

Crime Victim

IMPACT

CR-Sent
1-5-90 MFL

117807

The report of the
Texas Crime Victim Clearinghouse
to the 71st Legislature

William P. Clements, Jr., Governor

**The Texas Crime Victim Clearinghouse is funded by a grant from
the Criminal Justice Division of the Office of the Governor
William P. Clements, Jr., Governor
Rider Scott, Executive Director**

117807

117807

U.S. Department of Justice
National Institute of Justice

Crime Victim
IMPACT

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by
Texas Crime Victim
Clearinghouse

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

The Report of the Crime Victim Clearinghouse to the 71st Legislature

*A Study of the Implementation of the Crime Victim
Impact Statement*

Texas Crime Victim Clearinghouse
Office of the Governor
P.O. Box 12428
Austin, Texas 78711
512-463-1886 / 800-252-3423

NCJRS
OCT 10 1989
ACQUISITIONS

Table of Contents

Message from the Director	1
I. OVERVIEW OF VICTIM RIGHTS IN TEXAS	
Texas Crime Victim Bill of Rights: An Important Milestone	3
Role of the Victim Impact Statement	5
Flow of the Victim Impact Statement	6
<i>Prosecutor's Office</i>	
<i>The Court</i>	
<i>Post-Sentencing</i>	
Summary of Changes Made by the 70th Legislature	9
The Issue of Confidentiality	11
Development of the Victim Impact Statement Form	11
Resources Available from the Texas Crime Victim Clearinghouse	13
II. STATUS REPORT ON THE USE OF THE VICTIM IMPACT STATEMENT	
1988 Victim Impact Statement Survey Method	16
<i>Prosecutor Survey</i>	
<i>Selected Metropolitan District Attorneys' Offices Survey</i>	
<i>Judicial Region Survey</i>	

Post-Sentencing Procedure Survey

Overview of Survey Findings	18
Prosecutor Survey Results	19
Selected Metropolitan District Attorneys' Offices Survey Results	21
Judicial Region Survey Results	23
Post-Sentencing Procedure Survey Results	24
Possible Concerns Raised by Supreme Court Cases	26

III. SUMMARY AND RECOMMENDATIONS FOR CHANGE

Changes Recommended for Prosecutors' Offices	29
Changes Recommended for the Courts	31
Changes Recommended in Post-Sentencing Procedures	32
Conclusion	34

APPENDICES

A. Sample Victim Impact Statement	36
B. Victim Impact Statement Prosecutor Survey Findings	42
C. Flow of the Victim Impact Statement through the Parole Process	51
D. Procedure and Cover Letter Used in Harris County	56
E. Tarrant County Verification Form Recommended for Statewide Use	60

Crime Victim

IMPACT



Message from the Director

Impact is defined as a forceful collision, as in a striking of one body against another. No other word more clearly illustrates how the life of a victim of crime is affected by a criminal event. As Morton Bard and Dawn Sangrey describe in *The Crime Victim's Book*, "Every victim of personal crime is confronted with a brutal reality: the deliberate violation of one human being by another. There is nothing more isolating than the pain of violation. It forces victims to question themselves and their world because it destroys two essential beliefs: their sense of trust and their sense of control over their lives."

Recognition of victims' rights became a nationwide movement during the last decade. Since the creation of the President's Task Force on Victims of Crime in 1982, much progress has been made toward addressing the needs of crime victims. Texas, like nearly all other states, has initiated a crime victim compensation program, adopted a Crime Victim Bill of Rights, and passed legislation requiring that a victim impact statement be included in the criminal justice process. The number of victim assistance programs has grown exponentially, and awareness and implementation of procedures to alleviate the suffering of victims has increased dramatically in just the past two years.

