



National Institute of Justice

Research in Brief

Jeremy Travis, Director

December 1998

Issues and Findings

Discussed in this Brief: The impact of legal protection on crime victims' rights. This survey of more than 1,300 crime victims, the largest of its kind, was conducted by the National Center for Victims of Crime to find out whether State constitutional amendments and other legal measures designed to protect crime victims' rights have been effective. The researchers sought the views of victims in two States representative of those in which legal protection of victims' rights is strong and two States representative of those in which such protection is weak, testing whether victims from the "strong-protection States" had better experiences with the justice system.

Key issues: All States have some form of statutory protection of victims' rights, and more than half have constitutional amendments protecting these rights. Until this study, little research had been directed at whether these legal guarantees mean crime victims are kept informed of the events in their cases and of their rights as victims, whether they are adequately notified of services, and whether they are satisfied with the criminal justice system's handling of their cases.

Key findings: Strong victims' rights laws make a difference, but in many instances, even where there is strong legal protection, victims' needs are not fully met. In the

continued...

The Rights of Crime Victims—Does Legal Protection Make a Difference?

by Dean G. Kilpatrick, David Beatty, and Susan Smith Howley

The President's Task Force on Victims of Crime concluded in its 1982 Final Report that there was a serious imbalance between the rights of criminal defendants and the rights of crime victims. This imbalance was viewed as so great that the task force proposed an amendment to the U.S. Constitution to provide crime victims with "the right to be present and to be heard at all critical stages of judicial proceedings."¹ The recommended amendment has not been enacted by Congress, but the report led to a proliferation of victims' rights legislation at the State level.

By the early 1990s, every State had enacted statutory rights for crime victims, and many had adopted constitutional amendments protecting victims' rights. Today, all 50 States have passed some form of a statutory crime victims' bill of rights, and 29 have amended their constitutions to include rights for crime victims.² At the Federal level, the Victim's Rights and Protection Act of 1990, and several subsequent statutes, gave victims of Federal crime many of the rights accorded at the State level.

Despite the widespread adoption of legal protection, the implementation of such protection and its impact on victims have not been widely studied, nor has much research been directed at how this legislation has influenced victims' views of the criminal justice system.³ One reason

the latter issue is important is that victims who view the criminal justice system unfavorably are likely to share that opinion with others, thereby undermining confidence in the system. The current debate in the U.S. Congress over a proposed crime victims' rights constitutional amendment highlights the relevance of victims' rights legislation and the need for research in this area.

This research project, conducted by the National Center for Victims of Crime,⁴ was designed to test the hypothesis that the strength of legal protection for crime victims' rights has a measurable impact on how victims are treated by the criminal justice system and on their perceptions of the system. A related hypothesis was that victims from States with strong legal protection would have more favorable experiences and greater satisfaction with the system than those from States where legal protection is weak.

Overall, the research revealed that strong legal protection makes a difference, but it also revealed that even in States where legal protection is strong, some victims are not afforded their rights. In other words, enactment of State laws and State constitutional amendments alone appears to be insufficient to guarantee the full provision of victims' rights in practice. The likely reason is that a host of other factors mediates the laws' effects. Thus, although the disparities between strong

Issues and Findings

continued...

two States studied where legal protection is strong, victims were more likely than in the two selected weak-protection States to be afforded their rights, to be involved, and to feel the system is responsive. They were more likely:

- *To be notified of events in their cases.*
- *To be informed of their rights as crime victims and of services available.*
- *To exercise their rights (though not at all stages of the criminal justice process).*
- *To give high ratings to the criminal justice system and its various agents, such as the police.*

Legal protection is not sufficient, however, to guarantee victims' rights. More than one in four victims from the two strong-protection States were very dissatisfied with the criminal justice system. Nearly half of them were not notified of the sentence hearing, and they were as unlikely as those in weak-protection States to be informed of plea negotiations. Substantial proportions of victims in both the strong- and weak-protection States were not notified of other rights and services, including the right to be informed about protection and to discuss the case with the prosecutor.

Strong legal protection—either through State constitutional amendments or other means—appears to be a necessary but not a sufficient condition for ensuring the protection of crime victims' rights, because a host of intervening factors, such as knowledge, funding, and enforcement, mediates the actual "delivery" of victims' rights.

Target audience: *Victims' rights organizations, criminal justice officials, and other government officials at State and local levels.*

and weak victims' rights laws indicate the need to strengthen legal protection, additional steps may be necessary to address the other, intervening factors, to better ensure that the laws have their intended effects.

Assessing the implementation of victims' rights

The experiences of crime victims in the two States studied where legal protection of victims' rights is strong were compared with those in the two States studied where protection is weak. In each group, the victims were asked whether they were afforded their rights in several areas. Were they kept informed of case proceedings and their rights as victims? Did they exercise those rights? Did they receive adequate notification of available victim services?⁵ Did they receive restitution for the crime committed against them? They also were asked what losses they suffered as a result of the crime, and they rated their satisfaction with the criminal justice process and its various representatives.

Representatives of the criminal justice system are the implementors of laws that provide victims access to information and facilitate victims' participation in the criminal justice process. For this reason, officials from various components of the system, as well as victim assistance professionals, were asked how much they were aware of victims' rights and how well they believed these rights are implemented in their jurisdiction. (For further details of the study's methodology, including the definition of "strong-protection" and "weak-protection" States, see "Measuring the Effectiveness of Victims' Rights Laws—the Study Design," on page 3.)

Notification of case events and proceedings

Perhaps the most fundamental right of a crime victim is the right to be kept informed by the criminal justice system. Notification plays a key role in a victim's

ability to participate in the system because victims cannot participate unless they are informed of their rights and of the time and place of the relevant criminal justice proceedings in which they may exercise those rights. Victims clearly attested to the importance of their rights to attend and be heard at proceedings (see "The Importance of Victims' Rights to Victims Themselves" on page 4), but unless they receive notice of proceedings and of their rights, cannot exercise those rights.

