considerably less often. (Table 4-1(b))

Table 4-1(b)
Comparison of Notice to
Misdemeanor and Felony Victims

(N=73)	Same	34%
	Misd. somewhat less	36%
	Misd. considerably less	30%

I.B. Prompt Notice of Continuances

Well over half of the respondents indicated they usually give prompt advance notice to victims about continuances (though a number noted that for reasons beyond the prosecutor's control, continuances often come up at the last minute). Again, some respondents said it was in their own best interest to notify victims about continuances so they could make appropriate arrangements to appear when required. (Table 4-2)

³ In this table and in similar tables throughout the report, the responses reflect answers of respondents who reported frequencies of "1," "2," "3," or "4" with respect to the preceding frequency questions. Respondents who answered "5" (almost always) to each of the frequency questions were not asked questions about factors affecting non-routine implementation.

I.C. Information About Intimidation Protections

Victims who are expected to cooperate in the prosecution of cases may be the object of intimidating actions by the defendant or the defendant's family or friends. They may also fear the defendant or the defendant's family or friends, whether or not intimidation actually occurs.

Asked how often their office notifies felony victims of available protections from intimidation, not quite half of the prosecutors said they usually provide such information. Several explained the reason they do not notify victims about intimidation protections is that there are so few protections available in their jurisdictions. Nevertheless, all respondents said they provide information about available protections if victims request it, and virtually all said they provide it if they believe the victim is in danger. The presence of violence or the nature of the charges are also likely to affect notice, according to most respondents. (Table 4-3 through 4-3(a))

Table 4-3
Frequency of Intimidation Information
to Felony Victims

(N=77)	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
	43%	22%	45%

Table 4-3(a)
Factors Likely to Affect Non-Routine Information

Violent Crime	(58)	91%
Nature of Charges	(59)	90%
Perceived Danger	(57)	98%
Victim Request	(58)	100%

Approximately half of the prosecutors reported that their offices provide victims of misdemeanors with notice of intimidation protections about as often as they provide such notice to victims of felonies. Commenting on the question, several respondents volunteered that certain types of misdemeanor victims--e.g., domestic violence victims--are more likely than many felony victims to receive information about intimidation protections. Others said they provide such notice somewhat or considerably less. (Table 4-3(b))

Table 4-3(b)
Comparison of Information
to Misdemeanor and Felony Victims

(N=68)	Same	49%
	Misd. somewhat less	29%
	Misd. considerably less	22%

I.D. Consultation Prior to Decisionmaking

Prosecutors were asked how often they consult with victims prior to making major decisions about how to handle cases. ("Consultation" was described as discussing with victims their concerns about the handling of their cases without relinquishing to them any decisionmaking powers.) Responses varied significantly according to the stage of the proceedings. Consultation appears most common prior to decisions about dismissing cases. Prosecutors also reported considerable consultation prior to decisions about diverting cases and taking cases to trial, and before plea negotiations and sentencing. According to respondents, little consultation takes place before cases are filed or before prosecutors seek continuances. (Table 4-4)

Table 4-4
Frequency of Consulting Felony Victims
Prior to Major Decisions

		<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Filing	(78)	62%	20%	18%
Dismissal	(82)	10%	16%	74%
Diversion	(58)	15%	21%	64%
Plea negotiation	(84)	12%	37%	51%
Seeking continuances	(80)	59%	27%	14%
Sentencing	(74)	15%	32%	53%
Trial	(82)	21%	18%	61%

Most respondents who reported not routinely consulting with victims said they would consult with them if requested, if violence were involved, or if consultation were warranted by the nature of the charges. (Table 4-4(a))

Table 4-4(a)
Factors Likely to Affect Non-Routine Consultation

Violent Crime	(79)	94%
Nature of Charges	(79)	95%
Victim Request	(79)	95%

Seventy percent of the respondents said they consult less with misdemeanor victims than with felony victims. (Table 4-4(b))

Table 4-4(b)
Comparison of Consultation
with Misdemeanor and Felony Victims

(N=74)	Same	30%
	Misd. somewhat less	44%
	Misd. considerably less	26%

Most prosecutors said they participate personally in the consultation, some accompanied by a member of the victim/witness staff. (Table 4-5)

Table 4-5
Consultation by Prosecutor/Victim Witness Staff

(N=84)	Prosecutor	55%
	Victim/witness staff	7%
	Prosecutor and victim/witness staff	38%

I.E. Notification of Actions Taken

Prosecutors were asked how often they notify victims of important decisions or actions. Responses indicate that such notice is most frequent with respect to the final disposition of the case, i.e., trial and sentencing, and least frequent with respect to the status of the defendant, i.e., bond revocation and pretrial release. (Table 4-6)

Table 4-6
Frequency of Notice to Felony Victims
About Actions Taken

	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Pretrial release	(80) 47%	29%	24%
Bond revocation	(81) 38%	16%	46%
Diversion	(53) 23%	9%	68%
Preliminary hearing	(73) 28%	12%	60%
Grand jury	(54) 11%	7%	82%
Trial	(83) 1%	4%	95%
Sentence	(82) 7%	14%	79%

Respondents who did not report providing notice of decisions or actions as a matter of routine were asked whether certain conditions would increase the likelihood of their providing such notice. Almost all said they would be more likely to provide notice if victims requested it. Most also said that violence and the nature of the charges are likely to affect the likelihood of notice. (Table 4-6(a))

Table 4-6(a)
Factors Likely to Affect Non-Routine Notice

Violence	(67)	90%
Nature of Charges	(66)	91%
Victim Request	(68)	97%

Asked to compare the frequency with which they notify misdemeanor victims about the outcome of certain actions with

the frequency with which they provide similar notice to felony victims, nearly two-thirds of the respondents said they provide less notice to misdemeanor victims. (Table 4-6 (b))

Table 4-6(b)
Comparison of Notice
to Misdemeanor and Felony Victims

(N=73)	Same	36%
	Somewhat less	34%
	Considerably less	30%

I.F. Victim Impact Statements

In general, prosecutors indicated substantial involvement in notifying victims of the right to submit victim impact statements and little involvement in preparing or assisting victims in preparing such statements. Respondents were split fairly evenly between those who present victim impact statements to the court and those who do not. Across the board, three-fifths of the respondents claim less involvement with victim impact statements in misdemeanor cases than in felony cases. (Tables 4-7 and 4-7(a))

Table 4-7
Frequency of Involvement with
Victim Impact Statements in Felony Cases

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Prepares	(80)	89%	----	11%
Notifies victim of right to submit	(82)	23%	9%	68%
Assists in preparing	(78)	74%	9%	17%
Presents to court	(76)	51%	4%	45%

Table 4-7(a)
Comparison of Involvement in
Misdemeanor and Felony Cases

(N=68).	Same	38%
	Misd. somewhat less	28%
	Misd. considerably less	34%

Prosecutors were asked how important they consider it for certain types of information to be included in the victim impact statements presented to the sentencing court. All respondents said information about the financial and physical impact of the crime on the victim is very important, and virtually all said information about the crime's impact on the victim's relationships with family and friends and on the victim's psychological well-being is important or very important. The victim's opinion regarding an appropriate sentence was viewed as not important by more respondents than any of the other types of information, but even this was viewed as important or very important by nearly 90%. (Table 4-8)

Table 4-8
Importance of Victim Impact Information

	<u>N</u>	<u>Not Import.</u>	<u>Import.</u>	<u>Very Import.</u>
Financial	(84)	----	----	100%
Social	(83)	3%	22%	75%
Physical	(83)	----	----	100%
Psychological	(83)	----	7%	93%
Victim opinion	(82)	11%	24%	65%

Prosecutors were asked their opinions about the effectiveness of certain types of victim impact statements in providing information useful to the sentencing court. Almost all respondents found statements prepared by probation and forms completed by victims at least effective. Opinions varied considerably with respect to the effectiveness of oral or written statements presented in the victim's own words. Such statements were ranked both "very effective" and "not effective" more often than were probation-prepared statements or forms completed by victims. In commenting on these questions, a number of respondents volunteered that it is difficult to generalize about the effectiveness of victim narratives or victim oral statements since this depends so much on the articulateness of the individual victim: a well-delivered or well-written statement might be the most effective type of statement that could be provided, and a poorly-delivered or poorly-written one might be the least effective type of statement. (Table 4-9)

Table 4-9
Effectiveness of Victim Impact Statements

	<u>N</u>	<u>Not Effec.</u>	<u>Effec.</u>	<u>Very Effec.</u>
Probation-prepared statements	(69)	7%	57%	36%
Forms completed by victims	(67)	6%	61%	33%
Victim narratives	(76)	12%	42%	46%
Victim oral statements	(74)	10%	27%	63%

Most of the prosecutors interviewed felt that victim impact statements have at least some impact on the sentence imposed on the defendant. More noted a substantial impact on restitution than on other aspects of sentencing. Many also saw the type of sentence (e.g., probation, incarceration, community service) as being substantially affected by the victim impact statement. Sentence length was viewed as being affected least, although even here nearly 90% indicated at least some impact. A number of respondents in states with sentencing guidelines pointed out that the guidelines restrict the impact of victim impact statements on sentences. (Table 4-10)

Table 4-10
Impact of Victim Impact Statements

	<u>N</u>	<u>No Impact</u>	<u>Some Impact</u>	<u>Subst. Impact</u>
Length	(76)	9%	69%	22%
Type	(77)	4%	51%	45%
Restitution	(77)	5%	14%	81%

I.G. Services to Victims

The approximately 30% of the prosecutors interviewed who had no victim/witness staff were asked how frequently they provide certain services requested by victims. (On the assumption that victim/witness staff, where they exist, would be better able than prosecutors to answer questions about services, prosecutors with victim/witness units were not asked these questions.)

On the whole, responses tended to indicate that prosecutors either routinely provide or do not provide services to victims: few respondents indicated that the services were "sometimes" provided. In descending order of frequency, the

services which prosecutors report they usually provide are making referrals to service agencies, assisting in property return, interceding with employers, assisting with victim compensation applications, and providing transportation and escorts to court. (Table 4-11)

Table 4-11
Frequency of Providing Requested Services

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Referrals	(22)	23%	---	77%
Property return	(25)	16%	8%	76%
Employer inter- cession	(23)	30%	---	70%
Compensation assistance	(23)	35%	4%	61%
Court escort	(24)	46%	8%	46%
Transportation	(24)	46%	8%	46%

I.H. Impact of Victims Rights Legislation

Prosecutors were asked whether victims rights legislation has had little, some, or substantial impact on the availability of funding for victim services, the availability of victim services, victim participation in the criminal justice system, and practitioners' attitudes toward victims. Close to 90% responded that it had some--or even more often--substantial impact on practitioners' attitudes, victim participation, and services. Responses about the impact on funding was considerably less enthusiastic, with only a little over half the respondents finding some or substantial impact. (Table 4-12(a) (At least several of those whose legislation was not tied to funding questioned the fairness of the legislature's requiring them to provide increased services without making available state funds to pay for those services.)

Table 4-12(a)
Impact of Victim Rights Legislation (1)

	<u>N</u>	<u>Little Impact</u>	<u>Some Impact</u>	<u>Substantial Impact</u>
Funding	(82)	43%	16%	41%
Services	(82)	23%	18%	59%
Participation	(84)	12%	26%	62%
Practitioners' attitudes	(83)	11%	19%	70%

Respondents were also asked their opinions about whether the following deteriorated, improved, or remained the same after enactment of the victims rights legislation: willingness of victims to report crimes, willingness of victims to cooperate with prosecution, victim attitudes toward prosecutors, victim attitudes toward the criminal justice system as a whole, prosecutors' job satisfaction, and the quality of justice. Very little deterioration in these areas was noted. However, in commenting on the questions about victim attitudes, several respondents mentioned that some victims who prior to the legislation might have been resigned about their treatment might now be disillusioned and angry if they believe the system is not enforcing their new-found rights.

Well over half of the respondents noted improvements in victim attitudes toward prosecutors, the quality of justice, and victim attitudes toward the criminal justice system. Half said the legislation resulted in improved job satisfaction of prosecutors. While fewer noted improvements in victim cooperation and victim willingness to report, even here a significant number of the prosecutors noted an improvement.

(Table 4-12(b))

Table 4-12(b)
Impact of Victim Rights Legislation (2)

	<u>N</u>	<u>Deteriorated</u>	<u>Same</u>	<u>Improved</u>
Victim willingness to report	(77)*	3%	69%	29%
Vic. cooperation	(84)	4%	44%	44%
Vic. attitudes toward prosecutor	(81)	24%	24%	44%
Vic. attitudes toward system	(79)*	6%	29%	65%
Prosecutor job satisfaction	(84)	2%	48%	50%
Quality of justice	(84)	---	30%	70%

*Some prosecutors said they had no way of knowing whether or not the legislation affected reporting or non-prosecutorial aspects of the criminal justice system.

I.I. Legislative Change

Prosecutors were asked whether or not they believe their state's victims rights legislation should be changed in any way. Most responded affirmatively (many citing the need for increased funding). (Table 4-13)

Table 4-13
Desirability of Legislative Change

(N=83)	<u>Yes</u>	<u>No</u>
Should the legislation be changed?	71%	29%

(For more detailed information about prosecutor recommendations, see Part II: Unstructured Questions.)

Part II:
Prosecutor Responses to Open-Ended Questions

Through several open-ended questions, prosecutors were given the opportunity to express their opinions about victims rights legislation in particular and about the system's responsibility to victims in general. No limit was placed on the number of responses prosecutors could give to the various questions. Nevertheless, there were relatively few areas mentioned by substantial numbers of respondents.

Of the 84 prosecutors, 20 had no suggested changes. The 64 other respondents made 81 suggestions, over half of which were for additional funding and resources to implement the legislation. In fact, increased funding and resources was the only desired change mentioned by 28 respondents and was included among suggestions of 13 additional respondents. Thus, nearly half the respondents (41) said they would like to see legislative changes resulting in additional funding and resources to implement the legislation.

Somewhat fewer respondents (36) suggested substantive changes. Moreover, the substantive changes suggested reflected no consensus or even significant areas of mutual concern. It is interesting to note, however, that even though the question addressed victims rights legislation rather than victim compensation legislation, more respondents mentioned the enactment or expansion of crime victim compensation than any other suggestion. (Of these, two were from states which do not currently have compensation legislation.) Eighteen respondents made recommendations not repeated by any other respondent.

(Table 4-14)

Table 4-14
Desired Changes to Victims Rights Legislation

Are there changes you would like to see made in your state's victims rights legislation? If so, what are they?

Total No. of Respondents = 84
Total No. of Responses = 101

<u>Respondents</u>		<u>Desired Legislative Change</u>
<u>N</u>	<u>%</u>	
41	49%	Additional funding/resources/personnel
20	24%	No suggestions
8	10%	Expansion/enactment compensation legislation
5	6%	Widened range of victims covered by legislation
3	4%	Greater enforcement authority
3	4%	Mandatory training for criminal justice personnel
3	4%	Increased services for victims
18	21%	Other

Nearly a quarter of the prosecutors said the legislation has had little impact on their offices since they had been addressing victim needs prior to enactment of the legislation. Considerable numbers of others, however, said the legislation has increased prosecutor sensitivity to victim needs and has standardized throughout their offices certain practices which previously had been exercised at the discretion of individual prosecutors. (Table 4-15)

Table 4-15
Effect(s) of Victims Rights Legislation

What do you believe has been the greatest effect your state's victim legislation has had on you as a prosecutor or on the prosecutor's office?

Total No. of Respondents = 83
Total No. of Responses = 112

<u>Respondents</u>		<u>Effect of Legislation</u>
<u>N</u>	<u>%</u>	
20	24%	Increased prosecutor sensitivity re victim impact/needs
18	22%	Little or no change; requirements of legislation met prior to enactment of legislation
11	13%	Improved structure, uniformity, standards re victim treatment/services
10	12%	Increased victim satisfaction
8	10%	Increased victim/witness resources/personnel
6	7%	Increased focus on restitution
6	7%	Facilitated/improved prosecutor case preparation
5	6%	Codification/ratification/justification of previous efforts
5	6%	Increased public awareness of rights
5	6%	Increased prosecutor workload (1 respondent noted "but worth it")
4	5%	Increased political awareness of financial costs of victim services
14	17%	Other

Specific Responsibilities to Victims

22	27%	Responsibility to listen to victims
22	27%	Responsibility to keep victims informed and/or educated re criminal justice process
10	12%	Responsibility to sentence fairly
10	12%	Responsibility to seek victim restitution or otherwise try to make victims whole
9	11%	Responsibility to protect victims
9	11%	Responsibility to treat victims as clients/represent them
5	6%	Responsibility to treat victims with respect and compassion
4	5%	Responsibility not to inconvenience victims unnecessarily
3	4%	Responsibility to allow victims to attend proceedings
3	4%	Responsibility to prosecute as as well as possible
9	11%	Other

Nearly a third (24) of the respondents described the system's responsibility to victims as "great," "tremendous,"

"considerable," or the like. Other responses generally related to two categories: victim responsibilities vis-a-vis other responsibilities, and specific victim responsibilities.

Prosecutors are clearly concerned about the relationship of victims rights to the system's responsibilities to defendants and the public at large; nearly 40% of the responses pertained to such relationships. There appears to be little concensus, however, as to what that relationship should be. On the other hand, over a quarter of the respondents mentioned the system's responsibility to listen to victims and to keep them informed about the criminal justice process. Only one prosecutor noted that the criminal justice system has no legal responsibility to crime victims. (Table 4-16)

Table 4-16
System Responsibilities to Victims

On the one hand, because the U.S. justice system is an adversarial one, some argue that the only legitimate concerns should be the rights of the defendant and the interests of the state. On the other hand, many victims and their advocates contend that victims are entitled to certain rights in the system. As a prosecutor, what responsibilities, if any, do you feel the system has toward crime victims?