However, much remains to be done. The feeling that many victims experience of having lost control of their lives can be exacerbated by the criminal justice system. Victims often are the best source of evidence in a trial, but they sometimes are not informed about the details or progress of the case. Although Texas law requires that the victim impact statement be considered during sentencing and parole decisions, the research conducted for this report shows that all too frequently the victim impact statement falls by the wayside. There is little organized follow-up to ensure that the victim's voice is heard as part of the criminal justice process.

This report assesses the use of the victim impact statement in Texas and makes suggestions for improvement. Your time in reviewing this document is appreciated.



Suzanne McDaniel, Director, Crime Victim Clearinghouse

I. Overview of Victim Rights in Texas

"Cases were disposed of more quickly [in pretrial settlement conferences which included victims]. Victims did not demand that prosecutors 'throw the book' at offenders, but rather, usually agreed with recommendations. Victims frequently turned down invitations to participate, but those police officers and victims who attended pretrial conferences felt more positive toward the courts as a result. Similarly, a study of jurisdictions with victim impact laws found that with one exception (Ohio), sentences did not increase. This may suggest that the victims' primary concern is how they are treated, not what punishment the defendant incurs."

— Deborah Kelly
"Victims' Perceptions of Criminal Justice,"
Pepperdine Law Review (1984)

With the Texas system of criminal justice strained to the breaking point, there is a very real danger of overlooking the victims of crime that the system is supposed to protect. Headlines and newscasts are full of stories of prison overcrowding and early releases. What is too often forgotten is that there is at least one victim for every crime for which an inmate is incarcerated. In interviews conducted for this report, the criminal justice professionals contacted expressed concern for the victim, but mentioned that huge caseloads and limited resources limit the time they have available to devote to the needs and concerns of victims.

The complexity of the Texas criminal justice

system works against the victim. A bewildering network of agencies, all with different administrative procedures and record-keeping methods, is involved in the process. Victims are frequently frustrated by a lack of information about the proceedings and their limited role in the process. The realization that victims are sometimes subjected to a "second assault" of having to navigate a seemingly endless maze of unfamiliar legal jargon and procedure has led to the enactment of significant state legislation involving victims' rights.

Texas has made important strides toward balancing the system between the rights of the accused and the rights of the victim by expand-

ing the statutory rights accorded to victims. The most tangible of these rights — the right to receive notice of court and parole proceedings and to provide a statement of economic, physical, and psychological injuries for consideration at sentencing and parole — is the subject of this report.

Texas Crime Victim Bill of Rights: An Important Milestone

The 68th Legislature, recognizing the need to recommend solutions to the sentencing problems in the state, established the Commission on Sentencing Practices and Procedures in 1983. In its summary of recommendations to the 69th Legislature, the Commission called upon the State to enact policies designed to bring the victim into the sentencing process. According to the report, the following rights should be accorded to victims:

- the right to provide pertinent information to a probation department conducting a presentence investigation concerning the impact of the offense on the victim and the victim's family,
- the right to provide to the Board of Pardons and Paroles information for inclusion in the defendant's file to be considered at any

parole hearing, and

- the right to be informed of court and Board proceedings concerning the defendant, when requested by the victim.

In the discussion of the need for information to be made available to those who make sentencing and parole decisions, the Commission noted a glaring inconsistency in actual practices: "While the state places a tremendous burden on the Department of Corrections and the Board of Pardons and Paroles in the housing, classification, discipline and release of prisoners, it rather surprisingly fails to insure that information crucial to sound decisions is provided to these agencies." Important information about the seriousness of an offense is available only from the person most affected by the crime — the crime victim.

In 1985, the 69th Legislature passed the Texas Crime Victim Bill of Rights (Article 56, Texas Code of Criminal Procedure) to provide crime victims with rights to information, referral, and involvement in the criminal justice system. The Texas Crime Victim Bill of Rights is patterned after model federal legislation and addresses the concerns of victims and the duties of the system toward them.