At most points in the criminal justice process, from arrest through the parole hearing, victims in strong-protection States were much more likely to receive advance notification than those in weak-protection States. (See exhibit 1.) At certain other points in the process, however, the difference between the two groups was not significant. For example, the proportions of victims who were not informed of plea negotiations were nearly the same in strong- as in weak-protection States, despite the fact that both strong-protection States—but neither weak-protection State—had a law requiring that victims be informed of such negotiations. In other words, the relative strength, and even the existence, of laws providing this right made no difference to the provision of the notice.

In other cases, while the strength of the legal protection for a victim's right did appear to affect the rate at which the right was provided, it was not sufficient to ensure that most victims in fact received the right. For example, far more victims in strong-protection than weak-protection States were notified of the defendant's pretrial release, but more than 60 percent of victims in those strong-protection States did not receive such notice. (See exhibit 1.) Similarly, nearly twice as many victims in strong-protection States as in weak-protection States were notified in advance of the sentencing hearing, but more than 40 percent of such victims were not notified. (See exhibit 1.) Lack of such advance

T Measuring the effectiveness of victims' rights laws—the study design

The first step in the study was identifying States that were weak in protecting victims' rights and those that were strong. Next, crime victims from two "weak" States and two "strong" States were asked about their experiences in the criminal justice process. Their experiences were compared and contrasted to find out whether there is a measurable difference in the two groups of States in victim protection. State and local level criminal justice professionals, policymakers, and victim assistance professionals in both groups of States were asked their opinions of victim protection, and their responses were also compared and contrasted.^a

Selecting strong and weak States. To identify strong and weak States, a legal analysis of victims' rights laws in all 50 States was conducted. Criteria were developed to rate statutory and State constitutional protection of victims' rights on the basis of comprehensiveness, strength, and specificity. The criteria were then used to rate each State in four areas: (1) the right to notification, (2) the right to be present, (3) the right to be heard, and (4) the right to restitution. Applying these ratings, each State was ranked according to the strength of its legal protection of victims' rights. Groups of strong- and weak-protection States were identified, and two States from each group were selected as sites for study. (Both strong States had constitutional amendments covering victims' rights, whereas neither weak State did.)

Crime victims' views. From the four States, adult (age 18 and older) crime victims' names and locational information were obtained from department of corrections and victims' compensation agencies. Of the 2,245 victims who could be located, 665 (29.6 percent of the contacted sample) denied that they or a family member had been a recent victim of crime.^b Of the remaining 1,580 respondents, inter-

views were completed with 1,308 crime victims (83 percent of the victims who could be located and disclosed their victimization).

The sample consisted of victims of physical assault (25 percent), robbery (24 percent), sexual assault (11 percent), other crimes (10 percent), and relatives of homicide victims (30 percent).^c

Interviews were conducted by phone, and information was obtained about the crime, experiences with the criminal justice system, satisfaction with treatment by the system, and crime-related injuries and losses.^d Interviews averaged 40.2 minutes and were conducted between April and October 1995.

Views of government and victim assistance professionals. Criminal justice officials, other government officials, and professionals in victim assistance organizations were asked their opinions, perceptions, and suggestions about the rights of crime victims and crime victim services. These individuals, 145 at the local level and 53 at the State level, fell into the following categories:

Local	State
Judges*	Agency directors
Prosecutors	Legislators
Parole and probation officials	Victim coalition directors
Victim assistance coordinators	Other government officials
Victim-witness staff	
Defense attorneys	
Police and sheriffs	

*Judges constituted almost half the people interviewed at the local level.

Can the findings be generalized? By their very nature, the findings of social science studies that are not true experiments can establish relationships among various factors; more difficult is establishing definitive,

cause-and-effect relationships. In this study, strong- and weak-protection States were not identical in certain factors that might determine case outcomes or how victims are treated; the differences may have affected the findings. Another limitation to generalizing the findings is that the victims selected for this study were not a representative sample of all crime victims. That is because most crimes are not reported to the police and, if they are, do not progress beyond the report stage. Because the cases in this study progressed further, the victims surveyed were likely to be more satisfied than the average crime victim. In addition, the legal analysis of State laws and State constitutional amendments reflected the situation at a single point in time (January 1, 1992), and many changes in applicable statutes and constitutional provisions have been made since then.

a. Unless stated otherwise, chi-square analyses were used to test differences between the groups of States. In addition, unless otherwise indicated, all findings are significant at the 0.05 level or less. Percentages were rounded to whole numbers. Because not all victims progressed equally far in the criminal justice process, percentages are based on the number of victims who had each type of relevant experience.

b. Failure of crime victims who have reported crimes to the police to disclose the crime when contacted by victimization survey interviewers is consistent with the results of reverse records check studies (e.g., Reiss, A.J., Jr., and J.A. Roth, eds., *Understanding and Preventing Violence*, Washington, D.C.: National Academy Press, 1993: appendix B).

c. Because the distribution of types of crime victims differed among the four States, interview data were weighted by State, using the proportion of victims in the entire sample as case weights. Thus, the distribution of crime types in strong and weak protection States was identical. The weighted number of crime victims in the sample was 1,312.

d. All interviews were conducted by SRBI, a New York-based survey research firm, using a computer-assisted telephone interview procedure.