Total No. of Respondents = 83
Total No. of Responses = 106

<u>Respondents</u>		<u>General Responsibility to Victims</u>
<u>N</u>	<u>%</u>	
24	28%	Great, considerable, tremendous, etc.
		<u>Responsibility to Victims Vis-a-Vis Other</u>
		<u>Responsibilities</u>
13	16%	Responsibility excludes extending decisionmaking authority to victims
12	14%	Equal responsibility to victims/defendants; maintain proper balance between victim/defendant rights
7	8%	Responsibility for state/justice overrides responsibility to victims
4	5%	Responsibility to balance victim/defendant rights that now favor defendant
3	4%	Responsibility to protect defendants' rights overrides that to protect victims' rights
3	4%	Other

Part III:
Analysis of Factors Influencing Responses:
Legislation, Funding, and Victim/Witness Staff

III.A. Legislation

Prosecutors were asked a number of questions about the frequency with which they extend certain rights to felony victims. While all respondents were from states with victim rights legislation, their legislation did not necessarily contain provisions directly relevant to the questions. Where relevant provisions did exist, sometimes they were very specific, and sometimes they were general (e.g., some provided victims the right to advance notice of trial; others the right to notice of "forthcoming proceedings"). Using analysis of variance, the differences between responses of prosecutors in states with relevant provisions and responses of prosecutors in states without such provisions were examined.

With one exception, there were no significant differences. The one exception related to the frequency with which respondents said they consult with victims prior to dismissing a case. Respondents from states requiring such consultation reported it at a mean frequency of 4.57 (on a scale of 1 to 5, with 1 being 'almost never' and 5 being 'almost always'), while respondents from other states reported it at a mean frequency of 3.97, with a statistically significant difference of .038. (Table 4-17)

Table 4-17¹
Affect of Legislation on Responses
About Implementation

<u>Legislative Provisions</u>	<u>No. of Respondents</u> <u>in States with:</u>			<u>Signif.</u>
	<u>Spec.</u> <u>Rt.</u>	<u>Gen. Rt.</u> <u>Only</u>	<u>No</u> <u>Rt.</u>	
Advance notice of trial	(21) 4.95	(17) 4.82	(46) 4.25	NS
Advance notice of plea hearings	(12) 3.42	(14) 3.71	(44) 3.52	NS
Advance notice of sentencing	(32) 4.38	(12) 3.50	(34) 4.03	NS
Notification of pretrial release	(31) 2.45	--	(49) 2.88	NS
Consultation prior to diversion	(9) 4.33	--	(49) 3.82	NS
Consultation prior to dismissal	(14) 4.57	--	(68) 3.97	.038
Consultation prior to negotiation	(27) 3.70	--	(57) 3.63	NS
Consultation prior to trial	(7) 3.86	--	(75) 3.71	NS
Notification of intimi- dation protections	(4) 3.00	--	(36) 2.83	NS
Notice of sentence	(25) 4.16	(28) 4.54	(29) 4.17	NS
Notice of trial outcome	(14) 4.71	(45) 4.73	(24) 4.63	NS

¹ Mean score responses in this table and subsequent tables throughout the report are on a 1 to 5 scale, with 1 being "almost never" and 5 being "almost always."

Consideration was given to the feasibility of using analysis of variance to compare differences among prosecutors' responses to specific questions about notification and consultation rights in light of legislative features such as (a) the type of victim (i.e., victims of all crimes or victims of felony/serious crimes only), (b) the necessity or non-necessity of requesting the right in order to effectuate it, (c) designation or non-designation of implementation responsibility, and (d) the mandatory or discretionary nature of the right. However, the number of cases was too small to warrant such an analysis.

III.B. Funding

The prosecutors surveyed were asked if they had additional funds or funds earmarked in their budgets for implementing victims rights legislation. A comparison of responses to questions about implementation and perceptions about the legislation indicated significant differences between those with and those without such funds. Perhaps not surprising, those with funds reported providing certain rights more frequently than did respondents without funds. They also viewed the legislation more favorably in many respects.

Prosecutors with implementation funds said they provide advance notice of plea and sentencing hearings, and notice of decisions regarding pretrial release, preliminary hearings, and sentences more frequently than their non-funded colleagues. They also reported greater involvement with victim impact statements. In addition, prosecutors with funding indicated greater

notification of available intimidation protections than did prosecutors without implementation funding. (Table 4-18) (Some prosecutors volunteered during the survey that they do not often notify victims about available protections since there are so few protections. It is unclear if funded offices are more likely to provide information about protections because they, in fact, have more protections, or simply because they are better able to provide notices in general.)

Table 4-18
Affect of Funding on Responses
About Implementation*

	<u>W/out Funding</u>	<u>With Funding</u>	<u>Signif.</u>
Advance notice of plea hearing	3.04 (27)	3.97 (37)	.004
Advance notice of sentencing hearing	3.62 (26)	4.35 (46)	.012
Amount of consultation prior to request for continuance	1.80 (30)	2.61 (44)	.002
Notification of pretrial release decision	2.32 (28)	3.00 (45)	.031
Notification of preliminary hearing outcome	3.14 (29)	4.03 (39)	.018
Notification of sentence	3.83 (30)	4.69 (45)	.000
Notification of intimidation protections	2.53 (30)	3.20 (41)	.047
Notification of victim impact statement rights	3.19 (31)	4.33 (46)	.003
Assistance with victim impact statements	1.81 (31)	2.51 (41)	.030
Presentation of victim impact statement	2.50 (30)	3.38 (39)	.049

*Mean scores rated on a 1 to 5 scale, with 1 being "little or no impact" and 5 being "a substantial impact."

No significant differences between the two groups of respondents appeared in the frequency with which they reported advance notice of trial--possibly because most victims are required as witnesses at trial--or notification about bond revocation, diversion decisions, the outcome of grand jury proceedings or the outcome of the trial.

Similarly, availability of funding for implementation of victim rights apparently makes little difference with respect to the likelihood that prosecutors will consult with victims about case dispositions. Prosecutors with and without such funding reported similar rates of consulting with victims before filing, dismissing, and diverting cases, engaging in plea negotiations, sentencing and trial. This may be because prosecutors view certain types of consultation as substantively relevant to their cases and, regardless of special resources, will consult with victims if they believe such consultation will benefit their cases and will not consult with them if they believe it will either adversely affect or not affect the case outcome. The one point where consultation appears to increase significantly with increased funding may also be the point where consultation is least likely to have a substantial impact on the case outcome--prior to prosecutors' requests for continuances. This is also the point at which there is the least amount of consultation.

Prosecutors with implementation funds rated the impact of victims rights legislation higher than their counterparts without funding in almost all categories surveyed. These respondents--but not their counterparts--saw victims rights

legislation as having a positive impact on the availability of funding. They also viewed the legislation as having a greater impact on increasing services to victims. Availability of funding appeared to increase prosecutors' perception that victims rights legislation has an impact on victims' willingness to participate in the criminal justice system and on their cooperation with the prosecutor's office. Similarly, respondents with funding noted a greater improvement in victims' attitudes toward their own office and toward the criminal justice system as a result of the legislation. Funded prosecutors attributed increased job satisfaction to the legislation more than prosecutors without funds. Finally, funded prosecutors noted a greater improvement in the quality of justice. (Table 4-19)

Table 4-19
Impressions of Legislative Impact*

	<u>Without Funding</u>	<u>With Funding</u>	<u>Signif.</u>
On funding for VRL implementation	2.34 (29)	3.28 (46)	.013
On services to victims	3.07 (29)	3.83 (46)	.023
On victim willingness to participate	3.32 (31)	3.91 (46)	.023
On cooperation with prosecution	3.29 (31)	3.76 (46)	.006
On attitude toward prosecutor's office	3.73 (30)	4.18 (45)	.011
On attitude toward criminal justice system	3.47 (30)	3.88 (43)	.029
On prosecutor job satisfaction	3.32 (31)	3.74 (46)	.009
On quality of justice	3.65 (31)	3.98 (46)	.026

*Mean scores on a 1 to 5 scale, with 1 being "a substantial deterioration" and 5 being "a substantial improvement."

There were no statistically significant differences between responses of funded and non-funded prosecutors with respect to the legislation's impact on victim willingness to report crimes (most respondents perceived no impact of the legislation in this area) or on practitioners' attitudes and treatment of victims (most respondents said the legislation had resulted in substantial improvements in this area).

Neither the funded nor unfunded prosecutor groups were satisfied with available funding for victims rights legislation. However, not surprisingly, the unfunded group's satisfaction rate was significantly lower than the funded group's. (Table 4-20)

Table 4-20
Affect of Funding on Funding Satisfaction*

<u>W/O Funds</u>	<u>With Funds</u>	<u>Signif.</u>
1.97 (29)	2.65 (43)	.021

*Mean scores on a 1 to 5 scale, with 1 being "very dissatisfied" and 5 being "very satisfied."

III.C. Victim/Witness Staff

Of the eighty-four prosecutors interviewed, sixty (71%) said they had a victim/witness unit and twenty-four (29%) said they had no such unit. (A unit was defined as one or more individuals responsible for victim/witness activities.) Victim/witness units account for several significant differences among the prosecutors' responses.

On the whole, prosecutors with units reported a higher rate of notification about plea hearings and a higher rate of consultation about plea negotiations and sentencing than did their counterparts without victim/witness units. They also reported greater notification of intimidation protections, victim impact statement rights, and sentencing. (Table 4-21)

Table 4-21
Affect of Victim/Witness Staff
on Responses About Implementation

	<u>With Unit</u>	<u>Without Unit</u>	<u>Signif.</u>
Advance notice of plea hearing	3.90 (48)	2.77 (22)	.000
Amount of consultation prior to plea negotiation	3.88 (60)	3.08 (24)	.001
Amount of consultation prior to sentence	3.77 (56)	3.00 (18)	.012
Notification of sentence	4.51 (59)	3.74 (23)	.004
Notification of intimidation protections	3.13 (54)	2.43 (23)	.041
Notification of victim impact right	4.38 (58)	2.67 (24)	.000

Prosecutors with victim/witness units perceived the victims' opinion of the sentence as more important than did

prosecutors without units. Whether this sensitivity contributed to their establishing the victim/witness unit or whether it came about as a result of the unit is unclear. (Table 4-22)

Table 4-22
Affect of Victim/Witness Staff on Perceived
Importance of Victim Opinion of Sentence

<u>With Unit</u>	<u>Without Unit</u>	<u>Signif.</u>
4.14 (59)	3.43 (23)	.010

Prosecutors with victim/witness units perceived victims rights legislation as having a greater impact in several areas than did prosecutors without units. Whereas prosecutors without victim/witness units found the legislation to have little effect on increasing services to victims, those with units believed the legislation had a significant impact on services. (A number of respondents explained that their relatively low response to the query about the legislation's impact on services provided to victims reflected the fact that their offices had provided substantial services even before the legislation's enactment, rather than the fact that they were providing few services subsequent to its enactment.) Prosecutors with victim/witness units saw the legislation as having a greater impact on improving victim attitudes toward their own offices and toward the criminal justice system as a whole. These prosecutors also saw a greater improvement in the quality of justice as a result of the legislation. (Table 4-23)

Table 4-23
Affect of Victim/Witness Staff on
Perceived Impact of Legislation

	<u>With Unit</u>	<u>Without Unit</u>	<u>Signif.</u>
On services to victims	3.80 (60)	3.05 (22)	.029
On victim attitudes toward prosecutor's office	4.11 (57)	3.71 (24)	.025
On victim attitudes toward criminal justice system	3.84 (56)	3.43 (23)	.036
On quality of justice	3.93 (60)	3.58 (24)	.022

While respondents across the board were not satisfied with the amount of funding available to implement the legislation, prosecutors with victim/witness units were less dissatisfied than those without such units. This is not surprising since offices with units likely had at least some implementation funds, while those without units may not. (Table 4-24)

Table 4-24
Affect of Victim/Witness Staff
on Satisfaction with Available Funding

<u>With Funding</u>	<u>Without Funding</u>	<u>Signif.</u>
2.61 (56)	1.74 (23)	.003

Summary

The 84 prosecutors interviewed reported few substantive problems with victims rights legislation, and most saw the legislation as having a substantial impact on prosecutors' attitudes toward victims, victim participation in the system, and services extended to victims. Many also noted improvements in victim attitudes toward prosecutors, the quality of justice, and victim attitudes toward the criminal justice system as a whole.

Proecutors reported high rates of providing felony victims the notification, information, consultation, and service rights contained in victims rights legislation. However, the specific legislative provisions of individual prosecutors' states had far less impact on the frequency they reported certain types of victim contact than the availability of funding and personnel to facilitate such contacts. The most frequently recommended legislative change was additional funding to facilitate increased attention to victim concerns.

Victim impact statements were viewed favorably by respondents, with most considering it very important for the sentencing court to be provided information about the financial, physical, psychological and social impact of the crime as well as the victims' opinion about an appropriate sentence. Probation-prepared statements, victim-completed forms, narratives by victims, and oral statements by victims were all viewed as effective means of transmitting this information. Respondents believed the statements had substantial impact on restitution orders and some impact on the length and type of sentence.

Chapter 5

JUDGES' SURVEY

The chief judge in each of the eighty-four jurisdictions where prosecutors had been interviewed were asked to participate in an interview or to designate another judge in the court to do so. Ultimately, seventy-four judges were interviewed, including at least one from each of the study states. As with the prosecutor survey, both structured and unstructured questions were asked. In addition, the relationship of certain legislative provisions to the responses of judges in states with and without the provisions were explored.

Part I:
Responses to Structured Questions

Structured questions addressed to judges concerned protection orders, speedy trial, continuances, restitution orders, and victim impact statements.

I.A. Protection Orders

Judges were asked how often they are requested to issue protection orders to victims in cases before them and, when requested, how often they actually issue such orders. Most respondents said requests are rare, but when they do receive them, there is a good chance they will issue the orders. (Table 5-1)

Table 5-1
Frequency Protection Orders Requested/Issued

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
--	----------	--------------------	------------------	----------------

Receives requests for protection orders	(74)	85%	8%	7%
Issues requested protection orders	(43)	7%	21%	72%

I.B. Speedy Trial

According to respondents, speedy trial requests on behalf of victims are extremely rare. Only five said they had received such requests. Of these, three said they had acted affirmatively on them; the other two said the requests had little or no impact on their handling of the cases. (Table 5-2)

Table 5-2
Frequency Speedy Trial Requested/Granted

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Requested	(71)	99%	1%	---
Granted	(5)	40%	---	60%

I.C. Continuances

While some judges said that they usually solicit victims' opinions about proposed continuances before granting them, the vast majority said they usually do not. (Table 5-3)

Table 5-3
Frequency Victim Opinion Solicited On Continuances

<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
(73)	83%	7%	10%

I.D. Restitution Orders

All respondents said they usually order the defendant to make restitution to the victim when the crime results in financial losses which the defendant is in the position to pay. While a substantial majority said they usually do not become involved in the enforcement of their restitution orders,

thirty percent said they do at least sometimes (e.g., through "show cause" hearings). (Table 5-4)

Table 5-4
Frequency Restitution Ordered/Enforced

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Orders if loss and defendant can pay	(72)	---	---	100%
Enforces orders	(64)	70%	19%	11%

I.E. Impact of Victims Rights Legislation

Judges were asked whether, in their opinion, the following deteriorated, improved, or remained the same after victims rights legislation was enacted in their states: victim attitudes toward the court, victim attitudes toward the criminal justice system as a whole, job satisfaction of judges, and the overall quality of justice. A number of judges said they were not in the position to comment on victim attitudes since they did not have one-on-one contact with victims. However, of those who did respond, most said that victim attitudes, both toward the court and toward the criminal justice system as a whole, had improved. Well over half of the judges felt the quality of justice had improved. However, respondents were fairly evenly divided as to whether or not the legislation improved judges' job satisfaction. (Table 5-5)

Table 5-5
Impact of Legislation

	<u>N</u>	<u>Deteriorated</u>	<u>Same</u>	<u>Improved</u>
Vic. attitudes toward court	(54)	---	17%	83%
Vic. attitudes toward system	(54)	2%	17%	81%
Judges' job satis.	(68)	4%	49%	47%
Quality of justice	(71)	3%	31%	66%

I.F. Satisfaction with Victims Rights Legislation

Seven-tenths of the judges reported that they were very satisfied with victims rights legislation and most of the rest said they were somewhat satisfied. Several of those who were less than very satisfied volunteered that this was because the legislation did not go far enough--not because it went too far. However, others said the legislation raised false expectations on the part of victims. (Table 5-6)

Table 5-6
Satisfaction with Legislation

(N=72)	Dissatisfied	6%
	Satisfied	22%
	Very satisfied	70%

I.G. Victim Impact Statements

Judges were asked the frequency with which they receive each of four types of victim impact statements. According to those surveyed, the most common type is the probation-prepared statement, and the least common is the victim's oral statement. Most respondents said they generally do not receive written forms completed by victims or written narratives written by victims. (Table 5-7)

Table 5-7
Type of Victim Impact Statement Received

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Probation-prepared Victim-completed forms	(73) (63)	26% 67%	31% 14%	54% 19%
Victim-prepared written narratives	(74)	69%	13%	18%
Oral victim statements	(71)	90%	10%	---

Generally, victim impact statements are directed to judges for use in sentencing decisions. Thus, judges were asked to rate the effectiveness of the various types of victim impact statements they receive. Slightly over a third of those who at least occasionally receive probation-prepared statements, narratives written by victims, and oral statements by victims rated these types of statements as very effective. A somewhat smaller percentage of those who receive forms completed by victims rated the forms as very effective. No respondents designated probation-prepared statements as ineffective and virtually none found forms completed by victims ineffective. Relatively small but significant percentages did, however, find written and oral narratives by victims to be ineffective. (Table 5-8)

Table 5-8
Effectiveness of Victim Impact Statements

	<u>N</u>	<u>Ineffect.</u>	<u>Effective</u>	<u>Very Effect.</u>
Probation-prepared Victim-completed forms	(61) (31)	--- 3%	64% 71%	36% 26%
Victim narratives	(55)	15%	49%	36%
Victim oral statements	(51)	18%	45%	37%

In commenting on inquiries about the effectiveness of various forms of victim impact information, a number of judges noted that the effectiveness of victim impact statements in the victim's own words--whether written or oral--depends a great deal on the articulateness of the individual victim, with articulate statements being quite effective and inarticulate statements being ineffective. (Similar comments were made by prosecutor respondents.) Some judges also commented that it is inappropriate to inject the victim's emotions into the sentencing process as often happens when such statements are used.