One of the rights of crime victims is to receive information about the Texas Crime

Texas Crime Victim Rights

A victim of a violent crime is someone who (1) has suffered bodily injury or death or who has been the victim of a crime involving sexual assault, kidnapping, or aggravated robbery, (2) the close relative (spouse, parent, brother/sister, or adult child) of a deceased victim, or (3) the guardian of a victim. *As a victim of violent crime, close relative of a deceased victim, or guardian of a victim, you have the following rights:*

1. The right to *protection from threats of harm* arising from cooperation with prosecution efforts.
2. The right to have *your safety* and that of your family taken into consideration when *bail* is being considered.
3. *If you so request*, the right to be *informed* about court proceedings, including whether or not they have been canceled or rescheduled.
4. *If you so request*, the right to *information* about procedures in the criminal investigation of your case by law enforcement, and about general procedures in the criminal justice system, including *plea bargaining*, from the prosecutor's office.
5. The right to receive information about the *Texas Crime Victim Compensation Fund* which provides financial assistance to victims of violent crimes and if you so request, to *referral* to available *social service agencies* that may provide additional help.
6. The right to provide information to a probation department conducting a *presentence investigation* on the impact of the crime.
7. *If you so request*, the right to be notified of *parole proceedings* by the Board of Pardons and Paroles, to participate in the parole process, and to be notified of the defendant's release.
8. The right to be present at all public *court proceedings*, if the presiding judge permits.
9. The right to be provided with a safe waiting area before and during court proceedings.
10. The right to *prompt return of any property* no longer required as evidence.
11. *If you so request*, the right to have the prosecutor *notify your employer* of the necessity of your testimony that may involve your absence from work.
12. The right to complete a *Victim Impact Statement*, detailing the emotional, physical and financial impact that the crime has had on you and your family, and to have that statement considered by the judge at *sentencing* and by the parole board prior to taking any *parole* action.

Victim Compensation Fund, which was created by the Legislature in 1979 (Article 8309-1 V.A.T.S.). The fund is constituted of fines from those convicted of crime and is administered by the Industrial Accident Board. Money is available for reimbursement of uninsured victims of violent crime for funeral, medical, and counseling expenses, in addition to lost wages. Recent legislation has broadened the funding base of the Crime Victim Compensation Fund and strengthened the enforcement of fund collection.

In addition to detailing crime victim rights, Article 56 delegates certain duties to prosecutors, establishes the content and use of a form called the victim impact statement, and requires a report on the implementation of the victim impact statement to be prepared and submitted to the Legislature by the Texas Crime Victim Clearinghouse.

The district or county attorney's office is given the duty to ensure to the extent practicable that the victim's rights are enforced. However, failure to do so does not provide a cause of action for a defendant, nor is a judge, attorney for the state, peace officer, or law enforcement agency to be held liable for failing to provide the rights to a victim. The victim is also denied standing to participate as a party in

a criminal proceeding or to contest the disposition of any charge.

Role of the Victim Impact Statement

The use of the victim impact statement (VIS) is the most tangible change in procedure directed by the Crime Victim Bill of Rights. It is the most efficient means for the victim to become involved in the process of justice. The victim impact statement includes the victim in the criminal justice process by providing prosecutors, judges, and corrections officials with a description of how the offense affected the victim and the victim's family. The statement also provides victims with information about their rights during the sentencing and parole procedures. Specific information requested includes:

- detailed contact information for the victim or the victim's guardian or relative,
- a statement of economic loss,
- a statement of any physical or psychological injury suffered by the victim as a result of the crime,
- a statement of any psychological services requested as a result of the offense,
- a statement of any change in the victim's, guardian's, or relative's personal welfare or familial relationship as a result of the offense,

- a statement as to whether or not the victim wishes to be notified in the future of any parole hearing for the defendant and an explanation of the procedures by which the victim may obtain information concerning the release of the defendant from prison, and
- a statement of any other information other than facts related to the offense concerning the impact of the offense on the victim.

A sample victim impact statement is contained in Appendix A.