The importance of victims' rights to victims themselves

The right to participate in the process of justice, including the right to attend criminal proceedings and to be heard at various points in the criminal justice process, is important to crime victims. The researchers reached this conclusion by presenting victims with the following list of rights and asking them to rate the importance of each one:^a

- Being informed about whether anyone was arrested.
- Being involved in the decision to drop the case.
- Being informed about the defendant's release on bond.
- Being informed about the date of the earliest possible release from incarceration.
- Being heard in decisions about the defendant's release on bond.
- Discussing the case with the prosecutor's office.
- Discussing whether the defendant's plea to a lesser charge should be accepted.
- Making a victim's impact statement during the defendant's parole hearing.
- Being present during the grand jury hearing.
- Being present during release hearings.
- Being informed about postponement of grand jury hearings.
- Making a victim's impact statement before sentencing.
- Being involved in the decision about what sentence should be given.

On each item, more than three-fourths of the victims rated the particular right as "very important." Topping the list was the right to be informed about whether there was an arrest, rated "very important" by more than 97 percent of the victims. The sole item rated "very important" by less than 80 percent was involvement in the decision about the sentence.

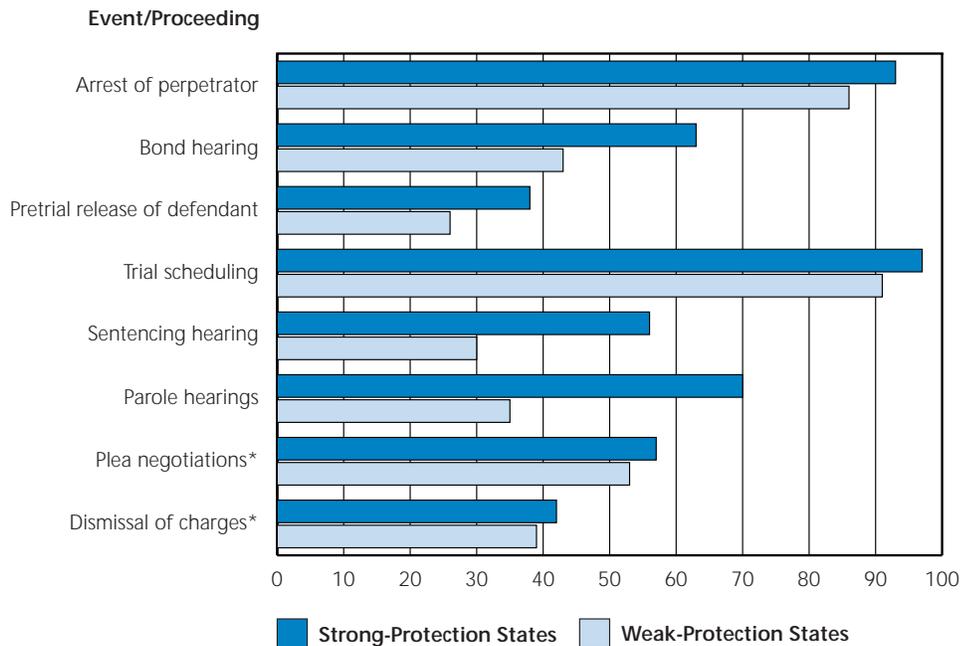
a. The rights are listed in descending order of their rating.

notice would directly affect the ability of victims to exercise their rights to attend and/or be heard at such proceedings.

Notification of their rights as victims

Crime victims not only need to be notified about events and proceedings in the criminal justice process, they also need to be informed of their legal rights. They need to know, for example, not only that the trial has been scheduled, but also that they have a right to discuss the case with the prosecutor. As expected, there were significant differences on this score between strong- and weak-protection States. It was much more common in the strong-protection States for crime victims to be notified of their various rights and of the availability of services. (See exhibit 2.) For example, almost three-fourths of victims in strong-protection States were informed of the availability of victim services,

Exhibit 1. Notification of events in the case—percentage notified



* Difference between groups is not statistically significant.

while less than half in weak-protection States received such information.

There were similar differences when it came to being informed of the right to discuss the case with the prosecutor, make a victim’s impact statement, and make a statement at the parole hearing. Victims in the strong-protection States fared better. But again, as with notification of case-processing events, even in the strong-protection States large proportions of crime victims were not notified of their rights and of available services. Thus, almost 40 percent of victims in the strong-protection States were not informed they could make an impact statement at the parole hearing.

Exercising their rights

Notifying crime victims in advance of events and proceedings in the criminal justice process, and informing them of their rights to participate in that process, are prerequisites to the exercise

of the rights to participate. Researchers asked crime victims who indicated they had received such information whether they had in fact exercised their rights to attend, make statements at, or otherwise participate in the criminal justice process. The responses of victims in strong-protection and weak-protection States were then compared.

At some points in the criminal justice process, among victims who had received the prerequisite notice, victims in the strong-protection States were more likely to exercise their rights than those in weak-protection States. They were more likely to make recommendations at bond hearings, to make recommendations about sentences, and to make an impact statement at the parole hearing. (See exhibit 3.) At other stages, such as making an impact statement at sentencing, or attending the parole hearings, similar percentages of victims from both