Victim impact statements convey to judges various types of impact information. Judges were asked whether, in their opinion, each type of information is useful, very useful or not useful in their sentencing decisions. Not surprisingly, considerably more respondents designated the more "objective" information--e.g., information about the physical and financial impact of the crime--as very useful than designated the more "subjective" types of information--e.g., information about the impact of the crime on the victim's relationship with family and friends and the victim's opinion of the sentence--as very useful. Conversely, it appears that the more "subjective" the information was likely to be perceived, the more often it was designated not useful.

Information about the psychological impact of the crime was generally found considerably more useful than the victim's opinion and information about the social impact of the crime, and somewhat less useful than information about the

financial and physical impact. Whether this is because some judges consider this type of information relatively "objective" and others consider it relatively "subjective," or because some judges have been "sensitized" by the victims movement to the psychological repercussions of crime is not clear. In any event, the information was found very useful by most respondents but not useful by a significant number. (Table 5-9)

Table 5-9
Usefulness of Victim Impact Information

	<u>N</u>	<u>Not Useful</u>	<u>Useful</u>	<u>Very Useful</u>
Financial	(74)	3%	18%	79%
Social	(72)	21%	36%	43%
Physical	(74)	3%	5%	92%
Psychological	(71)	11%	17%	72%
Victim opinion	(74)	53%	35%	12%

Most judges indicated that victim impact statements have at least some impact on the length and type of sentence (e.g., probation, incarceration, community service), and on restitution. (A considerable number of the minority who found no impact commented that applicable sentencing guidelines do not allow variances based on victim impact.) Clearly, the greatest impact from the judges' perspective relates to restitution--both the number of orders issued and the size of those orders. (Table 5-10)

Table 5-10
Impact of Victim Impact Statements on Sentencing

	<u>N</u>	<u>None</u>	<u>Some</u>	<u>Substantial</u>
Sentence length	(71)	18%	58%	24%
Sentence type	(70)	11%	57%	32%
Number restitution orders	(69)	20%	16%	64%
Size restitution orders	(71)	13%	18%	69%

The majority of judges said they are very satisfied with the victim impact information they receive; very few said they are dissatisfied. (Table 5-11)

Table 5-11
Satisfaction with Victim Impact Information

(N=72)	Dissatisfied	6%
	Satisfied	22%
	Very satisfied	72%

Part II:
Responses to Open-Ended Questions

Several open-ended questions provided judges the opportunity to give their perspectives on the problems and benefits of victims rights legislation and to make recommendations for legislative changes. These respondents, as other respondents in the study, were also asked their opinion about the criminal justice system's responsibilities toward crime victims.

Given the opportunity to specify problems that the legislation poses for them, it is important to note that two-thirds of the judges indicated they had none. While the other third mentioned a total of 15 problems (several not necessarily problems of the judiciary), none was mentioned by more than 5 respondents and most were mentioned by fewer, suggesting that they are not major concerns for the judiciary at large. (Table 5-12)

Table 5-12
Problems with Victims Rights Legislation

What, if any, problems has your state's victims rights legislation created or exacerbated for you?

No. of Respondents = 71
No. of Responses = 84

<u>Respondents</u>		<u>Problem</u>
<u>N</u>	<u>%</u>	
47	66%	None
5	7%	Increased delays
4	6%	Unrealistic victim expectations
3	4%	Increased prosecutor responsibilities
3	4%	Insufficient funding/resources to implement
3	4%	Inadequate sanctions for non-payment of restitution
15	21%	Other (Several respondents mentioned more than one "other" problem)

Nearly a quarter of the judges (16) said the legislation had no particular benefit to the courts; two additional respondents said the legislation had no particular benefit at all. Others said that the legislation did produce benefits, but did not specify these. Where benefits were specified, the greatest areas of concurrence related to increased information at the court's disposal, increased judicial awareness of victim concerns, and increased victim satisfaction with the criminal justice process. (Table 5-13)

Table 5-13
Benefits of Victims Rights Legislation

What benefits, if any, has your state's victims rights legislation had for you as a judge?

No. of Respondents = 71
No. of Responses = 106

<u>Respondents</u>		<u>Benefit</u>
<u>N</u>	<u>%</u>	
16	23%	No particular benefit to courts
14	20%	Increased information at court's disposal
11	15%	General increase in judicial awareness about victim concerns
11	15%	Increased victim satisfaction with criminal justice process
9	13%	Unspecified benefits
7	10%	Good public relations for courts; increased public confidence in courts
6	8%	Increased opportunity for victims to participate in criminal justice system
6	8%	Improved balance of system; increased fairness, justice
5	7%	Increased restitution to victims
4	5%	Increased compensation to victims
4	5%	Clarification/codification of judicial responsibilities to victims
3	4%	Increased services to victims
10	14%	Other

Many of the 71 judges reported that they had no suggestions for changing their state's victims rights legislation or its implementation. The other half suggested a number of changes. However, none of these was made by more than seven respondents, and most were mentioned by a single respondent. (Table 5-14) Several were contradictory (e.g., while one would extend victims rights to misdemeanor victims, another would limit them to felony victims; while one would shift responsibility for victim rights implementation from the prosecutor to the court, another would rescind judicial responsibility for victim rights implementation).

Table 5-14
Recommended Changes to Victims Rights Legislation

Are there changes you would like to see made in your state's victims rights legislation or in its implementation?

No. of Respondents = 71
No. of Responses = 71

<u>Respondents</u>		<u>Desired Change</u>
<u>N</u>	<u>%</u>	
25	35%	No suggested changes
7	10%	Increased/expanded victim compensation
6	8%	Increased funding for implementation
3	4%	Increased/expanded rights for victims
3	4%	Increased judicial authority to obtain victim restitution
3	4%	Tightening up of loose ends in legislation
24	34%	Other

In response to a question about the criminal justice system's responsibilities to crime victims, 126 responses from 71 respondents were recorded. While most of these related to specific responsibilities, some were more descriptive. For example, 18% of the respondents described the system's responsibility to victims as "great," "tremendous," "prime," "substantial," or the like, and another 17% percent acknowledged "some" responsibility. Seven percent said the system's responsibility to victims is the same as that to the public at large. Several respondents recognized responsibilities to provide victims compensation, counseling, and services, but noted that these were not the responsibility of the criminal justice system. (Table 5-15)

Although not specifically asked about the relationship of victim rights, defendant rights, and the responsibilities of the judiciary, a number of judges addressed this relationship, with most cautioning that victims' rights must defer to defendants' constitutional rights, and that judicial decisions must remain impartial.

More respondents acknowledged a criminal justice system responsibility to victims at sentencing than any other specific responsibility. Seventeen said that victim views should be considered at sentencing, eight other (10 total) said that victims should be provided restitution if at all possible, and two other (3 total) said that sentences should be commensurate with the offense. However, sentencing was not the only stage of the proceedings where judges recognized criminal justice system responsibility for victims; a number mentioned

that victims should be kept informed of the case status and should have their needs taken into account throughout the entire process. (Table 5-15)

Table 5-15
System Responsibilities to Victims

On the one hand, because the U.S. justice system is an adversarial one, some argue that the only legitimate concerns should be the rights of the defendant and the interests of the state. On the other hand, many victims and their advocates contend that victims are entitled to certain rights in the system. As a judge, what responsibilities, if any, do you feel the criminal justice system has toward crime victims?

No. of Respondents = 71
No. of Responses = 126

<u>Respondents</u>		
<u>N</u>	<u>%</u>	
13	18%	<u>General Responsibility</u>
12	17%	Great, tremendous, etc., responsibility
5	7%	Some responsibility
		Same as that to public at large
		<u>Responsibility to Victims Vis-a-Vis Other</u>
		<u>Responsibilities</u>
8	11%	Final decision is judges', not victims'
8	11%	Defendant rights override victim rights
5	7%	Defendant rights override victim rights prior to conviction
3	4%	Victim rights and defendant rights are equal
2	3%	Victims should not be considered "third parties" to case
		<u>Specific Responsibilities of Criminal Justice System to Victims</u>
17	24%	Considering victim at sentencing
10	14%	Permitting victim opportunity for input
10	14%	Ordering victim restitution, if possible
7	10%	Informing victim of case status
7	10%	Protecting victims
6	8%	Considering victim throughout process
3	4%	Sentencing commensurate with crime
13	18%	Other
		<u>Non-Criminal Justice Responsibilities to Victims</u>
6	8%	Providing victims compensation, counselling, or other services

Part III:
Analysis of Legislative Factors
Influencing Responses

Judges' responses to questions about the frequency with which certain rights are exercised in their jurisdictions were compared with whether or not these rights were included in their states' legislation. (While each respondent was from a state with victim rights legislation, the selected rights were not necessarily included in each respondent's legislation.)

Differences of responses of judges in states with legislation containing the provisions below and those of judges in states without such legislative provisions were not statistically significant. (Table 5-15)

Table 5-16
Relationship of Responses to
Specific Legislative Provisions

Considering the total number of felony cases involving victims that you handle, how often do you:

	<u>Legislation</u>	<u>No Legislation</u>
Receive motions or requests for speedy trial?	<u>Victim Right to Speedy Trial</u>	
	1.00	1.11
	(15)	(56)
Allow victims who wish to speak (at sentencing) to do so?	<u>Pros. Rt. to Request Sp. Tr.</u>	
	1.20	1.07
	(10)	(61)
Receive oral statements from victims?	<u>Vic. Rt. Speak at Sentencing</u>	
	4.70	4.32
	(44)	(22)
	<u>Vic. Rt. Speak at Sentencing</u>	
	1.71	1.54
	(45)	(26)

Have or request victims' opinion of proposed plea prior to accepting plea?

Vic. Rt. to Provide Opinion

2.80 2.61
(20) (46)

Have or request victim impact information prior to accepting plea?

Vic. Rt. Provide Impact Info.

2.79 2.85
(19) (47)

Receive written impact statement prepared by prosecutor or probation?

Prob./Pros. to Prepare Impact Statement

3.52 3.48
(46) (27)

Summary

Of the 74 judges interviewed, very few complained that victims rights legislation has created or exacerbated problems for the courts. In fact, most were very satisfied with the legislation. Well over half said it has resulted in improved victim attitudes toward the court and the system as a whole, and in an improvement in the quality of justice. Some noted an increase of information at the court's disposal. Few changes were recommended. However, the specific legislative provisions of individual judges' states appeared to have no significant impact on their contacts with victims.

Most of the judges were satisfied with the victim impact information they were receiving. Typically this was brought to their attention through probation-prepared statements rather than victim-completed forms, narratives written by victims, or oral statements by victims. While most found all of these effective means of obtaining useful information, some noted that the effectiveness of victim narratives or oral statements depends on the articulateness of the victim. Considerably more judges designated "objective" information--e.g., information about the physical and financial impact of the crime--as very useful in their sentencing decisions than designated the more "subjective" types of information--e.g., information about the crime's impact on the victim's relationship with family and friends and, particularly, the victim's opinion of the sentence--as very useful. Most saw victim impact statements as having a substantial impact on the number and size of restitution orders. All said they order restitution if the victim has incurred a loss which the defendant is able to pay.

Chapter 6

PROBATION OFFICIALS' SURVEY

The chief probation officers in the eighty-four jurisdictions where prosecutors had been interviewed were asked to participate in an interview themselves or to assign a member of their staff to do so. Ultimately, seventy-seven probation officials participated, including at least one in thirty-five of the thirty-six study states.

The responses to both structured and unstructured questions are reported in the following sections. In addition, the relationship between the responses of respondents in states with certain legislative provisions and those in states without such provisions is discussed.

Part I: Responses to Structured Questions

Structured questions addressed to probation officials concerned the two areas of victims rights legislation affecting them most directly--victim impact statements and restitution enforcement.

I.A. Victim Impact Statements

In response to initial inquiries, thirteen probation officials said their departments were not responsible for victim impact statements. These individuals were not interviewed further about victim impact statements and are not included in the discussion or figures below.

When probation departments do have victim impact responsibilities, these are almost always linked to the departmental responsibilities for presentence investigation

reports. Few respondents reported involvement in cases where presentence reports are not required either by statute or by specific court order. While respondents indicated that presentence reports were generally required in felony cases, the extent to which they are mandated appears to vary considerably from jurisdiction to jurisdiction and even from judge to judge.

Of the probation officials with responsibility for victim impact statements, close to 90% said they usually include victim impact information in the presentence report. A similar number said they usually notify victims of their right to submit victim impact information. (Table 6-1) Considerably fewer--but still nearly two-thirds--said they usually consult with the victim to obtain information about the crime's impact. (At least some of those who reported relatively low consultation rates attributed this to victim failure to respond to overtures by the probation department, rather than failure of the probation department to contact the victim. Possibly the type of overture may affect victim response. It was clear from comments made by various respondents that methods of contacting victims vary considerably and include mailing notices or victim impact statement forms to victims, telephoning victims, and visiting victims in their homes.)

Table 6-1
Responsibility for Victim Impact Statements

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Notifies victim of right to submit VIS information	(62)	8%	5%	87%
Consults with victim re impact	(60)	17%	18%	65%
Includes VIS in presentence report	(61)	5%	7%	88%

According to respondents, victim impact information is usually submitted to the court by incorporating it into the body of the presentence report. Sometimes the victim's words are quoted verbatim but often these are paraphrased by the probation officer. Well over half of the respondents who receive written submissions from victims said they usually attach these to the presentence report, either in addition to or in lieu of including information in the body of the presentence report. Respondents said they do not usually convey impact information to the court through oral statements (though several said they occasionally are requested to appear at restitution hearings where they may be asked to clarify financial information submitted in connection with the presentence report). (Table 6-2)

Table 6-2
Method of Submitting Information to Court

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Incorporates victim information in PSI	(62)	13%	6%	81%
Attaches victim submission to PSI	(55)	38%	4%	58%
Makes oral statement re victim impact	(60)	96%	2%	2%

Since judges may view verified information as more persuasive than non-verified information, respondents were asked if they attempted to verify information received from victims. While nearly sixty percent stated they usually do, over thirty percent said they usually do not. (Table 6-3)

Table 6-3
Frequency of Verification

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Tries to verify information	(61)	34%	7%	59%

Almost all probation officials surveyed reported that they usually solicit information about the crime's financial and physical impact. Most also reported high rates of soliciting the victim's opinion regarding the sentence, information about the psychological impact, and information about the crime's effect on the victim's relationships with family and friends. With respect to this latter type of information, however, a significant number of respondents said they usually do not solicit it. Moreover, several respondents

commented that as probation officers they do not feel comfortable or qualified collecting information about the psychological impact of the crime. (Table 6-4)

Table 6-4
Type of Information Solicited

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Financial	(63)	3%	2%	95%
Physical	(62)	3%	2%	95%
Victim opinion re sentence	(63)	13%	9%	78%
Psychological	(62)	15%	16%	69%
Social	(62)	24%	16%	60%

When asked their opinion about the frequency with which victim impact statements affect specified aspects of sentencing, most respondents noted that the statements sometimes or usually affect the number and size of restitution orders, the type of sentence (e.g., incarceration, probation, community service), and the length of sentence. A great majority of these said the restitution aspects of sentencing are usually affected, with only a few characterizing them as sometimes affected. Responses relating to the frequency of impact on sentence type and length were more evenly divided between "sometimes" and "usually." A significant minority reported their belief that victim impact statements do not usually have an impact on these aspects of sentencing. Some of these commented to the interviewer that sentencing guidelines in their jurisdictions restrict the potential effect of victim impact information. (Table 6-5)

Table 6-5
Impact on Sentencing

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Number of restitu- tion orders	(64)	9%	8%	83%
Size of restitu- tion orders	(64)	14%	11%	75%
Sentence type	(63)	17%	40%	43%
Sentence length	(62)	18%	51%	31%

Neither locating victims nor obtaining their cooperation was viewed as a common problem for probation officials responsible for victim impact statements. (Table 6-6)

Table 6-6
Difficulties with Victim Impact Statements

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Victim difficult to locate	(63)	92%	6%	2%
Victim un- cooperative	(63)	87%	13%	---

I.B. Time Spent on Victim-Related Duties

Probation officials were asked if victim-related duties account for little, some or substantial portions of their time. While restitution duties were reported as somewhat more time-consuming than victim impact responsibilities, on the whole, few respondents reported spending substantial amount of time on either of these duties. (Table 6-7)

Table 6-7
Time Spent on Victim-Related Duties

	<u>N</u>	<u>Little</u>	<u>Some</u>	<u>Substantial</u>
Victim impact duties	(59)	91%	7%	2%
Restitution duties	(70)	60%	24%	16%

I.C. Satisfaction with Victims Rights Legislation

Probation officials reported very little dissatisfaction with those aspects of victims rights legislation relating to their responsibilities, and three-quarters said they were very satisfied with the legislation. (Table 6-8)

Table 6-8
Satisfaction with Legislation

(N=76)	Dissatisfied	5%
	Satisfied	20%
	Very satisfied	75%

However, over half indicated they would like to see changes in the legislation. (Table 6-9) (See following section for responses to unstructured questions about recommended changes.)