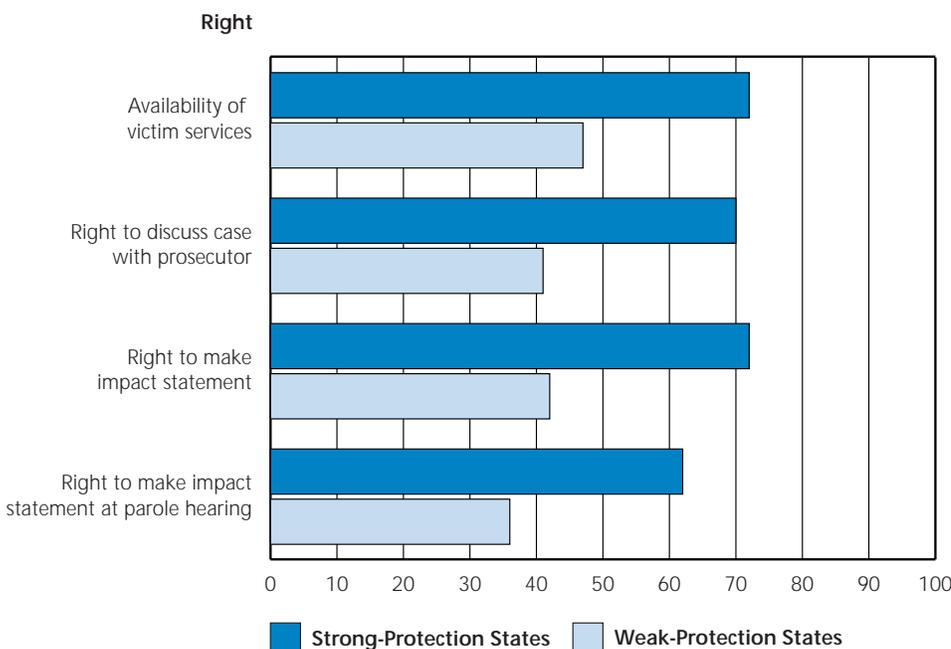
groups of States, who knew of the proceeding and of their legal rights, exercised those rights.

While the strength of the legal protections of victims’ rights to participate did appear to influence the numbers of victims who exercised some rights to participate, victims in both groups of States were more likely to exercise some rights than others. For instance, most victims in both strong- and weak-protection States who were notified of the sentencing hearing and their rights to participate attended sentencing hearings (72 percent) and made an impact statement at sentencing (93 percent). Relatively few victims in either group, even when they were aware of their rights and of the proceeding, exercised their rights to make recommendations at bond hearings or to attend parole hearings. (See exhibit 3.)

Obtaining restitution

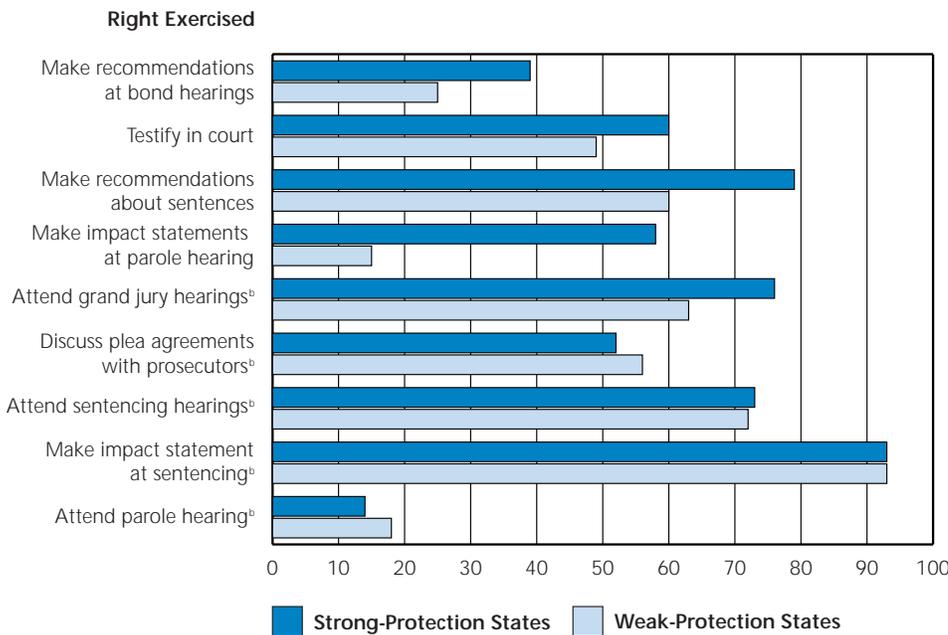
Another important area of victims’ rights examined in this study was the right of victims to restitution—the court orders a convicted defendant to repay the victim for crime-related economic losses. Contrary to the hypothesis that judges in strong-protection States would be more likely to order restitution whenever a victim had sustained economic losses, they were significantly *less* likely to do so (22 percent, in contrast to 42 percent in the weak-protection States).⁶ In the cases in which restitution was ordered, there was no significant difference in the percentages of victims from strong- and weak-protection States who actually received restitution (37 percent versus 43 percent). Overall, victims in strong-protection States who were eligible for restitution were significantly less likely than their counterparts in weak-protection States ever to receive *any* restitution (8 percent, in contrast to 18 percent).

Exhibit 2. Notification of services and rights—percentage notified



Note: All figures are statistically significant at the 0.05 level or less.

Exhibit 3. *Exercising their rights as victims—percentage exercising their right^a*



a. In each case, percentages are based on number of relevant cases. For example, the percentages that attended the grand jury hearing were based on the number of victims who knew of the hearing; the percentages who testified in court were based on the number of cases that went to trial.
 b. Difference between groups is not statistically significant.

Because these results were contrary to the hypothesis, exploratory analyses were conducted to determine if other factors might explain them. The analyses revealed that defendants in restitution-eligible cases in strong-protection States were more likely than those in weak-protection States to have been incarcerated (89 percent, in contrast to 72 percent). Restitution in both groups of States was less likely to have been ordered in cases involving a sentence of incarceration. However, the analyses also revealed that weak-protection States were significantly more likely to order restitution than strong-protection States, regardless of whether the sentence included incarceration (44 percent, in contrast to 23 percent), or did not include incarceration (61 percent, in contrast to 36 percent). Thus, the analyses were unsuccessful in identi-

fying the incarceration of convicted defendants as a reason for the superiority of the weak-protection States in ordering restitution.

The most striking finding was the relatively small percentage of eligible victims overall (less than 20 percent) who received *any* restitution (whether ordered or not). The low percentage suggests that factors other than legislative mandates are driving whether restitution is paid. When criminal justice officials were surveyed (see “How the criminal justice system views crime victims’ rights,” page 8), they indicated that the factors influencing the ordering of restitution might include lack of knowledge about victims’ economic losses or the amount of defendants’ assets, lack of knowledge about the victims’ right to restitution, and

opinions about the appropriateness of ordering restitution.

Rating the criminal justice process and its agents

Crime victims need to have confidence in the criminal justice process. To measure their level of confidence, the researchers asked them to assess the adequacy of criminal justice system performance at several points in the criminal justice process. Again, the findings were consistent with the hypothesis: victims who came from States where legal protection is strong were more likely to rate the system favorably. (See exhibit 4.) Still, the comparative figures cannot conceal the fact that many victims, even in States where legal protection is strong, gave the system very negative ratings.

Rating the outcome of the case. As predicted by the hypothesis, victims in weak-protection States were more likely to believe the fairness of the sentence was “completely inadequate” (the lowest rating). However, a sizeable minority of victims in the strong-protection States also believed the sentence imposed was “completely inadequate” (34 percent in weak-protection versus 25 percent in strong-protection States).

Similarly, more than one in four victims from weak-protection States and one in five from strong-protection States believed the fairness of the verdict or plea was completely inadequate. More than 25 percent of victims from weak-protection States and 15 percent from strong-protection States felt the speed of the process was completely inadequate. Finally, 22 percent of victims from weak-protection States and 15 percent from strong-protection States said support services for victims were completely inadequate.

These negative ratings are particularly noteworthy in view of the fact that, from the victims’ perspective, the

outcomes of these cases were much more favorable than most; that is, a higher than usual proportion resulted in a plea or verdict of guilty that led to incarceration of the defendant. Clearly, to many crime victims, even in cases resulting in a conviction and imprisonment of the defendant, the criminal justice process did not meet their expectations.

Rating the system and its agents. Victims gave high marks to the various agents of the criminal justice system, such as the police. Again, victims in the strong-protection States tended to be more satisfied than those in the weak-protection States. But the proportions who said they were very satisfied or somewhat satisfied with the performance of police, prosecutors, victim/witness agency staff, and judges were high across the board, irrespective of the strength of legal protection. Thus, in the strong-protection States, 83 percent of the victims were very or somewhat satisfied with the police and, at 77 percent, the proportion in the weak-protection States was similarly high. (See exhibit 5.)

The criminal justice system overall was rated somewhat lower than each of its component representatives: Only 55 percent of victims in strong-protection States and 47 percent in weak-protection States were very satisfied or somewhat satisfied with it. At the other end of the scale, the proportion of victims expressing strong dissatisfaction with the system was relatively high—more than one-fourth of the victims in the strong-protection States and more than one-third in the weak-protection States.

What explains victims' satisfaction levels

Knowing whether and to what extent crime victims are satisfied (or dissatisfied) with the criminal justice system is not the same as knowing why. To shed light on the issue, three scales

Exhibit 4. *Victims rate criminal justice processing—percentage who rate it more than adequate or completely inadequate**

Aspect of Processing	Strong-Protection States		Weak-Protection States	
	More Than Adequate	Completely Inadequate	More Than Adequate	Completely Inadequate
<i>Efforts to apprehend the perpetrator</i>	44	6	27	11
<i>Efforts to inform the family about progress on the case</i>	29	9	13	19
<i>Their ability to have input in the case</i>	21	15	9	25
<i>Thoroughness of case preparation</i>	28	10	14	20
<i>Fairness of the trial</i>	20	11	10	20
<i>Fairness of the verdict or plea</i>	17	21	6	28
<i>Fairness of sentence</i>	14	25	5	34
<i>Speed of the process</i>	17	15	6	27
<i>Support services</i>	16	15	8	22

* The ratings continuum was "more than adequate," "adequate," "somewhat less than adequate," and "completely inadequate."

Note: All figures are statistically significant at the 0.05 level or less.

were constructed, each of which comprised several questions asked of victims. The scales measured overall satisfaction with the criminal justice system, the extent to which victims thought they were informed of their rights, and victims' perceptions of the effectiveness of their impact statements. They were called, respectively, the Victim Satisfaction Scale, the Informed Victim Scale, and the Victims' Impact Scale.

As measured by the Victim Satisfaction Scale, satisfaction with the criminal justice system was greater among female than male victims, among white than African-American victims, and among higher income than lower income victims. Age made no difference. As expected, in the strong-protection

States the Victim Satisfaction Scale scores were higher than in the weak-protection States, and this was true after controlling for the effects of gender, race, and income level.

Are victims more satisfied if they are informed of their rights? And are they more satisfied if they believe their participation in the system has had an impact on the decision process? To answer the first question, Victim Satisfaction Scale scores were analyzed in relation to the Informed Victim Scale scores, with the results revealing a strong correlation between the two: victims who were informed of their rights were more satisfied with the justice system than those who were not. To answer the second question, the Victim Satisfaction Scales were again

analyzed, this time in relation to the Victims' Impact Scale scores. Again, the analysis revealed a strong correlation, indicating that victims who thought their participation had an impact on their cases were more satisfied with the system.

Crime-related physical, financial, and mental health problems

Crime victims experience a variety of losses relating to the crime. They may sustain physical or psychological injuries, with some victims requiring counseling. They may lose money or suffer property destruction, loss, or damage. Victims may lose time from work or school as a result of their injuries or as a consequence of time spent consulting with law enforcement or prosecutors, or attendance at court proceedings.