Table 6-9
Desirability of Legislative Change

(N=76)	Recommend changes	59%
	Do not recommend changes	41%

(For further discussion of specific recommendations for legislative change, see Part II of this chapter.)

Part II:
Responses to Open-Ended Questions

Several open-ended questions solicited probation respondents' recommendations for legislative changes, as well as information about problems associated with their responsibilities for victim impact statements and restitution enforcement. Probation respondents, as other survey respondents, were also asked their opinion about the criminal justice system's responsibility toward crime victims.

Over half of the probation officials had no recommended changes. Recommendations from the others were wide-ranging, with none mentioned by more than a few respondents. It is interesting, however, that several respondents suggested removing victim-related responsibilities from the probation office and several others suggested increasing probation responsibilities and authority with respect to victims. (Table 6-10)

Table 6-10
Desired Changes to Victims Rights Legislation

Do you have any recommendations for modifying your state's victim-related legislation or for improving its implementation?

No. of Respondents = 74
No. of Responses = 82

<u>Respondents</u>		<u>Desired Change</u>
<u>N</u>	<u>%</u>	
32	43%	None
5	7%	More victim/witness coordinators in prosecutors' offices
5	7%	Increased resources/staff
4	5%	Increased victim/offender reconciliation/mediation
4	5%	Stronger court enforcement of restitution orders
3	4%	Increased consideration of defendant's ability to pay restitution
3	4%	Restitution by parolees/inmates
26	35%	Other

Probation officials who had indicated earlier in the structured portion of the survey some degree of responsibility for victim impact statements were asked if they have problems with respect to these responsibilities. Nearly half said they had none. The others indicated one or more problems. Except for resource problems mentioned by 16 percent of the respondents, there were few problems mentioned more than several times. (Table 6-11)

Table 6-11
Problems with Victims Rights Legislation

What problems, if any, are associated with your office's role in preparing victim impact statements?

No. of Respondents = 62
No. of Responses = 70

<u>Respondents</u>		<u>Problems with Victim Impact Statement Role</u>
<u>N</u>	<u>%</u>	
28	45%	No problems
10	16%	Time/personnel problems
6	10%	Problems with victim cooperation
4	6%	Tracking of victims
3	5%	Complexity of victim impact statements
3	5%	Victim exaggeration of loss
16	26%	Other

Nearly a quarter of the probation officials reported no problems in enforcing restitution orders. Of those who said there are problems, nearly 40% cited inability of the defendant to pay restitution orders and 25% cited unrealistic victim expectations. Resentment of being expected to be collection agents seemed obvious from the responses of some probation officials. (Table 6-12)

Table 6-12
Problems With Restitution Responsibilities

What problems, if any, are associated with your department's (office's) role in enforcing restitution orders?

No. of Respondents = 72
No. of Responses = 103

<u>Respondents</u>		<u>Problems with Restitution Enforcement</u>
<u>N</u>	<u>%</u>	
17	24%	No problems
21	29%	Non-ability of defendant to pay
14	19%	Unrealistic victim expectations
8	11%	Expectation that probation is collection agency
6	8%	Lack of sanctions for non-payment
4	5%	Scarce resources (time/personnel/funds)
3	4%	Conflict between counseling defendants and collecting restitution from them
3	4%	No feeling of responsibility on part of defendant to pay
3	4%	Hassle involved in collecting
3	4	Competing interests for defendant dollars
17	24%	Other

A question about victim non-cooperation was posed to the thirty probation officials with victim impact responsibilities who indicated in the structured portion of the survey that they are unable to obtain victim cooperation in at least some instances. More of these individuals attributed victim failure to cooperate to fear of the defendant than to any other single reason. A number also mentioned victim frustration with the system and a desire on the part of the victim to be left alone. (Table 6-13)

Table 6-13
Reasons for Victim Non-Cooperation

In your opinion, why do victims decline to cooperate or why are they unable to cooperate with your department (office) in preparing victim impact statements?

No. of Respondents = 30
No. of Responses = 49

<u>Respondents</u>		<u>Reasons for Victim Non-Cooperation</u>
<u>N</u>	<u>%</u>	
10	33%	Victim fear of defendant
7	23%	Victim frustration, disgust with criminal justice system
6	20%	Victim perception that loss is insufficient to warrant cooperation
5	17%	Victim desire to be left alone
4	13%	No opinion as to reason for victim non-cooperation
3	10%	Victim indifference
3	10%	Victim desire to leave crime behind them
2	7%	Family relationship of defendant/victim
2	7%	Victim desire to spare defendant further suffering
7	23%	Other

With respect to victim rights vis-a-vis defendant rights, a number of respondents noted that these rights should be equal; a number also pointed out, however, that at present, there is an inappropriate imbalance in favor of defendants. With respect to victim rights per se, many respondents recognized a responsibility for the system to consider victim concerns and needs throughout the criminal process and particularly at sentencing. (Table 6-14)

Table 6-14
System Responsibilities to Victims

On the one hand, because the U.S. justice system is an adversarial one, some argue that the only legitimate concerns should be the rights of the defendant and the interests of the state. On the other hand, many victims and their advocates contend that victims are entitled to certain rights in the system. As a probation official, what responsibilities, if any, do you believe the system has toward crime victims?

No. of Respondents = 74

No. of Responses = 122

<u>Respondents</u>		
<u>N</u>	<u>%</u>	
23	31%	<u>General Responsibility</u> Responsibilities are major, tremendous, etc.
		<u>Responsibility to Victims Vis a Vis Other System Responsibilities</u>
10	13%	Defendant rights now inappropriately override victim rights
9	12%	Responsibility equal to victims and defendants
7	9%	Other
		<u>Specific Responsibilities to Victims</u>
19	26%	Responsibility to provide restitution; make victim whole
11	15%	Responsibility to listen to victims throughout case
11	15%	Responsibility to consider victim impact at sentencing
7	9%	Responsibility to keep victims informed
6	8%	Responsibility for representing public, including victims
4	5%	Responsibility to protect victims
3	4%	Responsibility to provide court information about victim impact
3	4%	Responsibility to obtain justice for victims
9	12%	Other

Part III:
Analysis of Legislative Factors
Influencing Responses

Legislation in a number of states explicitly provides for probation officials to solicit certain types of victim impact information for inclusion in presentence reports. For example, legislation in 20 study states mention information about the financial impact of the crime on the victim; 16 information about the physical impact; 16 information about the psychological impact; 8 information about the impact of the crime on the victim's social relationships; and 7 the victim's opinion or recommendation regarding an appropriate sentence. (A number of study states specify information which victims may include in oral or written statements in addition to or in lieu of those submitted by the probation office; however, these provisions are not relevant to this section.)

To determine if there is a significant relationship between the frequency probation officials report soliciting certain types of information and the specific provisions of their legislation, responses of officials in states requiring certain types of information were compared with responses of officials in the other study states.

The only significant difference between responses of probation officials in states with explicit legislation and those in states without such legislation pertained to solicitation of financial information. Probation officials in states where this was explicitly included in the legislation reported a higher incidence of soliciting it, with the difference between the two groups being significant at the 0.29 level. (Table 6-15)

Table 6-15
Victim Impact Legislation Influencing Responses

	<u>States W Legisl.</u>	<u>States W/o Legisl.</u>
Financial	4.97 (33)	4.50 (30)
Physical	4.83 (29)	4.73 (33)
Psychological	4.26 (27)	3.85 (33)
Social	3.90 (10)	3.63 (52)
Opinion re Sent.	4.09 (11)	4.29 (52)

Summary

Almost all of the 77 probation officials interviewed about their restitution and victim impact statement duties reported satisfaction with victims rights legislation. While a number of legislative changes were recommended, no particular recommendation was mentioned by more than a few respondents.

Of the 64 probation officials with victim impact responsibilities, nearly half said these responsibilities posed no problems for them. Others mentioned time and personnel problems, and difficulties in obtaining victim cooperation. Three-quarters of the officials noted problems with their restitution responsibilities, with the inability of the defendant to pay, and unrealistic expectations by victims and others about probation's role as a "bill collector" mentioned by significant numbers of respondents. Compared to their overall responsibilities, however, over half of the respondents said they spend relatively little time on restitution duties and almost all respondents with victim impact responsibilities said they spend relatively little time on these duties.

According to most probation officials responsible for victim impact statements, victim impact information is usually transmitted to the court through presentence reports. It is either incorporated into the body of the report or a submission by the victim is appended to the report. When preparing victim impact statements, virtually all said they usually solicit information about the crime's financial and physical impact on the victim and well over half said they usually solicit information about the psychological and social impact as well as

the victim's opinion about the sentence. Significantly, however, nearly a quarter said they rarely solicit information about the social impact and more than a few reported they rarely solicit the victim's opinion or psychological information. Most respondents believe victim impact statements are likely to affect the number and size of restitution orders. The effect noted on the sentence type and length was considerably less.

Chapter 7

VICTIM/WITNESS ADVOCATE SURVEY

Over seventy percent (60) of the 84 prosecutors interviewed reported that their offices had at least one (sometimes part-time) individual responsible for assisting victims and witnesses. The directors of these units were requested to participate in an interview. Ultimately 43, including at least one in 29 of the 36 study states, were interviewed.

The interview included both structured and unstructured questions about the handling of victims and about their own perceptions of the effectiveness of victims rights legislation and suggestions for improving it.

Part I: Responses to Structured Questions

Most of the structured questions addressed to victim/witness personnel closely tracked those addressed to prosecutors. For example, victim/witness personnel were asked about the frequency with which victims are given advance notice of certain proceedings, are consulted before certain decisions, and are notified of the decisions. They were also asked questions similar to those addressed to prosecutors about victim impact statements. Whereas only those prosecutors who said they had no victim/witness staff were asked about services extended to victims, all victim/witness interviewees were asked about services.

Questions about felony victims were directed to all 43 victim/witness personnel included in the study. Since some

victim/witness programs are responsible only for felony victims, questions about misdemeanor victims were directed only to those who said they had some responsibility for such victims. As a result, the frequencies reported below for misdemeanor victims probably reflect more attention to these victims than is actually paid to them in the majority of jurisdictions around the country.

I.A. Advance Notice of Proceedings

With few exceptions, victim/witness personnel reported that felony victims are usually provided advance notice of trial. These victims are also often notified in advance of sentencing and plea hearings. (Table 7-1)

Table 7-1
Frequency of Advance Notice

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Trial	(43)	7%	---	93%
Plea hearing	(40)	17%	13%	70%
Sentencing hearing	(41)	5%	22%	73%

Victim/witness personnel with at least some responsibility for misdemeanor victims were asked whether the advance notice provided such victims is the same, somewhat less or considerably less than that provided felony victims. Not quite half said it is the same; slightly over half said it is somewhat or considerably less. (Table 7-1(a))

Table 7-1(a)
Comparison of Felony and Misdemeanor Victims

(N=27)	Same	44%
	Misd. somewhat less	33%
	Misd. considerably less	22%

I.B. Prompt Notice Of Continuance

Generally, victim/witness personnel reported that felony victims frequently receive prompt notice of continuances. However, for misdemeanor victims such notice appears to be the exception rather than the rule. Over half the respondents indicated misdemeanor victims are not usually given notice and only 15% indicated they usually are. (Table 7-3)

Table 7-3
Comparison of Prompt Notice of Continuances
to Felony and Misdemeanor Victims

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Felony victims	(42)	12%	12%	76%
Misdemeanor victims	(27)	56%	29%	15%

I.C. Consultation Prior to Decisionmaking

Victim/witness personnel were asked how often victims are consulted by a representative of the prosecutor's office prior to making certain decisions.

Greater consultation was reported prior to sentencing than before any of the other decision points. Every respondent said victims are usually or sometimes consulted at this point. High rates of consultation were also reported prior to decisions about dismissal and diversion.

Somewhat over half the respondents said that victims are usually consulted prior to decisions about taking cases to trial and prior to plea negotiations, and the majority of others indicated victims are sometimes consulted at these stages.

The reported incidence of consultation before prosecutors decide to file charges or request continuances is considerably less, with over half the respondents indicating that victims are not usually consulted prior to these decisions. (Table 7-3)

(The relatively large number of "sometimes" responses to some of these inquiries may suggest less routine responses--either negative or positive--and more case-by-case determinations about the desirability of consultation than about other aspects of victim rights.)

Table 7-3
Frequency of Consultation

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Filing	(41)	51%	20%	29%
Dismissal	(41)	7%	20%	73%
Diversion	(29)	17%	10%	73%
Plea negotiation	(43)	12%	35%	53%
Sentencing	(39)	---	23%	77%
Continuances	(39)	51%	36%	13%
Trial	(42)	14%	26%	60%

While two-thirds of the respondents who serve both felony and misdemeanor victims reported that misdemeanor victims are consulted less than felony victims, most characterized this as "somewhat" less rather than "considerably" less. (Table 7-3(a))

Table 7-3(a)
Comparison of Felony and Misdemeanor Victims

(N=26)	Misd. same	35%
	Misd. somewhat less	42%
	Misd. considerably less	23%

I.D. Notification of Actions Taken

Victim/witness personnel were asked how frequently felony victims are notified of specific actions taken in their

cases. Virtually all said victims are usually notified about the outcome of the trial and of the sentencing. Most said they are usually notified of the outcome of the preliminary hearing and the grand jury. (Some of those who said victims are not usually notified of these outcomes may see no need for such notice since victims are generally present at these hearings.) Most respondents in jurisdictions utilizing pretrial diversion reported that victims are usually or at least sometimes notified of diversion decisions. Notice of pretrial release and bond hearing decisions was reported least frequently, with only about half of the respondents stating that victims are usually notified of these outcomes and significant numbers stating that they usually are not notified. (Table 7-14)

Table 7-4
Frequency of Notice About Actions Taken

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Pretrial release	(42)	31%	21%	48%
Bond hearing	(39)	26%	20%	54%
Diversion hearing	(23)	9%	22%	69%
Preliminary hearing	(38)	21%	5%	74%
Grand jury	(30)	13%	7%	80%
Trial	(42)	2%	2%	96%
Sentencing	(42)	2%	5%	93%

Most respondents who serve both felony and misdemeanor victims stated that, in general, notice of decisions is about the same for victims of both types of crime. (Table 7-4(a))

Table 7-4(a)
Comparison of Felony and Misdemeanor Victims

(N=27)	Same	63%
	Misd. somewhat less	22%
	Misd. considerably less	15%

I.E. Information About Intimidation Protections

Respondents were asked how often victims are informed about available protections from intimidation. While two-thirds reported that felony victims are usually notified of intimidation protections, a significant number said such notice is not provided as a matter of course. Only a third of those who serve misdemeanor victims said these victims are usually provided such notice, and nearly half said the information is not usually provided. (Table 7-5) (Some respondents noted that not all cases warrant notice about intimidation protections; others noted the scarcity of available protections about which to inform victims.)

Table 7-5
Comparison of Intimidation Information
to Felony and Misdemeanor Victims

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Felony victims	(42)	23%	10%	67%
Misdemeanor victims	(26)	46%	19%	35%

I.F. Victim Impact Statements

According to respondents, victim impact statements affect various aspects of sentencing. By far, the most substantial effect reported was in the restitution area. However, most respondents also noted that victim impact statements have at least some effect on sentence length and type (e.g., probation, incarceration) as well. (Table 7-6)

Table 7-6
Effect of Victim Impact Statement on Sentencing

	<u>N</u>	<u>No Eff.</u>	<u>Some Effect</u>	<u>Subst. Eff.</u>
Restitution	(42)	5%	14%	81%
Sentence type	(42)	7%	50%	43%
Sentence length	(42)	12%	52%	36%

According to those surveyed, impact statements in the victim's own words, either oral or written, are the most effective in terms of informing the court of the crime's impact on the victim, according to respondents. Probation-prepared statements and victim-completed forms were also rated effective or very effective by virtually all respondents. (Table 7-7)

Table 7-7
Effectiveness of Victim Impact Statements

	<u>N</u>	<u>Not Eff.</u>	<u>Effective</u>	<u>Very Eff.</u>
Probation-prepared	(29)*	3%	52%	45%
Victim-completed forms	(29)*	3%	55%	41%
Victim written narratives	(41)	---	42%	58%
Victim oral statements	(34)*	---	35%	65%

*A number of potential respondents said they would not be able to answer questions about the effectiveness of these statements since they were not used in their jurisdictions; they were therefore not included in these figures.

Virtually all respondents were of the opinion that victims believe it is very important for the sentencing court to have information about the financial, physical, and psychological impact of the crime, information about the crime's impact on the victim's relationships with family and friends, and the victim's opinion of the sentence. (Table 7-8)

Table 7-8
Importance of Types of Information To Victims

	<u>N</u>	<u>Not Imp.</u>	<u>Important</u>	<u>Very Imp.</u>
Financial	(43)	---	5%	95%
Social	(43)	---	5%	95%
Physical	(43)	---	---	100%
Psychological	(43)	---	2%	98%
Sentence opinion	(43)	---	5%	95%

I.G. Services to Victims

Victim/witness personnel were asked how often they provide specific services to crime victims who request them. With very few exceptions, respondents said whenever services are requested they are provided. The only service a significant number said they were unable to provide was transportation to court. However, most of these commented to the interviewer that they were almost always able to obtain the requested transportation from the police department or court volunteers. (Table 7-9)

(In the survey pretest, interviewers did not refer to whether or not specific services are requested but merely asked how often they are provided. The response was almost invariably "whenever they are requested." When pressed as to how often this is, respondents either said they were unable to put the number of victims provided services in the context of all victims or--presumably because so few victims need the services--responded "not usually," rendering the responses of little use.)

Table 7-9
Frequency of Providing Requested Services

	<u>N</u>	<u>Not Usually</u>	<u>Sometimes</u>	<u>Usually</u>
Property return	(41)	7%	5%	88%
Assistance with compensation forms	(39)	3%	---	97
Assistance with victim impact	(42)	3%	2%	97%
Court escort	(43)	5%	---	95%
Transportation	(43)	23%	2%	75%
Employer intercession	(41)	---	2%	98%

I.H. Satisfaction with the Legislation

Though most victim/witness personnel interviewed said they would like changes in victims rights legislation, the reported level of satisfaction with the legislation was high. However, the reported level of satisfaction with respect to funding to implement the legislation was considerably lower. (Tables 7-10 and 7-11)

Table 7-10
Desirability of Legislative Change

(N=43)	Desire legislative changes	79%
	Do not desire legislative changes	21%

Table 7-11
Satisfaction with Legislation

	<u>N</u>	<u>Dissat.</u>	<u>Satisfied</u>	<u>Very Sat.</u>
Substance	(42)	7%	14%	79%
Funding	(42)	36%	19%	45%

I.I. Impact of Victims Rights Legislation

Victim/witness personnel were asked whether, in their opinion, victims rights legislation has resulted in victims' attitudes about the criminal justice system deteriorating, remaining the same, or improving in certain areas. Most noted improvements in each of the areas mentioned, particularly with

respect to the victim's attitude toward the prosecutor. While approximately a third of the respondents noted that there has been little change in victims' willingness to report crime, several respondents commented to the interviewer that this is because prior to reporting the crime most witnesses have no experience with the system and therefore no basis for comparison. (Table 7-12)

Table 7-12
Impact of Victims Rights Legislation

	<u>N</u>	<u>Deteriorated</u>	<u>Same</u>	<u>Improved</u>
Willingness to report crime	(36)	6%	33%	61%
Cooperation	(39)	5%	26%	69%
Attitude toward prosecutor	(37)	---	22%	68%
Attitude toward system as whole	(41)	10%	22%	68%
Quality of justice	(39)	3%	38%	59%

(Some potential respondents said they had no pre-legislative history with which to compare current victim attitudes, and were therefore not asked these comparative questions.)

Part II:
Responses to Open-Ended Questions

Victim/witness advocates were asked several open-ended questions which provided them with the opportunity to comment on the effects of the legislation and to recommend changes either to the legislation or to practices affecting its implementation. They were also asked to comment on the system's overall responsibilities to crime victims.

Only two respondents replied that the legislation has had no effect on the treatment of victims in their jurisdictions. A quarter of the sample noted the legitimacy which the legislation has accorded to victims' interest in the criminal justice system, and the consequent increased ability of victims to obtain information and to participate in the system. Increased attention to victim needs arising from the crime itself was also noted by a number of respondents. (Table 7-13)

Table 7-13
Effects of Legislation

In your opinion, what have been the greatest effects (if any) which the legislation has had on treatment of crime victims in your jurisdiction?

No. of Respondents = 42
No. of Responses = 70

<u>Respondents</u>		<u>Greatest Effects of Legislation</u>
<u>N</u>	<u>%</u>	
10	25%	Acknowledgment of legitimate victim interest in criminal justice system
8	19%	Increased compensation for victims
7	17%	Victim impact statements
6	14%	Increased victim satisfaction re criminal justice process
4	9%	Increased funding
4	9%	Increased sensitivity of practitioners
3	7%	Increased public awareness of victims
12	28%	Other (Some respondents mentioned more than one "other" effect)

Table 7-14
Desired Legislative Changes

Most respondents had at least one suggestion for both legislative and non-legislative changes. (While the same substantive changes were sometimes mentioned in response to question A and sometimes in response to question B, in only two instances did the same respondent mention the suggested change in response to both questions.) (Table 7-14)

A. Are there changes you would like to see made in your state's victims rights legislation? If so, what are they?

B. Are there changes you would like to see made in the criminal justice system to facilitate or improve victim participation in the criminal justice process? If so, what are they?

No. of Respondents = 42
No. of Responses to A = 54
No. of Responses to B = 55

<u>Rspndts A</u>		<u>Rspndts B</u>		
<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	
8	19%	6	14%	None
4	10%	6	14%	Increased victim/witness funds, resources, personnel
9	21%	1	2%	Increased, new compensation
0	0%	6	14%	Consciousness-raising and training of judges
0	0%	6	14%	Consciousness-raising and training of prosecutors
3	7%	2	5%	Speedier trials for victims; fewer continuances
3	7%	2	5%	More victim rights/services
2	5%	3	7%	Increased notice re custody status of defendant/inmate
0	0%	4	10%	Improved coordination/communication between practitioners
2	5%	2	5%	Better child witness procedures
3	7%	0	0%	Extension of court attendance rights
1	2%	3	7%	Training on victim rights
16	38%	14	33%	Other

Table 7-15
System Responsibilities to Victims

On the one hand, because the U.S. justice system is an adversarial one, some argue that the only legitimate concerns should be the rights of the defendant and the interests of the state. On the other hand, some contend that victims are entitled to certain rights in the system. As a victim/witness advocate, what responsibilities, if any, do you feel the system has toward crime victims?

No. of Respondents = 42
No. of Responses = 85

<u>Responses</u>		
<u>N</u>	<u>%</u>	
		<u>General Responsibility</u>
12	29%	Great, tremendous, etc., responsibility
7	17%	Responsibility to treat victims with respect, dignity, etc.
		<u>Responsibility to Victims Vis-a-Vis Other System Responsibilities</u>
13	31%	Equal or similar responsibilities to those afforded defendants
2	5%	No legal responsibility
		<u>Specific Responsibilities to Victims</u>
13	31%	Responsibility to keep victims informed of case status, etc.
11	26%	Responsibility to listen to victims at sentencing
6	14%	Responsibility to attend to victim needs, make appropriate referrals
5	12%	Responsibility to allow victim involvement, input throughout the process
3	7%	Responsibility to provide speedy disposition of the case
3	7%	Responsibility to recognize victims' needs, concerns

Not surprisingly, victim/witness personnel believe the system has considerable responsibility for crime victims. Nearly a third of the respondents put these responsibilities on an equal footing with the system's responsibilities to defendants.

At the top of the list of specific responsibilities were keeping victims informed of case status and listening to victims at sentencing.

Summary

Most of the 43 victim/witness personnel interviewed expressed considerable satisfaction with the substance of victims rights legislation, and well over half credited the legislation with improvements in victims' willingness to cooperate with the system, in victims' attitudes toward prosecutors and the system as a whole, and in the quality of justice. In response to an open-ended question about the greatest effect of the legislation, a quarter noted its acknowledgement of a legitimate victim interest in the criminal justice system. Nevertheless, most respondents desired legislative change. Most frequently, this involved increased funding and resources for implementing the legislation and for victim compensation.

According to respondents, felony victims are generally notified of important forthcoming proceedings and of most important decisions which have been made. In most instances, reported rates of consultation are quite high.

Almost all respondents said victims' requests for assistance were usually accommodated, with the occasional exception of requests for transportation.

Victim impact statements were viewed as having substantial effect on restitution and at least some effect on sentence type and length. Statements in the victim's own words were considered most effective in transmitting information about the crime's physical, financial, psychological and social impact as well as the victim's opinion of the sentence--all very important types of information according to virtually all respondents.

Chapter 8

COMPARISON OF PRACTITIONER RESPONSES

The responses of practitioners to the same or similar questions were examined to determine whether practitioners share common perceptions about the implementation and importance of various facets of victims rights legislation.

Prosecutor and victim/witness advocate responses were compared with respect to the frequency certain notification and consultation rights are implemented. Comparisons were made both in the aggregate and, in those jurisdictions with victim/witness advocates, intrajurisdictionally.

Responses of prosecutors, advocates, probation officials and judges were compared on questions about the effectiveness, importance, and impact of victim impact statements.

Some of the data reported in this section has already been discussed in greater detail in previous sections on prosecutor, court, probation, and victim/witness frequencies. It is repeated here to facilitate the comparison among the groups.

A. Comparison of Responses About Notification and Consultation

A comparison of the aggregate responses of prosecutors with the aggregate responses of victim/witness advocates indicates general agreement between the groups on the frequency of implementation of rights to advance or prompt notice of proceedings, intimidation information, consultation, and notice of actions taken. The slightly lower rate of implementation reported by prosecutors on a number of questions may be explained by the fact that many of these respondents do not have victim/witness staff to assist in implementation. (Table 8-1)

Table 8-1
Comparison of Aggregate Responses

	N		Not Usually*		Usually*	
	Pros	V/W	Pros.	V/W	Pros.	V/W
<u>Advance Notice</u>						
Plea Hrng.	70	40	21% (15)	17% (7)	53% (37)	70% (28)
Trial	84	43	1% (1)	7% (3)	97% (81)	93% (40)
Sent. Hrng.	78	41	15% (12)	5% (11)	75% (58)	73% (30)
Prompt Not.Cont.	82	42	20% (16)	12% (5)	65% (54)	76% (32)
<u>Info Re</u>						
<u>Intim.</u>	77	42	43% (33)	23% (10)	45% (27)	67% (28)
<u>Consultation</u>						
Filing	78	41	62% (48)	51% (21)	18% (14)	29% (12)
Dismissal	82	41	10% (8)	7% (3)	74% (61)	73% (30)
Diversion	58	29	15% (9)	17% (5)	64% (37)	73% (21)
Plea nego.	84	43	12% (10)	12% (5)	51% (43)	53% (23)
Continu.	80	39	59% (47)	51% (20)	14% (11)	13% (5)
Sentence	74	39	15% (11)	---	53% (30)	77% (30)
Trial	82	42	21% (17)	14% (6)	61% (50)	60% (25)
<u>Actions Taken</u>						
Pretrial release	80	42	47% (38)	31% (13)	24% (19)	48% (20)
Bond revoc.	81	39	38% (31)	26% (10)	46% (37)	54% (21)
Diversion	53	23	23% (12)	9% (2)	68% (36)	69% (16)
Prel. Hrng.	73	38	28% (20)	21% (8)	60% (44)	74% (28)
Grand jury	54	30	11% (6)	13% (4)	82% (44)	80% (24)
Trial	83	42	1% (1)	2% (1)	95% (79)	96% (40)
Sentence	82	42	7% (6)	2% (1)	79% (65)	93% (39)

*A third category, "sometimes," is not shown in this table. See previous chapters on the individual surveys for complete tables.

To compare prosecutors' perceptions on the frequency with which certain rights are extended to victims with the perceptions of their victim/witness personnel, selected responses of both these respondents within forty-one jurisdictions with victim/witness staff were examined. Specifically, frequencies reported by prosecutors and their victim/witness advocates were compared with respect to five types of victim contact: (a) provision of advance notice of plea hearings, (b) consultation with victims about plea negotiations, (c) advance notification of sentencing hearings, (d) notification of the outcome of plea hearings and/or trials, and (e) notification of the sentencing decision.

Overall, prosecutors and their victim/witness advocates agreed about the frequency with which victims are provided specific types of victim contact. 73% of the time they both gave frequencies (135 of 184), and disagreed 27% of the time they both gave frequencies (49 of 184). In descending order, they agreed 95% of the time about how often victims were notified of the outcome of the plea or trial; 82% of the time about how often victims are notified of the sentence; 73% of the time about how often victims are notified in advance of sentencing hearings; 66% of the time about how often they are provided advance notice of plea hearings; and 51% of the time about how often they are consulted about plea agreements. (Table 8-2).

Table 8-2
Comparison of Concurring and Differing
Responses Within Jurisdictions

<u>Type of Contact</u>	<u>N</u>	<u>Concur</u>	<u>Differ</u>
Adv. notice plea hrng.	30	20 (66%)	10 (34%)
Consult. re plea	41	21 (51%)	20 (49%)
Adv. notice sent. hrng.	37	27 (73%)	10 (27%)
Not. outcome plea/trial	38	36 (95%)	2 (5%)
Not. sentence	38	31 (82%)	7 (18%)
Total:	184	135	49

Most of the time prosecutors and their victim/witness advocates agreed, they said victims were "almost always" provided the specific contact. This was the case in every instance with respect to notification of the sentence; 97% of the time with respect to notification of the outcome of the plea or trial, 95% of the time with respect to advance notice of the plea hearing, 89% of the time with respect to advance notice of the sentencing hearing, and 66% of the time with respect to consultation regarding a plea. (Table 8-3).

Table 8-3
Comparison of Concurring Responses Within Jurisdictions

<u>Type of Contact</u>	<u>N</u>	<u>Both Almost Always</u>	<u>Both Sometimes</u>	<u>Both Almost Never</u>
Adv. notice plea hrng.	20	19 (95%)	1 (5%)	0 (0%)
Consult. re plea	21	14 (66%)	7 (34%)	0 (0%)
Adv. notice sent. hrng.	27	24 (89%)	2 (8%)	1 (3%)
Not. outcome plea/trial	36	35 (97%)	1 (3%)	0 (0%)
Not. sentence	31	31 (100%)	0 (0%)	0 (0%)
TOTAL:	135	123	11	1

When prosecutors and their victim/witness advocates disagreed about the frequency of certain contacts with victims, there was no clear pattern as to which type of practitioner is likely to report greater frequency of contact and which is likely to report lower frequency of contact. This was true even in the 7% of the cases prosecutors and their victim/witness advocates disagreed strongly (i.e., with one response falling into the "almost always" category and the other response falling in to the "almost never" category).

(Table 8-4)

Table 8-4
Comparison of Differing Responses Within Jurisdictions

<u>Type of Contact</u>	<u>N</u>	<u>Pros. Higher</u>	<u>V/W Higher</u>
Adv. notice plea hrng.	10 ¹	3 (30%)	7 (70%)
Consult. re plea	20 ²	11 (55%)	9 (45%)
Adv. notice sent. hrng.	10 ³	5 (50%)	5 (50%)
Not. outcome plea/trial	2 ⁴	1 (50%)	1 (50%)
Not. of sentence	7 ⁵	2 (29%)	5 (71%)

1. In 4 of these jurisdictions, disagreement was strong, with 1 respondent indicating "almost always" and the other "almost never." In 2 of these, the prosecutor gave the higher response and in the other 2 the victim/witness advocate gave the higher response.
2. In 5 of these jurisdictions, disagreement was strong, with the prosecutor giving the higher response in 4 and the victim/witness advocate in one.
3. In 3 jurisdictions, disagreement was strong, with the victim/witness advocate giving the higher response each time.
4. In 1 jurisdiction, disagreement was strong, with the prosecutor giving the higher response.
5. In 2 jurisdictions, disagreement was strong, with the prosecutor giving the higher response in one, and the victim/witness advocate in the other.

B. Comparison of Responses About Victim Impact Statements

As discussed in previous chapters on the frequencies from individual practitioners, officials were asked their opinion about certain types of information commonly mentioned in victims rights legislative provisions relating to victim impact statements. Prosecutors were asked how important they

believe it is for each type of information to be brought to the attention of the sentencing court; victim/witness staff were asked how important they believe victims feel it is to have each type of information brought to the attention of the sentencing court; judges were asked how useful each type of information is to their sentencing decisions; and probation officials were asked how often they explicitly solicit each type of information.

Clearly all groups believe the sentencing court should have information about the physical impact of the crime on the victim. Though somewhat fewer judges reported information about the financial impact as being very useful, most respondents in each group indicated that this information, too, should be made available.

Information about the crime's psychological or emotional impact on the victim is seen as "very important" to virtually all prosecutors and victim/witness respondents and at least "useful" to most judges. However, nearly a third of the probation officials said they do not routinely solicit such information.

Social information--i.e., information about the crime's impact on the victim's relationships with family and friends--was viewed as at least "important" by virtually all prosecutors and victim/witness advocates and as "very important" by most. Most judges said they find such information "useful" or "very useful." However, over a fifth of the judges said they consider it "not useful" and nearly a

quarter of the probation officials said they do not usually solicit it.

While no victim/witness respondents and only a small percentage of prosecutor respondents rated the victim's opinion of a sentence as "not important," slightly over half of the judges said the victim's opinion is "not useful" to the sentencing decision. On the other hand, nearly half of the judges found this at least "useful" and a small but significant number said it is "very useful." Most probation respondents indicated they usually or at least sometimes solicit the victim's opinion. (Table 8-5)

Table 8-5
Comparison of Practitioner Opinions About
Victim Impact Information*

<u>Pros.</u> (Importance)	<u>V/W.</u> (Importance)	<u>Judges</u> (Usefulness)	<u>Prob.</u> (Frequency solicited)
<u>Financial</u>			
(84)	(43)	(74)	(63)
Not Imp. ----	----	Not Usef. 3%	Not Usu. 3%
Import. ----	5%	Useful 18%	Smtms. 2%
V. Imp. 100%	95%	V. Usef. 79%	Usually 95%
<u>Physical Impact</u>			
(83)	(43)	(74)	(62)
Not Imp. ----	----	Not Usef. 3%	Not Usu. 3%
Import. ----	----	Useful 5%	Smtms. 2%
V. Imp. 100%	98%	V. Usef. 92%	Usually 95%
<u>Psychological Impact</u>			
(83)	(43)	(71)	(62)
Not Imp. ----	----	Not Usef. 11%	Not Usu. 15%
Import. 7%	2%	Useful 17%	Smtms. 16%
V. Imp. 93%	98%	V. Usef. 72%	Usually 69%
<u>Social Impact</u>			
(83)	(43)	(72)	(62)
Not Imp. 3%	----	Not Usef. 21%	Not Usu. 24%
Import. 22%	5%	Useful 36%	Smtms. 16%
V. Imp. 75%	95%	V. Usef. 43%	Usually 60%
<u>Victim Opinion</u>			
(82)	(43)	(74)	(63)
Not Imp. 11%	----	Not Usef. 53%	Not Usu. 13%
Import. 24%	5%	Useful 35%	Smtms. 9%
V. Imp. 65%	95%	V. Usef. 12%	Usually 78%

*The responses to questions about importance, usefulness, and solicitation were on a 1 to 5 scale, with 1 being "not very important" (prosecutors, victim/witness staff), "not very useful" (judges) and "almost never (solicited)" (probation), and 5 being "very important" (prosecutors, victim/witness staff), "very useful" (judges), and "almost always (solicited)" (probation). For simplification, frequencies were reduced to the descriptive categories above, with 1 and 2 responses reported together in the first (lowest frequency) category and 4 and 5 responses reported together in the third (highest frequency) category.