Whether they were from weak- or strong-protection States, victims

reported several major crime-related losses. For certain kinds of losses—property damage or destruction, property or monetary loss, time away from work or school to consult with the police, and canceled insurance coverage or increased premiums—strong legal protection made no difference, because victims in both weak- and strong-protection States were equally affected. (See exhibit 6.) For other kinds of problems resulting from the crime—time lost from work or school because of injuries and receiving medical treatment for those injuries—victims from the weak-protection States were more likely to be affected. But victims in strong-protection States were more likely to note a loss of time from work or school because of consultations with prosecutors, attending trial, or receiving counseling. This could be viewed not so much as a greater problem than as a greater opportunity: Although the time these victims lost cannot be discounted, they

spent it participating in the justice system and obtaining services.

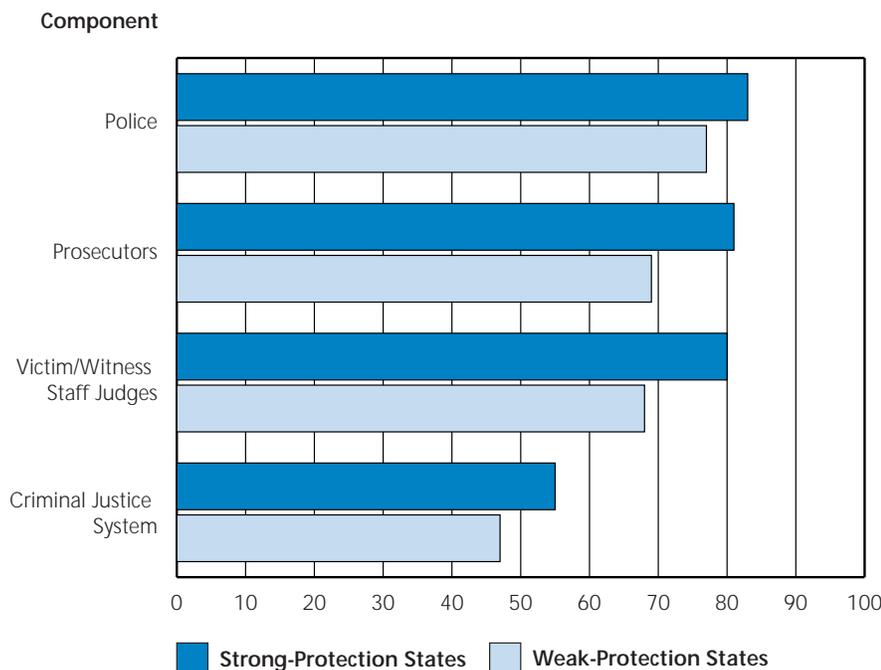
How the criminal justice system views crime victims' rights

This study also included a survey of criminal justice and victim assistance professionals at the State and local levels. There were two reasons for their inclusion. The first is that those professionals can affect crime victims' ability to recover and to cope with the aftermath of the offense and the stress of participation in the criminal justice system. The average citizen, newly thrust into the criminal justice system as a victim of crime, often has little understanding of the basic workings of the system. Representatives of the various components of the criminal justice system and victim assistance professionals can play key roles in helping facilitate access and understanding as cases progress.

There was another important rationale for surveying such professionals. The survey of crime victims produced a wealth of data on whether the strength of victims' rights laws influenced the rate at which victims received their rights and on victims' satisfaction with the criminal justice system. However, it could not suggest reasons that laws might or might not produce such an effect. Local and State professionals were surveyed to begin to explore such reasons.⁷ The data produced by these surveys inform the discussion of influences on the implementation of victims' rights, and suggest additional avenues for research.

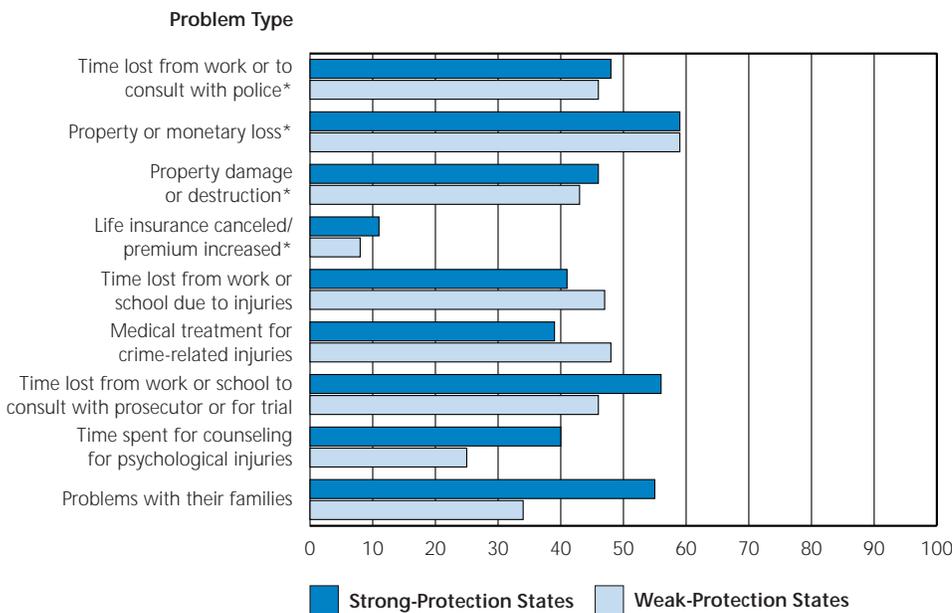
Thus, State and local officials and advocates were surveyed to determine the extent to which they were aware of the legal rights of victims, their views of how victims' rights are ensured, and their thinking about what further steps may be necessary to strengthen the protection of victims' rights. The interviews with such officials revealed much the

Exhibit 5. Victims' satisfaction with the criminal justice system—percentage who are very or somewhat satisfied



Note: All figures are statistically significant at the 0.05 level or less.

Exhibit 6. *Victims' crime-related problems—percentage who experienced problems*



* Difference not statistically significant.

same pattern as the interviews with victims: strong legal protection tended to translate in practice as greater implementation of those rights, but in many cases did not guarantee the provision of such rights.

Views of local criminal justice and victim service professionals.

If the local officials came from strong-protection States, they were more likely than those from weak-protection States to say they “always” or “usually” provide crime victims with their rights to notification of events in the case, to be present at the various stages of the criminal justice process, and to be heard. These local officials were also about one-third more likely than their counterparts in weak-protection States to believe that victims’ rights are “adequate.”

Yet, large proportions of local criminal justice officials, even from States where legal protection is strong, were not aware of many victims’ rights and

how they are being provided. For example, only 39 percent of the local professionals in the strong-protection States knew that their State had a constitutional amendment enumerating victims’ rights. For a majority of questions about victims’ rights, a substantial number of officials incorrectly identified the source of the victims’ right as a policy or practice, rather than a statute or State constitutional amendment. Many officials were also unclear about which agency had the duty to provide victims a given right.

State leaders’ views. The opinions of State leaders indicate the extent to which crime victims’ rights have achieved understanding and acceptability at high levels of government. At the State level, awareness of legally mandated victims’ rights tends to be higher than it is locally. Such leaders as governors, attorneys general, heads of State criminal justice agencies, and heads of State crime victims’ organizations generally were aware of the

status of victims’ rights and the challenges of implementing them.

At the State level, as at the local level, strong legal protection made a difference, though not in all respects. Leaders from the strong States were more likely to believe their criminal justice system was performing well, particularly in protecting victims’ rights. However, even where legal protection was strong, a large majority also indicated they were aware of problems victims are experiencing in obtaining benefits and services. The problems most frequently cited had to do with victim notification.

Barriers to implementation

Criminal justice and victim advocate professionals at the State and local levels were asked for their suggestions for improving the provision of victims’ rights. Their responses basically fell into three groups: increased funding, increased training, and increased enforcement of victims’ rights.

Resource limitations were cited by officials as the most common reason for being unable to fulfill their responsibilities. Local officials from the strong-protection States were more likely than those from weak-protection States to believe that funding for the implementation of victims’ rights was adequate. (In the strong-protection States, 55 percent of local officials, in contrast to 34 percent in the weak-protection States, felt funding for victim services was adequate; 39 percent in the strong-protection States, but only 27 percent in the weak-protection States, felt funding for implementation of victims’ rights was adequate.) At the same time, a considerable percentage of these local leaders, even those from the strong-protection States, believed funding for victim services was very inadequate (15 percent, and 35 percent of those in the weak-protection States).

When asked if their office had funding for use in victim services programs or

for implementing victims' rights, only about one-third of *all* officials at the local level said it had (and there was little difference between the weak- and the strong-protection States). What is more, very few of those without funding said they had actively sought it in the previous year.

At the State level, officials offered a similar assessment of funding; that is, those from strong-protection States were more likely to believe that funding was adequate than were those from weak-protection States. (Half the State leaders in strong-protection States, in contrast to 31 percent in the weak-protection States, believed funding for implementation of victims' rights was adequate.) The State leaders also cited increased funding—specifically for additional staff (victim/witness coordinators and criminal justice staff)—more often than any other need. And whether they were from States with weak or strong legal protection, these leaders most often cited increased funding or staffing when they were asked how they would minimize problems in providing victims' services.

In prioritizing suggestions to improve the treatment of crime victims in their criminal justice systems, leaders in weak-protection States most frequently named the establishment, enhancement, and/or enforcement of victims' rights laws as their top priority; increased funding was a secondary priority. By contrast, among leaders in the strong-protection States, the largest percentage of responses dealt with issues of increased funding and resources for victim-related services and programs, followed by the need for better education of criminal justice officials regarding victims' rights.

What more needs to be done

The findings offer support for the position of those who advocate strengthen-

ing legal protection of crime victims' rights. Where legal protection is strong, victims are more likely to be aware of their rights, to participate in the criminal justice system, to view criminal justice system officials favorably, and to express more overall satisfaction with the system. Moreover, the levels of overall satisfaction in strong-protection States are higher. Strong legal protection produces greater victim involvement and better experiences with the justice system. A more favorable perception of the agents of the system—police, prosecutors, victim/witness staff, and judges—is another benefit. Because strong legal protection at the State level is associated with victim awareness, participation, and satisfaction, some have advocated a Federal constitutional amendment to protect victims' rights.

On the other hand, legal protections *per se*, regardless of their relative strength in State law or State constitutions, are not always enough to ensure victims' rights. As the study revealed, even in States where victims' rights were protected strongly by law, many victims were not notified about key hearings and proceedings, many were not given the opportunity to be heard, and few received restitution. In the strong-protection States examined in this study, more than one in four victims were very dissatisfied with the criminal justice system as a whole.

Mediating factors. Several mediating factors were identified as influencing the provision of victims' rights, beyond the strength of the statute or State constitutional amendment. The first among these is knowledge of victims' rights. The survey of local criminal justice officials and victim service professionals revealed a lack of awareness of victims' rights and how those rights are implemented. The level of criminal justice officials' and victims' knowledge of victims' rights influences their conduct with respect to those

rights. Criminal justice officials are not likely to enforce victims' rights laws if they are unaware they exist. They may be less likely to seek funding for services they do not know they have a duty to provide. Victims are unlikely to attempt to assert rights they do not know they have.