The fact that probation officials report soliciting the victim's opinion about the sentence more frequently than they report soliciting information about the psychological and social impact of the crime is interesting in light of the fact that most judges say they accord "opinion" information considerably less importance. Comments volunteered during the interviews may provide at least partial explanation. Some probation officers said they do not feel qualified to deal with psychological information and are uncomfortable speaking to victims about it. Some noted the difficulties of objectively recording what they view as "soft" information. While a victim's opinion itself is subjective, it can at least be recorded unequivocally.

Practitioners were asked to rate the effectiveness of certain types of victim impact statements in providing the court information about the crime's impact on the victim. Specifically, they were asked about officially-prepared statements, forms completed by victims, narratives written by victims, and oral statements by victims. Most respondents rated all four forms "effective" or "very effective" means of transmitting victim information to the sentencing court.

Oral statements were rated "very effective" by a higher percentage of each representative group than any other form of statement. However, more judges found such statements "not effective" than found any other form of statement "not effective." A small but significant number of prosecutors also described them as "not effective."

Narratives by victims received the second largest percentage of "very effective" responses from prosecutors and

victim/witness respondents. The same percentage of judges rated this form "very effective" as rated prosecutor- or probation-prepared forms "very effective." Again, a small but significant percentage of prosecutors and judges found these statements "not effective."

Victim-completed forms were viewed as "very effective" by a smaller percentage of respondents in each group than any other form of statement. Still, many respondents found these statements "very effective" and very few found them "not effective."

No judge-respondents and few of the other respondents found prosecutor- or probation-prepared statements "not effective." Again, many respondents found these statements "very effective."

Victim/witness advocates in particular reported that the most effective victim impact statements are oral and narrative statements--unstructured information in victims' own words. While most judge-respondents also find such statements "effective" and many even find them "very effective," it is clear that others find them "not effective." Some of these judge-respondents commented that such statements tend to be too subjective and too long, and often contain irrelevant information. Written statements were criticized as tending to ramble and to be illegible. Oral statements, some said, may unnecessarily lengthen and/or inject inappropriate emotionalism into the sentencing process. On the other hand, other judge-respondents who rated these statements "effective" or "very

effective" said that only through a victim's own words can they truly understand the crime's true impact. (Table 8-6)

Table 8-6
Comparison of Practitioner Opinions About
Effectiveness of Format

	<u>Pros.</u>	<u>VW</u>	<u>Court</u>
<u>Prob./pros.-prepared</u>	(69)	(29)	(61)
Not Effective	7%	3%	----
Effective	57%	52%	64%
Very Effective	36%	45%	36%
<u>Victim-completed forms</u>	(67)	(29)	(31)
Not Effective	6%	3%	3%
Effective	61%	55%	71%
Very Effective	33%	41%	26%
<u>Narratives written by victims</u> (76)		(41)	(55)
Not Effective	12%	---	15%
Effective	42%	42%	49%
Very Effective	46%	58%	36%
<u>Oral statements by victims</u>	(74)	(34)	(51)
Not Effective	10%	---	18%
Effective	27%	35%	45%
Very Effective	63%	65%	37%

As reported in previous chapters on the individual practitioner surveys, respondents in each practitioner group were asked their opinion about the impact of victim impact statements on sentence length, sentence type (e.g., incarceration, probation, community service), and restitution. (Prosecutors and victim/witness advocates were asked about the effect on restitution in general whereas judges and probation officials were asked about the effect on (1) the number of restitution orders and (2) the amount or size of restitution orders.)

Most respondents said they believe victim impact information has at least some impact on the length and type of sentence, and on the likelihood of restitution. Relatively few of each type of practitioner recognized a "substantial" impact on the length of sentence and a significant number recognized "no impact" on this aspect of sentencing. The impact on the type of sentence (incarceration, probation, community service) was viewed by somewhat more respondents in each group as "substantial" and by slightly fewer as "none." By far, the greatest impact was seen in connection with restitution. Most judges and probation officials--who were asked about the impact on both the number and size of restitution orders--noted a substantial impact on both. (Table 8-7)

Table 8-7
Comparison of Practitioner Opinions About
Impact on Sentencing

	<u>Pros.</u>	<u>V/W</u>	<u>Court</u>	<u>Prob.</u>
<u>Sentence Length</u> (76)		(42)	(71)	(62)
None	9%	12%	18%	18%
Some	69%	52%	58%	51%
Substantial	22%	36%	24%	31%
<u>Sentence Type</u> (77)		(42)	(70)	(63)
None	4%	7%	11%	17%
Some	51%	50%	57%	40%
Substantial	45%	43%	32%	43%
<u>Restitution</u> (77)		(42)	(No.) (69) (Amt.) (71)	(64) (64)
None	5%	5%	(No.) 20% (Amt.) 13%	9% 14%
Some	14%	14%	(No.) 16% (Amt.) 18%	8% 11%
Substantial	81%	81%	(No.) 64% (Amt.) 69%	83% 75%

A comparison of judges' and probation officials' responses with legislative provisions suggests that, on the whole, these practitioners ascribe considerably more importance to specific types of victims rights information than is reflected in victim impact legislation. For example, whereas only slightly over half of the study states' legislation specifies that information about the financial impact of the crime be included in presentence reports or, if provided by victims, forwarded to the court, virtually all judges reported that such information is useful or very useful to their sentencing decisions, and almost all probation officials said they usually solicit such information. Information about the physical, psychological, and social impact of the crime, or the victim's opinion of a sentence is legislatively addressed by less than half the study states. Yet, substantial majorities of probation officials reported they sometimes or, more often, usually solicit each of these types of information. Moreover, most judges said that information about the physical, psychological, and social impact on the victim is useful or very useful to their sentencing decisions, and nearly half said they find the victim's opinion of a sentence useful or very useful.

Legislators and practitioners appear to agree, however, about the relative importance of the various types of impact information. Financial information and physical impact information are most frequently mentioned in the legislation, most frequently cited as useful or very useful by judges, and most frequently solicited, according to probation officials.

Moreover, judges and legislators both seem to accord information about the crime's social impact and the victim's opinion about the sentence lowest priority. However, as noted previously, probation officials report soliciting the victim's opinion of the sentence considerably more often than information about the social impact and somewhat more often than information about the psychological impact. (Table 8-8)

Table 8-8
Relative Importance of Specific
Victim Impact Information

	(N=36) <u>Legisl.</u>	<u>Usef.</u>	<u>Court</u> <u>V. Useful</u>	<u>Total</u>	<u>Probation</u> <u>Smtms.</u>	<u>Usually</u>	<u>Total</u>
Financial	20 (56%)	18%	79%	(97%)	2%	95%	(97%)
Physical	16 (44%)	5%	92%	(97%)	2%	95%	(97%)
Psychol.	16 (44%)	17%	72%	(89%)	16%	69%	(85%)
Social	8 (22%)	36%	43%	(79%)	16%	60%	(76%)
Opinion	7 (19%)	35%	12%	(47%)	9%	78%	(87%)

Summary

Prosecutor-respondents and victim/witness-respondents generally agreed about how often victims are provided advance notice of proceedings, consulted, and notified of actions taken.

Within the same offices, prosecutors and their victim/witness staff agreed about the frequency with which victims are provided certain types of contact approximately three-quarters of the time and disagreed approximately a quarter of the time. They most frequently agreed about how often victims are notified of the outcome of the plea or trial and least often about how often victims are consulted concerning plea agreements. When they disagreed, they rarely disagreed strongly; moreover, there was no apparent pattern as to which practitioner reported higher or lower rates of contact.

On the whole, practitioners appear to accord more attention to victim impact statements than is required by their legislation. Most prosecutors, victim/witness advocates, judges, and probation officers--regardless of legislative requirements--said that information about the physical and financial effect on the victim should be available to the sentencing court. Information about the crime's psychological or emotional impact, impact on the victim's social relationships, and the victim's opinion of the sentence were accorded somewhat lower priority by significant numbers of judges and probation officials, but still more than legislatively required.

Whether victim impact statements are written by probation officials, written by victims, or delivered orally by

victims, most practitioners in each group found them effective means of transmitting information to the sentencing court. However, the effectiveness of statements in the victim's own words may depend on the individual victim's articulateness.

Most respondents in each group noted at least some impact of victim impact statements on sentence length, sentence type, and--particularly--on restitution.

Chapter 9
VICTIM SURVEY

A total of 359 victims from five states with victims rights legislation were interviewed to obtain their views of the criminal justice process. Victims' names were randomly selected from closed files of prosecutors' offices in a single jurisdiction within each of the five states. While the initial plan was to interview approximately equal numbers from each jurisdiction, difficulties in obtaining sufficient numbers of names from each made this impossible. Ultimately, 250 victims were interviewed from New York City; 38 from Essex, Massachusetts; 26 from Las Vegas, Nevada; and 21 from Greenville, South Carolina. These represented 144 robbery victims, 132 assault victims, 52 domestic violence victims, and 29 sexual assault victims.

The survey included both structured and unstructured questions.

Part I:

Victim Responses to Structured Questions

Victims were asked structured questions about their experience with the criminal justice system--what happened to their cases, the type of information provided to them, their opportunity for input in the process, and the services extended to them. They were also asked about the importance of receiving various types of information, of participating in the case decisions, and of receiving services.

I.A. Police Investigation and Arrest

Of the total sample of 359 victims, not quite ~~two-thirds~~ said they were kept informed of the police investigation. (Table 9-1) According to respondents, information was most often provided by the police and somewhat less often by the prosecutor.

All victims in the sample were asked if arrests were made in their cases. Most indicated they were. It is interesting, however, that 41 victims said an arrest was not made. Since all victims in the sample had been identified from prosecutors' files, it is likely that, contrary to what these victims reported, an arrest was made.

Victims who reported an arrest were asked if they had been informed of that arrest by someone in the criminal justice system. A third of the total respondents said they witnessed the arrest themselves. Most of the others stated that they had been informed, even if they had not asked for such information. (Table 9-1)

The numbers of victims who were not sure if anyone was arrested (16), who said there was an arrest about which they were not informed (27), and who reported there was no arrest when, in fact, there probably was (41), suggests that at least some victims are not getting meaningful information about arrests. This is despite the fact that most victims said information about arrests was important to them.

Table 9-1
Police Investigation/Arrest

	<u>N</u>	<u>Yes</u>	<u>No</u>
Were you kept informed of police investigation?	359	222 (62%)	137 (38%)
Was anyone ever arrested?	343*	302*** (88%)	41 (12%)
Were you told about the arrest?	200**	173 (86%)	27 (14%)
Had you asked to be told?	220	81 (37%)	139 (63%)

*This question was asked of the total sample of 359 victims. Of these, 16--5% of 359--said they were "not sure" if anyone was arrested.

**This question was asked of the 302 victims who said that there had been an arrest in the case. A third (102) of these victims said they witnessed the arrest themselves.

***Only those victims who responded that there was an arrest were asked further questions about the criminal justice process, i.e., Tables 9-2 through 9-13.

I.B. Pretrial Release

Victims who reported that an arrest was made were asked if the defendant had been released from jail before the case was decided. Slightly over half said there was such a release. Many others reported that they were not sure if the defendant were released. Less than a third of the victims said they had asked to be notified if there were a pretrial release, and slightly over a third said they were, in fact, notified. Relatively few said they were consulted about the release.

(Table 9-2)

Victims who requested notice of pretrial release most often asked the police, and the police were the practitioners most likely to provide such notice.

The fact that 90 victims said there were releases about which they were not informed and 41 victims were not sure if there were a release suggests a need for more notification in this area, particularly since most victims said such information was important to them.

Table 9-2
Pretrial Release

	<u>N</u>	<u>Yes</u>	<u>No</u>
Was defendant released from jail before final decision re outcome?	261*	146 (56%)	115 (44%)
Were you told of release?	144	54 (38%)	90 (62%)
Had you asked to be told?	145	43 (30%)	102 (70%)
Were you consulted about release?	143	28 (20%)	115 (80%)

*This question was asked of the 302 victims who reported there was an arrest in their case. Forty-one of these victims--13% of 302--said they were "not sure" if there was a pretrial release.

I.C. Trial

Victims who had reported an arrest were asked if there was a trial. - Slightly over 40% responded affirmatively.

Although fewer than half of these had asked to be informed of the trial schedule, most were told about it--not surprising in light of victims' role as witnesses in the prosecution's case.

(Table 9-3) Requests for information about trial schedules were most often directed to prosecutors, and prosecutors, in fact, most often provided such information to victims.

Over 90% of the victims said it was very important for them to be involved in deciding whether the case should go to trial. However, considerably fewer--less than half--were consulted about such decisions. (Table 9-3) When they were consulted, it was almost always by the prosecutor.

Table 9-3
Trial

	<u>N</u>	<u>Yes</u>	<u>No</u>
Was there a trial in the case?	255*	108 (42%)	147 (58%)
Were you told of the trial schedule?	106	91 (86%)	15 (14%)
Had you asked to be told?	106	44 (42%)	62 (58%)
Were you consulted about the advisability of trial?	106	50 (47%)	56 (53%)

*This question was asked of the 302 victims who indicated there had been an arrest in their cases. Of this number, 47--15% of 302--said they were "not sure" if there was a trial.

I.D. Guilty Pleas

If victims stated that their case did not go to trial, they were asked if the defendant pled guilty. Seventy percent of these victims responded affirmatively. It is interesting to note, however, that a significant number were "not sure" if the defendant pled guilty. About half of those who said there was a guilty plea said the plea was to a lesser crime than was originally charged.

Information about guilty plea deliberations was provided to victims more often than they requested it. Nevertheless, less than half the victims in guilty plea cases said they were notified that pleas were being considered. Moreover, less than a quarter said they were consulted about the plea (though most victims said it was important to them to have a chance to consult with the prosecutor before a plea agreement was accepted). (Table 9-4)

Of the relatively few victims who said they asked someone to tell them if a plea to a lesser crime was being considered, almost all asked the prosecutor. When they were told of such a possibility, it was almost always by the prosecutor.

Table 9-4
Guilty Pleas

	<u>N</u>	<u>Yes</u>	<u>No</u>
Did defendant plead guilty?*	129*	91 (70%)	38 (30%)
Was plea to lesser crimes only?	72	35 (49%)	37 (51%)
Were you told prosecutor might let defendant plead to lesser crimes?	35	15 (43%)	20 (57%)
Did you ask to be told if plea to lesser crimes was being considered?	34	11 (32%)	23 (68%)
Did prosecutor consult with you about acceptance of plea?	34	9 (27%)	25 (73%)

*This question was asked of the 194 victims who reported an arrest but said there was no trial (147) or they were "not sure" if there was a trial (47). Sixty-five victims--33% of 194--were "not sure" if the defendant pled guilty.

I.E. Dismissals

Nearly two-thirds of the 71 victims who were asked if their cases had been dropped said they had; of these, over half said this was done at their request. (Table 9-5)

Table 9-5
Dismissals

	<u>N</u>	<u>Yes</u>	<u>No</u>
Was the case dropped?	71*	46 (65%)	25 (35%)
Were you consulted about this?	45	15 (33%)	30 (67%)
Did you ask for it to be dropped?	44	25 (57%)	19 (43%)
Were you told that it would be dropped?	20	8 (40%)	11 (55%)
Had you asked to be told?	19	3 (16%)	16 (84%)

*This question was asked of 103 victims--those who reported an arrest (302) minus the 199 who did not report a trial or a guilty plea. Thirty-three--32% of 103--said they were "not sure" if the case was dropped.

I.F. Sentence Hearings

Approximately half of the victims who reported that the defendant pled or was found guilty at trial said there was a separate sentencing hearing. While less than half had asked to be told if there was going to be such a hearing, three-quarters said they were informed about the hearing. Substantially fewer--not quite half--said they were consulted about the sentence (though most victims said it was very important to them to be involved in the sentencing decision). (Table 9-7)

Prosecutors were the practitioners most frequently requested to provide information about the sentencing hearing and also those most often providing it, according to respondents.

Table 9-6
Sentencing Hearing

	<u>N</u>	<u>Yes</u>	<u>No</u>
Was there a sentencing hearing?	59*	28 (47%)	31 (53%)
Were you told about the hearing?	66	35 (75%)	31 (25%)
Had you asked to be told?	66	28 (42%)	38 (58%)
Were you consulted about sentence?	69	33 (48%)	36 (52%)

*This question was asked of the victims who reported a trial at which the defendant was found guilty or pled guilty. Of this number, 11--16% of 70--said they were "not sure" if there was a sentencing hearing.

I.G. Victim Impact Statements

Slightly over a quarter of the victims who were asked if they made a victim impact statement (i.e., "let the court know how the crime has affected the victim or the victim's family") said they had. Few, however, said they had requested the opportunity to make such a statement. (Table 9-7)

Table 9-7
Frequency of Victim Impact Statements

	<u>N</u>	<u>Yes</u>	<u>No</u>
Did you make a victim impact statement?	215	59 (27%)	156 (73%)
Had you told anyone you wanted to make a victim impact statement?	212	14 (7%)	198 (93%)

*This question was asked of all victims who said there was a guilty plea, a trial, or a dismissal which they did not request.