Even when criminal justice officials know what the law requires of them, they may not have the means to carry out their duties. Victims' rights can be ensured only if resources are sufficient, and resource limitations were cited by officials as the most common reason for being unable to fulfill their duties under the law. It can be assumed that there is a relationship between the strength of legal mandates and the provision of funding to implement those mandates. In other words, it is reasonable to assume that States with stronger legal mandates for the provision of victims' rights tend to provide more funds for implementation than States with weaker mandates. While this study did not attempt to measure the actual levels of funding, officials in the States with strong legal protections of victims' rights were more likely to believe that funding was adequate.

Finally, even where strong laws exist and are fully understood, and where resources are adequate, there may be a need for additional enforcement mechanisms to ensure that victims are given their rights. While some enforcement mechanisms may involve giving victims the power to assert their legal rights, others might involve procedures that better allow criminal justice agencies to monitor their own compliance with victims' rights laws.

Strengthening victim protection. In view of these considerations, the States and/or the criminal justice system can take several steps, on a variety of fronts, to strengthen victim protection:⁸

- Keep victims informed, provide them with opportunities for input, and

consider that input carefully for, as the study revealed, informed victims, and those who thought their input had influenced criminal justice decisions, were more likely to be satisfied with the criminal justice system.

- Make changes to ensure that restitution is ordered, monitored, paid, and received.⁹
- Offer criminal justice officials and crime victims additional education about victims' rights and their legal mandates.
- Take steps to seek and ensure adequate funding for victims' services and the implementation of victims' rights.
- Institute mechanisms to monitor the provision of victims' rights by criminal justice officials whose duty is to implement the law, and provide a means by which victims who are denied their rights can enforce those rights.¹⁰

Dean G. Kilpatrick, Ph.D., professor of psychology and Director of the National Crime Victims Research and Treatment Center at the Medical University of South Carolina (Charleston, South Carolina), was the study's Research Director. David Beatty, J.D., Director of Public Policy, National Center for Victims of Crime (Arlington, Virginia), was the Project Director; Susan Smith Howley, J.D., who also contributed to the report, is Assistant for Legislative Services at the National Center for Victims of Crime. The survey interviews were conducted by Schulman, Ronca, and Bucavalas, Inc., under the direction of Dr. John Boyle. The research was conducted and the report prepared under a cooperative agreement between the National Center for Victims of Crime and the National Institute of Justice (# 93-IJ-CX-K003).

Notes

1. *President's Task Force on Victims of Crime Final Report*, Washington, D.C.: President's Task Force on Victims of Crime, December 1982:114.
2. For current information about the status of crime victims' rights laws, contact the National Center for Victims of Crime at 2111 Wilson Boulevard, Suite 300, Arlington, VA 22201 (703-276-2880).
3. For a recent review of research, see Kelly, D.P., and Erez, E., "Victim Participation in the Criminal Justice System," in R.C. Davis, A. J. Lurigio, and W.G. Skogan, eds., *Victims of Crime* (second edition), Thousand Oaks, California: Sage, 1997. Currently under way is a survey, conducted by the Council of State Governments, Eastern Regional Conference, of the attitudes of citizens, including crime victims, toward the criminal justice system. The survey, which will cover 10 Northeastern States, will cover the extent and nature of victimization, perceptions of victims' rights and victims' services, and victims' experiences in reporting crime.
4. Formerly the National Victim Center.

Copies of the full report, "Statutory and Constitutional Protection of Victims' Rights: Implementation and Impact on Crime Victims," by David Beatty, Susan Smith Howley, and Dean G. Kilpatrick (Washington, D.C., National Victim Center, December 20, 1996), are available from the National Criminal Justice Reference Service. Through NIJ's Data Resources Program, the data generated by the study have been deposited with the National Archive of Criminal Justice Data (NACJD) for public availability. The data can be accessed early in 1999 at the Web site of the Inter-university Consortium for Political and Social Research (ICPSR), which administers the NACJD: <http://www.icpsr.umich.edu/NACJD/archive.html> or by contacting ICPSR, University of Michigan, Institute for Social Research, P.O. Box 1248, Ann Arbor, MI 48106-1248 (phone 734-998-9900; fax: 734-998-9889; e-mail: netmail@icpsr.umich.edu).

5. The term "victim services" refers to a wide range of programs and policies (such as crisis counseling, transportation, and employer intercession) that provide assistance directly to crime victims.

6. Restitution-eligible cases are those in which the victims sustained economic losses and the defendants pleaded guilty or were convicted. Findings are significant at the .05 level or less.

7. Because in this part of the analysis the sample size for each type of State was relatively small, the data were not subjected to the same type of statistical analysis as were the data from victims.

8. The Council of State Governments-Eastern Regional Conference (see note 3) is currently planning a regional conference that will address such issues as identifying victim issues that could be addressed through legislation, modifying existing victims' rights legislation, and developing model legislation that could meet crime victims' needs.

9. There is a useful discussion of restitution issues in "Making Victims Whole Again," by B.E. Smith and S. W. Hillenbrand, in R.C. Davis, A. J. Lurigio, and W.G. Skogan, eds., *Victims of Crime*.

10. A recent report by the Office for Victims of Crime presents recommendations from crime victims, victim advocates, criminal justice practitioners, health professionals, and researchers. See *New Directions from the Field: Victims' Rights and Services for the 21st Century*, Washington, D.C.: U.S. Department of Justice, Office for Victims of Crime, 1998. NCJ170600.

This and other NIJ publications can be found at and downloaded from the NIJ Web site (<http://www.ojp.usdoj.gov/nij>).

The National Institute of Justice is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

Findings and conclusions of the research reported here are those of the authors and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

NCJ 173839

U.S. Department of Justice

Office of Justice Programs

National Institute of Justice

Washington, DC 20531

Official Business

Penalty for Private Use \$300

PRESORTED STANDARD
POSTAGE & FEES PAID
DOJ/NIJ
PERMIT NO. G-91