While not many victims made victim impact statements, it is interesting that most who did said they considered the statement at least somewhat important. Moreover, almost all victims in cases with separate sentencing hearings said that it was very important for them to be involved in the sentencing decision.

Most victims who reported making a victim impact statement said the statement was written and that they prepared it themselves. (Tables 9-8 and 9-9)

Table 9-8
Form of Victim Impact Statement

N=55

Written and oral	3	(5%)
Written only	34	(62%)
Oral only	18	(33%)

Table 9-9
Preparation of Victim Impact Statement

N=62

Prepared by self	27	(44%)
Prepared by probation	3	(5%)
Prepared by prosecutor	18	(29%)
Prepared by victim/witness	9	(14%)
Prepared by other	5	(8%)

In light of the considerable legislation requiring probation involvement with victim impact statements, it is interesting that so few respondents acknowledged probation department involvement in this area. Perhaps some victims did not recognize the individuals with whom they had discussed the crime's impact as probation officials. Some may not have considered statements prepared as part of presentence reports true "victim impact statements." The wording of the question, i.e., "Did you ever make a victim impact statement for this case," may also have discouraged responses about probation-prepared statements.

Most victims who made impact statements said that they included information about how the crime affected them physically and emotionally. Well over half said they included

information about the crime's financial and social impact. Fewest--but still over half--said they included their opinion of how the defendant should be sentenced. (Table 9-10)

Table 9-10
Contents of Victim Impact Statements

	<u>N</u>	<u>Yes</u>	<u>No</u>
Financial information	58	36 (62%)	22 (38%)
Physical information	56	47 (84%)	9 (16%)
Emotional information	58	48 (83%)	10 (17%)
Social information	54	34 (63%)	20 (37%)
Opinion of sentence	57	32 (56%)	25 (44%)

Despite the importance some victims ascribe to victim impact statements, most apparently are skeptical about the effect such statements have on sentencing. Only a third noted that the statement had a "lot" of effect on whether the defendant was incarcerated. Considerably fewer noted a "lot" of effect on the amount of jail time or on the likelihood or amount of restitution. In fact, over half said such statements have "no effect" on restitution, over a quarter said they have "no effect" on whether the defendant is incarcerated, and over a third said they have "no effect" on the amount of jail time. (Table 9-11)

Table 9-11
Opinion on Effect of Victim Impact Statements

	<u>N</u>	<u>None</u>	<u>Some</u>	<u>Lot</u>
Whether defendant sentenced to jail	77	22 (28%)	29 (38%)	26 (34%)
Amount of jail time	77	29 (38%)	27 (35%)	21 (27%)
Whether defendant required to make victim restitution	70	39 (56%)	15 (21%)	16 (23%)
Amount of financial restitution	68	37 (54%)	17 (25%)	14 (21%)

Such opinions vary considerably from the practitioners' responses to similar questions.

I.H. Postponements

Not surprisingly, postponements or continuances were reported quite frequently by the victims surveyed. When asked if their cases were ever rescheduled or postponed, approximately 40% of the victims responded affirmatively. Even though relatively few requested such notice, most said they were informed of the postponements (probably at least in part because they were needed as witnesses at the re-scheduled proceedings). (Table 9-12)

Table 9-12
Postponements/Continuances

		<u>Yes</u>	<u>No</u>
Was case ever rescheduled or postponed?	277*	114 (41%)	163 (59%)
Were you told of postponements?	114	91 (80%)	23 (20%)
Had you asked to be told?	298	54 (18%)	244 (82%)

*This question was asked of the 302 victims who said an arrest had been made in their cases. Of this number, 25--8% of 302--said they were "not sure" if there were postponements or continuances.

Most victims viewed information about postponements as important. The prosecutor was the most likely practitioner to be asked for such information, and the most likely to provide it.

I.I. Victim Satisfaction with Information and Participation

Victims were asked how satisfied they were with certain types of information they received from criminal justice officials and with certain opportunities they were provided to participate in the criminal justice system. On the one hand, more victims were "satisfied" than "not satisfied" with most of the specified types of information and participation; on the other hand, more were "not satisfied" than were "very satisfied."

The greatest dissatisfaction and least satisfaction concerned opportunities to participate in decisionmaking. Over half the victims were not satisfied with the opportunity to have a say in the sentencing. Almost half were not satisfied with the opportunity to have a say in whether the case was dropped or pled.

Many victims also noted dissatisfaction with the information they received from criminal justice officials. A third or more said they were not satisfied with information about available services (43%), notice of case outcome (43%), notice of postponed proceedings (41%) and explanation of the court system (36%). Perhaps not surprising since victims generally are required as witnesses at proceedings, notice about upcoming proceedings elicited the lowest percentage of "not satisfied" responses (33%) and the greatest percentage of "very satisfied" responses. (Table 9-13)

Table 9-13
Victim Satisfaction with
Information and Participation Opportunity

	<u>N</u>	<u>Very</u> <u>Satis.</u>	<u>Satis.</u>	<u>Not</u> <u>Satis.</u>
Explanation of court system	270	65 (24%)	109 (40%)	96 (36%)
Notice of upcoming proceedings	270	91 (34%)	89 (33%)	90 (33%)
Notice of postponed proceedings	196	41 (21%)	75 (38%)	80 (41%)
Opportunity to have say in whether case dropped or pled	241	45 (19%)	78 (32%)	118 (49%)
Opportunity to have say in sentence	219	37 (17%)	64 (29%)	118 (54%)
Notice about case outcome	264	75 (28%)	76 (29%)	113 (43%)
Information about available services	260	63 (24%)	86 (33%)	111 (43%)

I.J. Victim Satisfaction with Practitioners/System/Case Outcome

Victims were asked about their satisfaction with the police, the prosecutor, the victim/witness staff and the judge. They were also asked about their satisfaction with the case outcome and the criminal justice system as a whole.

Approximately three-fourths of respondents were at least somewhat satisfied with each type of practitioner. Lower rates of satisfaction were reported with the case outcome and the criminal justice system as a whole, with only approximately half the respondents indicating satisfaction. While satisfied victims were usually more than merely "somewhat" satisfied with practitioners and case outcome, dissatisfied victims were usually "very" dissatisfied with the practitioners and particularly with case outcome and the criminal justice system as a whole. (Table 9-14)

Table 9-14
Victim Satisfaction with
Practitioners/System/Case Outcome

	<u>N</u>	<u>Sat.</u>	<u>Smwht Sat.</u>	<u>Smwht Dis.</u>	<u>Very Dis.</u>
Police	356	181 (51%)	87 (24%)	24 (7%)	64 (18%)
Prosecutors	282	116 (41%)	83 (30%)	23 (8%)	60 (21%)
Victim/witness staff	205	98 (48%)	57 (28%)	20 (10%)	30 (14%)
Judge	177	95 (54%)	40 (23%)	13 (7%)	29 (16%)
Case outcome	323	119 (37%)	69 (21%)	37 (12%)	98 (30%)
Criminal justice system	342	97 (28%)	95 (28%)	50 (15%)	100 (29%)

Satisfaction with case outcome and the criminal justice system varied depending on the crime against the victim. Highest rates of satisfaction were reported by sexual assault victims, and lowest by assault victims.

Crime type also affected satisfaction with judges; again, sexual assault victims were most satisfied and assault victims least satisfied. (Table 9-15)

Table 9-15
Satisfied and Very Satisfied, By Crime Type

	<u>Police</u>	<u>Pros.</u>	<u>Judge</u>	<u>Vic/ Witn.</u>	<u>Case Outc</u>	<u>Crim. System</u>
Assault	75% (130)	66% (106)	58% (62)	68% (79)	50% (117)	48% (125)
Robbery	73% (143)	64% (104)	85% (54)	78% (68)	57% (124)	57% (135)
Sexual Assault	73% (29)	90% (28)	92% (24)	88% (25)	76% (29)	68% (28)
Domestic Viol.	85% (52)	86% (42)	82% (35)	80% (31)	71% (51)	66% (52)

I. K. Services Requested and Received

Victims were asked how often they requested certain services and how often they received the services they requested. On the whole, relatively few victims reported asking for services. Police protection and property return were most commonly requested.

Over three-fourths of the victims who sought help in preparing victim impact statements, referrals for psychological counselling and police protection reported they received the requested assistance. Well over half of those who requested transportation to court and intercession with their employers were also accommodated. Slightly under half of those who requested assistance with completing compensation forms and with property return said they were provided these services.

(Table 9-16)

Table 9-16
Services Requested and Received

	<u>N</u>	<u>Not</u> <u>Req.</u>	<u>Req.</u>	<u>Not</u> <u>Rec.</u>	<u>Rec.</u>
Property return	286	176 (62%)	110 (38%)	60 (55%)	50 (45%)
Compensation assistance	308	252 (82%)	56 (18%)	30 (54%)	26 (46%)
Preparation of impact statements	256	233 (91%)	23 (9%)	3 (13%)	20 (87%)
Police protection	357	243 (68%)	114 (32%)	28 (25%)	86 (75%)
Transportation to court	316	290 (92%)	26 (8%)	10 (38%)	17 (65%)
Employer intercession	289	229 (79%)	60 (21%)	16 (27%)	44 (73%)
Obtaining psychological counselling	355	318 (90%)	37 (10%)	8 (22%)	29 (78%)

Part II:
Responses to Open-Ended Questions

All victims were asked open-ended questions about the least and most satisfying aspects of the handling of their cases.

Table 9-17
Least Satisfying Aspects of Case

What, if anything, was least satisfying about the way this case was handled?

No. of Respondents = 254
No. of Responses = 338

<u>N</u>	<u>Rspns</u>	
121	36%	Treatment of defendant (11 re pretrial release) (22 re case disposition) (28 re arrest) (60 re sentence)
64	19%	Lack of information re case progress
49	15%	Failure to meet victim needs/to show victim consideration
25	8%	Failure to involve victim in proceedings
23	7%	Length of proceedings
16	4%	Insufficient victim compensation
16	4%	Failure to return stolen property
24	7%	All other responses

No responses were received from 105 victims; the other 254 victims provided 338 responses.

Clearly, more of the victims' complaints centered around the handling of defendants than around any particular aspect of victims' treatment. This dissatisfaction was particularly strong with respect to the sentence. With very few exceptions, such complaints indicated the sentence was too lenient.

Aspects of the victim's treatment which elicited most frequent complaints concerned the lack of information about case status and practitioners' failure to deal adequately with victims' needs.

Table 9-18
Most Satisfying Aspects of Case

What, if anything, was most satisfying about the way this case was handled? —

No. of Respondents = 348
No. of Responses = 364

<u>N</u>	<u>Rspns.</u>	
139	38%	Treatment of defendant (82 re investigation/arrest) (29 re sentence) (28 re case disposition/sentence)
88	24%	Good information about case status/ services/advice
51	14%	Considerate/compassionate treatment
24	7%	General satisfaction
10	3%	Protection order
9	2%	Opportunity for participation/input
43	12%	All other responses

Only eleven victims did not respond to this question; those who did respond were permitted to suggest a maximum of three different factors, yielding 364 responses.

More of the responses elicited by this question--as with the question about the least satisfying aspects of the case--concerned the handling of the defendant than any other single topic. Most of these responses expressed satisfaction with the investigation of the case and arrest of the defendant. Victims also expressed considerable satisfaction about information on case status and available services, as well as about general advice provided to them.

Over 40% (158) of the responses specifically mentioned satisfaction with the police and 9% (33) specifically mentioned satisfaction with victim/witness personnel. Few responses referred specifically to satisfaction with judges or probation officials.

Part III:

Factors Affecting Victim Satisfaction

A-hypothesis underlying the victim survey was that victim satisfaction with criminal justice practitioners, case outcome, and the criminal justice system would be influenced by certain factors, i.e., official actions in the case, information about such actions, the opportunity to consult practitioners about decisions, services requested and received, crime type, and victim income. Accordingly, cross-tabulations of victim responses about satisfaction and those factors were run. Statistically significant findings included: whether there was an arrest or pretrial release; consultation about pretrial release, trial, and case dismissal; police protection; assistance with property return and compensation forms; and crime type.

III. A. Arrest

The relatively few victims who said there was not an arrest in their cases were divided equally between those who were satisfied and those who were dissatisfied with police, prosecutors, and judges. (Since all victims interviewed for the study were identified from prosecutors' files, it is likely that, in fact, there were arrests even when victims said there were not. To the extent this is true, it is the victims' perceptions of no arrest, rather than no arrests per se, which affect their rate of satisfaction.) However, the considerably greater number of victims who acknowledged an arrest were significantly more satisfied with these practitioners. (Table 9-19)

Table 9-19
Comparison of Satisfaction/Arrest

	<u>Total</u> <u>N</u>	<u>Arrest</u> <u>N =</u>	<u>No</u> <u>Arrest</u> <u>N =</u>	<u>Sign.</u>
<u>Satisfaction with Police</u>	<u>340</u>	<u>N = 302</u>	<u>N = 38</u>	<u>.004</u>
Satisfied/somewhat satisf.		78%	55%	
Somewhat dissat./dissat.		22%	45%	
<u>Satisfaction with Prosecutor</u>	<u>273</u>	<u>N = 254</u>	<u>N = 19</u>	<u>.039</u>
Satisfied/somewhat satisf.		72%	47%	
Somewhat dissat./dissat.		28%	53%	
<u>Satisfaction with Judge</u>	<u>172</u>	<u>N = 158</u>	<u>N = 14</u>	<u>.038</u>
Satisfied/somewhat satisf.		78%	50%	
Somewhat dissat./dissat.		22%	50%	

III.B. Pretrial Release

In those cases involving pretrial release of the defendant, half of the victims were satisfied and half dissatisfied with case outcome and with the criminal justice system. In cases not involving pretrial release, significantly more victims were satisfied with both the case outcome and the criminal justice system. Moreover, the relatively high rate of satisfaction with judges even where there was a pretrial release increased significantly when there was not a release.

(Table 9-20)

Table 9-20
Comparison of Satisfaction/Pretrial Release

	<u>Total</u> <u>N</u>	<u>Prtrl.</u> <u>Release</u>	<u>No Prtrl.</u> <u>Release</u>	<u>Sign.</u>
<u>Satisfaction with Judge</u>	<u>145</u>	<u>N = 76</u>	<u>N = 69</u>	<u>.017</u>
Satisfied/somewhat satis.		71%	88%	
Somewhat dissat./dissat.		29%	12%	
<u>Satisfaction with Case Outcome</u>	<u>242</u>	<u>N = 134</u>	<u>N = 108</u>	<u>.001</u>
Satisfied/somewhat satis.		52%	73%	
Somewhat dissat./dissat.		48%	27%	
<u>Satisf. w/Crim. Just. System</u>	<u>252</u>	<u>N = 142</u>	<u>N = 110</u>	<u>.000</u>
Satisfied/somewhat satis.		50%	73%	
Somewhat dissat./dissat.		50%	27%	

III. C. Consultation Re Pretrial Release/Trial/Dismissal

Consultation appears to be an important determinate of victim satisfaction with prosecutors and with the criminal justice system. Victims who were consulted about pretrial release decisions and decisions about taking the case to trial were considerably more satisfied with prosecutors than victims who were not consulted about these decisions. (Table 9-21 and 9-22)

Victims who were consulted about whether or not the case should go to trial were significantly more satisfied with the criminal justice system than those who were not consulted. While relatively few respondents said their cases were dismissed, there is some evidence here, too, that consultation increases victim satisfaction. (Table 9-22 and 9-23)

Table 9-21
Comparison of Satisfaction/
Consultation Re Pretrial Release

	<u>Total</u> <u>N</u>	<u>Consulted</u>	<u>Not Con-</u> <u>sulted</u>	<u>Sign.</u>
<u>Satisfaction with Prosecutor</u>	<u>151</u>	<u>N = 26</u>	<u>N = 125</u>	<u>.023</u>
Satisfied/somewhat satis.		88%	63%	
Somewhat dissat./dissat.		12%	37%	

Table 9-22
Comparison of Satisfaction/
Consultation About Trial

	<u>Total</u> <u>N</u>	<u>Consulted</u>	<u>Not Con-</u> <u>sulted</u>	<u>Sign.</u>
<u>Satisfaction with Prosecutor</u>	<u>103</u>	<u>N = 50</u>	<u>N = 53</u>	<u>.012</u>
Satisfied/somewhat satis.		86%	62%	
Somewhat dissat./dissat.		14%	28%	
<u>Satisf. w/Crim. Just. System</u>	<u>102</u>	<u>N = 47</u>	<u>N = 53</u>	<u>.009</u>
Satisfied/somewhat satis.		78%	51%	
Somewhat dissat./dissat.		22%	49%	

Table 9-23
Comparison of Satisfaction/
Consultation About Dismissal

	<u>Total</u> <u>N</u>	<u>Consulted</u>	<u>Not</u> <u>Consulted</u>	
<u>Satisf. w/Crim. Just. System</u>	<u>42</u>	<u>N = 15</u>	<u>N = 27</u>	<u>.033</u>
Satisfied/somewhat satis.		80%	41%	
Somewhat dissatisfied/dissat.		20%	59%	

III. D. Police Protection

Victim satisfaction with the police and the criminal justice system appear to be significantly and adversely affected when police protection is requested but not received. (Table 9-24) (Presumably police and judges are implicated because the former are perceived as failing to provide protection and the latter as failing to order it.)

Table 9-24
Comparison of Satisfaction/
Police Protection

	<u>Total</u> <u>N</u>	<u>Req'd &</u> <u>Received</u>	<u>Req'd But</u> <u>Not Rec'd</u>	<u>Sign.</u>
<u>Satisfaction with Police</u>	<u>113</u>	<u>N = 85</u>	<u>N = 28</u>	<u>.001</u>
Satisfied/somewhat satis.		80%	46%	
Somewhat dissat./dissat.		20%	54%	
<u>Satisf. w/Crim. Just. System</u>	<u>110</u>	<u>N = 83</u>	<u>N = 27</u>	<u>.010</u>
Satisfied/somewhat satis.		60%	30%	
Somewhat dissat./dissat.		40%	70%	

III. E. Assistance with Compensation Forms/Property Return

Victims who requested assistance with compensation forms were less satisfied with the criminal justice system than other victims. (Quite likely, the dissatisfaction of these victims relates to the nature and extent of their economic losses rather than directly to their request for compensation assistance.) Not surprisingly, however, those who requested and received such assistance were more satisfied with the criminal justice system than those who requested but did not receive it. (Table 9-25)

Table 9-25
Comparison of Satisfaction/
Assistance with Compensation Forms

	<u>Total</u> <u>N</u>	<u>Req'd</u>	<u>Not</u> <u>Req'd</u>	<u>Sign.</u>
<u>Satis. w. Crim. Just. System</u>	<u>297</u>	<u>N = 54</u>	<u>N = 243</u>	<u>.031</u>
Satisfied/somewhat satis.		41%	58%	
Somewhat dissat./dissat.		59%	42%	

	<u>Total</u> <u>N</u>	<u>Req'd &</u> <u>Rec'd</u>	<u>Req'd But</u> <u>Not Rec'd</u>	<u>Sign.</u>
<u>Satis. w. Crim. Just. System</u>	<u>54</u>	<u>N = 25</u>	<u>N = 29</u>	<u>.016</u>
Satisfied/somewhat satis.		60%	24%	
Somewhat dissat./dissat.		40%	76%	

Similarly, victims requesting assistance with property return were significantly less satisfied with the police than victims not requesting such assistance. (Again, this may reflect the extent of the property loss of these particular victims rather than the fact of requesting assistance itself.) When assistance with property return is requested, victim satisfaction with victim/witness staff is considerably affected by whether or not the assistance is provided. (Table 9-26)

Table 9-26
Comparison of Satisfaction/
Assistance with Property Return

	<u>Total</u> <u>N</u>	<u>Req'd</u>	<u>Not</u> <u>Req'd</u>	<u>Sign.</u>
<u>Satisfaction with Police</u>	<u>283</u>	<u>N = 108</u>	<u>N = 175</u>	<u>.006</u>
Satisfied/somewhat satis.		64%	79%	
Somewhat dissat./dissat.		36%	21%	
		<u>Req'd &</u> <u>Rec'd</u>	<u>Req'd But</u> <u>Not Rec'd</u>	
<u>Satisf. w/Victim/Witness Staff</u>	<u>68</u>	<u>N = 31</u>	<u>N = 37</u>	<u>.010</u>
Satisfied/somewhat satis.		94%	65%	
Somewhat dissat./dissat.		6%	35%	

III.F. Crime Type

Finally, victims of sexual assault reported higher rates of satisfaction with judges and case outcome than did victims of other crimes. This may suggest the effectiveness of the considerable efforts to increase judicial consciousness about sexual assault, to revise evidence and procedure rules which previously discouraged these victims from pressing their cases, and to provide them emotional support throughout the criminal justice process. Overall, domestic violence victims--also the subject of recent reform efforts--were also quite satisfied with the judge and the case outcome. Assault victims, on the other hand, reported least satisfaction with judges and case outcome. (Table 9-27)

Table 9-27
Comparison Satisfaction/
Crime Type

	<u>Assault</u>	<u>Robbery</u>	<u>Sex.</u> <u>Asslt.</u>	<u>Domes.</u> <u>Viol.</u>	<u>Sign.</u>
<u>Satisfaction/Judge</u>	<u>N = 62</u>	<u>N = 54</u>	<u>N = 24</u>	<u>N = 35</u>	<u>.000</u>
Total N = 175					
Satis./somewhat satis.	58%	85%	92%	83%	
Somewhat dissat./dis.	42%	15%	8%	17%	
<u>Satis./Case Outcome</u>	<u>N = 117</u>	<u>N = 124</u>	<u>N = 29</u>	<u>N = 51</u>	<u>.013</u>
Total N = 321					
Satis./somewhat sat.	50%	56%	76%	71%	
Somewhat dissat./dis.	50%	44%	24%	29%	

Summary

The extent to which they were kept informed of official actions and proceedings varied considerably, according to the victims surveyed. In descending order, they were most often informed about the trial schedule, sentencing hearing, and the police investigation and least often informed about guilty plea deliberations and pretrial release decisions.

Victims were consulted prior to official actions considerably less often than they were informed of such actions after they were taken. Most consultation centered around the sentence and whether the case should be tried. Few victims were consulted about guilty pleas or pretrial release.

While those victims who made victim impact statements said it was important for them to do so, relatively few victims reported making them. When they did, they usually included information about the crime's physical and emotional impact. Only about half the time did they include their opinion about an appropriate sentence.

At least a third of the respondents reported dissatisfaction with their opportunities for input into decisions about sentence, guilty pleas, and dismissals; with notice of case outcome; with information about available services; with notice of postponed proceedings; and with the explanation of the court system.

Satisfaction with practitioners was somewhat higher, with only about a quarter indicating dissatisfaction with the judge, victim/witness staff, police and prosecutor. Overall, sexual assault victims were most satisfied with practitioners; assault victims least satisfied.

While there was somewhat greater satisfaction than dissatisfaction with case outcome, only half the victims were satisfied with the criminal justice system as a whole. Again, sexual assault victims were most often satisfied and assault victims were least often satisfied with both case outcome and the criminal justice system.

Few victims reported requesting services. When requested, assistance with victim impact statements, referrals for psychological counselling, and police protection were usually provided. However, assistance with compensation forms and property return was not provided over half the time it was requested, according to respondents.

Over a third of the responses to open-ended questions about the least and most satisfying aspects of the case related to the handling of the defendant. Most other responses concerned information on the case status and practitioners' consideration and compassion in handling victims.

Certain factors significantly affected victims' satisfaction or dissatisfaction with criminal justice practitioners, case outcome, and the criminal justice system. These included whether or not there was an arrest or pretrial release; whether or not the victim was consulted about pretrial release, trial, and case dismissal; and whether or not the victim was accorded police protection, assistance with property return and compensation forms. Victims of sexual assault were more satisfied than victims of assault, robbery, or domestic violence.

Chapter 10

SUMMARY OF FINDINGS

Significant findings of the study are summarized below:

- o Almost all prosecutors, judges, probation officials and victim/witness staff said they are satisfied with their victims rights legislation; over 70% said they are very satisfied.
- o Well over half of the prosecutors, judges and victim/witness staff said that the legislation has improved the quality of justice.
- o Well over half of the prosecutors, judges, and victim/witness advocates reported that victim attitudes toward the system have improved as a result of the legislation.
- o Criminal justice practitioners saw few philosophical problems with victims rights legislation. While some were concerned that the criminal justice system remain mindful of the need to protect defendants' rights, most saw little conflict between victim rights and defendant rights.
- o Criminal justice practitioners reported a considerable need for increased funding and resources to implement victims rights legislation.
- o In general, practitioners in victims rights states with explicit legislative provisions about particular victims rights and their colleagues in victims rights states without such explicit language reported similar levels of activities relative to the particular rights. Two exceptions:

Prosecutors in states with legislation requiring them to consult with victims prior to dismissing cases reported such consultation at a higher rate than prosecutors in states without such provisions; and

Probation officials in states with legislation calling for information about the financial impact of the crime victim to be submitted to the sentencing court reported a higher rate of soliciting such information from victims than do probation officials in other states.

- o Moreover, the specific content of the legislation appears to bear little relationship to the extent any one type of practitioner perceives victims participate or are encouraged to participate in the criminal justice process by their other criminal justice colleagues.
- o Funding for implementation of victims rights legislation appears to make a considerable difference in a number of areas, according to prosecutor responses. Prosecutors with such funds reported higher rates of providing advance notice of plea and sentencing hearings, higher rates of providing notice of decisions regarding pretrial release, preliminary hearings, and sentencing, and higher rates of providing victims information about intimidation protections. They also reported greater involvement with victim impact statements, and more consultation with victims about continuances than their non-funded colleagues.
- o Neither the funded nor the unfunded prosecutor groups were satisfied with available funding for implementation of victims rights legislation. However, unfunded prosecutors reported significantly more dissatisfaction than funded prosecutors.
- o Availability of victim/witness staff to implement victims rights legislation appears to have a direct bearing on how frequently prosecutors make certain victim contacts. As a group, prosecutors with victim/witness staff reported more consultation with victims about plea negotiations and sentencing than did their counterparts without victim/witness units. They also reported greater notification of intimidation protections, victim impact statement rights, and sentencing. Moreover, prosecutors with victim/witness staff perceived the victims' opinion of the sentence as more important than prosecutors without staff.
- o Neither prosecutors with victim/witness staff nor prosecutors without victim/witness staff were satisfied with available implementation funding; however, those without staff were significantly more dissatisfied than those with staff.
- o In general, prosecutors and victim/witness staff agreed about the frequency with which victims are provided advance notice of forthcoming proceedings, notice of actions taken, and information about intimidation protections. They also agree about the extent to which victims are consulted prior to certain decisions about how the case will be handled.

- o Victims of violent crimes, victims of certain types of offenses, and especially victims who request that they be provided certain information and consultation rights are, according to respondents, most likely to receive such rights.
- o Information about the financial and physical impact of the crime is seen as very important by most prosecutors and victim/witness staff, very useful by most judges, and is usually solicited by most probation officials.
- o A substantial majority of judges reported that information about the crime's psychological impact on the victim is very useful to their sentencing decisions, and a relatively proportional number of probation officials said they usually solicit this information.
- o Over a quarter of the judges reported that information about the crime's social impact on the victim is not useful to their sentencing decisions, and a similar percentage of probation officials reported that they usually do not solicit such information.
- o Though over half of the judges said the victim's opinion of a sentence is not useful to their sentencing decisions, over three-quarters of the probation officials said they usually solicit such information.
- o Whether victim impact statements are officially-prepared or whether they are forms completed by victims, narratives written by victims, or oral statements by victims, practitioners generally said they consider them effective means of informing the court of the crime's impact on the victim. However, victim statements which are inarticulate, illegible, or emotional were considered ineffective by at least some judges.
- o Criminal justice practitioners said they view victim impact statements as having a substantial impact on restitution and some impact on the length and type of sentence imposed.
- o More victims were satisfied than dissatisfied with the information they received about the court system, upcoming proceedings, postponed proceedings, case outcome, and available services. However, half of the victims were not satisfied with their opportunity to have a say in decisions regarding dismissals, guilty pleas, and (despite the considerable legislative and practitioner enthusiasm about victim impact statements) sentence.

- o Victims who were consulted about the advisability of pretrial release, trial and dismissal were considerably more satisfied with the criminal justice system as a whole than were victims who were not consulted about these decisions.
- o Victims who receive requested assistance with compensation forms are considerably more satisfied with the criminal justice system as a whole than those who request but do not receive such assistance; victims who receive requested assistance with property return are considerably more satisfied with police and victim/witness staff than those who do not.
- o Sexual assault and domestic violence victims are more satisfied with case outcome than robbery and assault victims.

Chapter 11

DISCUSSION AND IMPLICATIONS

The research had several goals: (1) to determine how victims rights legislation is viewed by criminal justice practitioners; (2) to determine the extent to which criminal justice practitioners implement certain types of victim contacts typically included in victims rights legislation; (3) to determine what, if any, impact the substantive legislative provisions, funding for victim-related efforts, and victim/witness staff have on implementation rates and practitioner satisfaction; and (4) to learn about how victims view their treatment by the criminal justice system.

(1) Practitioner Satisfaction

On the whole, practitioners reported high rates of satisfaction with the legislation. Noted among its benefits were increased victim satisfaction with prosecutors and the criminal justice system, increased victim willingness to report and cooperate with the criminal justice system, increased information at practitioners' disposal, and even improved job satisfaction by practitioners. Many respondents also viewed the legislation as improving the quality of justice. Dissatisfaction centered mainly around lack of resources to implement the legislation. While the need for the system to remain vigilant of defendants' rights and the need for the state to maintain control of the prosecution's case were mentioned by a number of respondents, few indicated that the legislation or victims rights in general have, in fact, adversely affected the appropriate balance of the system.

The practitioner satisfaction evident from the study should be of interest to other practitioners considering increasing their own involvement with victims and to legislators considering enacting or amending victim rights legislation.

(2) Implementation

In general, practitioners reported high rates of implementation, at least for felony victims. For prosecutors and victim/witness advocates, these related in large part to advance notice of forthcoming proceedings, notification of decisions in the case, and consultation with victims prior to important decisions. For probation officials, they related to their responsibilities for submitting victim impact statements and enforcing restitution orders and, for judges, to their consideration of restitution and victim impact statements at sentencing.

The fact that most practitioners reported that they are extending to victims the rights embodied in victims rights legislation suggests that the rights are reasonable and practical--a matter of interest to individual practitioners as well as to policymakers.

(3) Legislative Contents, Funding and Victim/Witness Staff

Although all states included in the study had some sort of victims rights legislation, the states' legislation varied considerably in the specific rights encompassed and in the features of those rights. One hypothesis of the study was that practitioners in states with specific legislated rights would be more likely to extend those rights to victims than practitioners in other states. For example, it was thought

that prosecutors or victim/witness staff would be more likely to notify victims of the final disposition of the case if the right to such notification were specified in their state's legislation. Study results, however, did not substantiate this hypothesis. In fact, with few exceptions, the contents of the legislation reviewed in the study made no significant difference in the frequency prosecutors, probation officials, judges, and victim/witness personnel reported they informed or notified victims, consulted with them, considered their views, or provided them services.

Another hypothesis of the study was that prosecutors with funds for victims rights implementation would be more likely than their non-funded colleagues to see the legislation in a favorable light and to make certain types of victim contacts more frequently. This hypothesis was borne out by the study with respect to both qualitative and quantitative factors.

Qualitatively, prosecutors with funds reported significantly greater satisfaction in general and found the legislation had a greater impact on victim attitudes toward--and willingness to participate in--the criminal justice system. They viewed the legislation as having a greater impact on the quality of justice. Finally, they reported greater impact on their own job satisfaction.

Quantitatively, prosecutors with funds to implement victims rights said they provided certain rights in a number of specific areas more often than prosecutors without such funds.

Such areas included advance notice of plea and sentencing hearings, and notice of decisions about pretrial release, preliminary hearings, and sentences. Responses of these prosecutors also indicated greater involvement with the preparation of victim impact statements and greater notification of available intimidation protections.

A similar hypothesis also borne out by the study was that prosecutors with victim/witness staff would be more likely to view the legislation favorably and implement certain rights than their colleagues without victim/witness staff. Prosecutors with victim/witness staff were significantly more likely to see the legislation as having an affect on victim attitudes toward the prosecutor's office and the criminal justice system as a whole. They, too, noted a more significant impact of the legislation on the quality of justice. In addition, significantly more of these prosecutors perceived the victim's opinion of the sentence as important.

Quantitatively, prosecutors with victim/witness staff reported higher rates of providing victims advance notice of plea hearings, consulting with victims prior to plea negotiations and sentencing, notifying victims of sentences, and informing them of intimidation protections and victim impact rights.

The findings about legislative content of victim rights legislation, funding and victim/witness staff would suggest that increased resources--rather than more specific victims rights legislation in and of itself--might be the

objective of those interested in increased criminal justice system attention to crime victims. Nevertheless, legislators and other policymakers may find it prudent to condition receipt of funds or staff on certain victim services--either by enumerating them into fiscal legislation or including them in the victim rights legislation and incorporating them by reference into the fiscal legislation.

(4) Victim Views of Treatment/Services

It was evident from the victim survey that many victims in states with victims rights legislation believe the criminal justice system is doing a satisfactory job of keeping them informed, providing them an opportunity to have a say in certain decisions and notifying them about case outcomes. On the other hand, it was also evident that there is considerable room for improvement.

New and different policies to increase victim satisfaction are not suggested by the victim survey. Rather the study suggests extending and implementing existing policies to provide more victims the sorts of information, consultation and notification rights other victims are already receiving. For example, despite considerable legislative and practitioner enthusiasm for victim impact statements, over half the victims surveyed were not satisfied with their opportunity to provide input into sentencing. Considerable numbers of victims were not satisfied with information and notices about case proceedings and case decisions. Moreover, the study provides evidence that consultation with victims about pretrial release,

trial, and dismissal will increase their satisfaction with practitioners and with the system as a whole. The same is true when victims receive requested police protection, assistance with compensation forms, and property return.

It may not be feasible to increase victim satisfaction in all areas. For example, the finding that victims are less satisfied when the defendant is not arrested cannot easily be translated into policies requiring more arrests. Similarly, findings about victim dissatisfaction with pretrial release and sentencing are unlikely to be considered sufficient justification in and of themselves to alter release and sentencing policies. However, extending the sorts of rights enumerated or implied in victim rights legislation to more victims will undoubtedly go far toward increasing overall victim satisfaction without adversely affecting--and probably even benefitting--the criminal justice process as a whole.

APPENDIX A

States Included in the Study

Arkansas
California
Colorado
Connecticut
Delaware
Florida
Idaho
Illinois
Indiana
Iowa
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Missouri

Nebraska
Nevada
New Jersey
New York
North Carolina
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Texas
Utah
Vermont
Washington
West Virginia
Wisconsin