It is not the intent of the Crime Victim Bill of Rights to require the victim to complete the VIS. Many victims choose not to complete an impact statement because they feel that it is too painful, too much paperwork, or too invasive of their privacy, or they fear for their safety if the confidentiality of the statement is breached along its path through the criminal justice system. All of these are legitimate and understandable reasons for not completing and returning the form.

The VIS can be distributed at any point in the criminal justice process, but its goal is to be the victim's voice in court after the conviction of an offender and during deliberations concerning an offender's parole. It is not meant to be an aid to law enforcement agencies investigating a crime or to be used as evidence in a criminal

proceeding against a defendant who has not yet been found guilty. The officials who make sentencing and parole decisions are the ones who can use the victim impact statement most effectively.

The statement provides the only complete source of information that addresses the concerns of the victims of violent crimes for which an offender is apprehended and processed through the court system. It is a sad fact that many crimes are never solved, with no one apprehended and convicted of the offense. The statement has a very limited application when the perpetrator cannot be identified and prosecuted.

Flow of the Victim Impact Statement

The envisioned design for the flow of the statement from the filing of a charge in a criminal case through the criminal justice process was intentionally made as simple as possible. The prosecutor or the prosecutor's designee provides the statement to the victim and forwards the completed statement to the court. The court reviews the statement during its sentence deliberations after a finding or adjudication of guilt. The court then sends the statement to the local probation department if the

defendant is so sentenced or attaches the form to the commitment papers if the defendant is sentenced to the Texas Department of Corrections (TDC). The commitment papers accompany the offender to TDC, and a copy is provided to the Board of Pardons and Paroles (BPP). If the victim has so requested, the Board notifies the victim when the offender is being considered for parole and again notifies the victim upon the offender's release.

The following is an overview of the three major steps involved in the implementation of the VIS:

Prosecutor's Office

The victim impact statement is distributed by prosecutors or their designees to victims of violent crime when a suspect has been charged. Prosecutors serving jurisdictions that include a population of 150,000 or more are required to designate a victim assistance coordinator. Many smaller jurisdictions have designated a victim assistance coordinator as well. A table of those prosecutors and coordinators serving populations of 150,000 or more can be found in Appendix B, along with a listing of designees for those surveyed counties or jurisdictions serving areas with a population of 150,000 or less.

The victim should be provided with enough

information and assistance to know of the opportunity and reason for completing the VIS. In Article 56.03(c), the prosecutor or victim assistance coordinator is directed to send the following information to the victim:

- a crime victim impact statement form,
- a crime victim compensation application,
- a general information booklet,
- an offer of assistance in completing the forms on request, and
- an acknowledgment of receipt of the victim impact statement.

Upon request, the prosecutor or victim assistance coordinator explains the possible use and consideration of the victim impact statement at sentencing and in parole decisions.

Article 56.04 requires that the prosecutor provide the court with a completed victim impact statement, if one has been received.

The Court

Although the victim impact statement is not designed to be used by the court until after a finding or adjudication of guilt, the court is required by Article 56.03(e) to consider the information in the sentencing decision in a criminal case. The impact on the victim should be one of the elements that the judge takes into account before determining the appropriate

sentence for the defendant. The statute does not allow the consideration of the victim impact statement by a jury.

Approximately 95 percent of all cases in Texas are settled by plea bargaining. Plea bargaining is an important tool in keeping the courts moving, and without plea bargaining, the court system would grind to a halt. While the plea-bargaining procedure frees up the courts by eliminating the necessity for lengthy trials, it also eliminates the need for the victim's testimony, and in the process, robs the victim of a voice. The victim impact statement is the only source of information on the lingering physical, emotional, and economic injuries experienced by the victim during the plea-bargaining process.

The victim impact statement cannot be considered before a finding or adjudication of guilt unless the defendant in writing authorizes the court to inspect the statement or it is determined that the statement contains material that may help clear the defendant. Before inspection by the court, the page of the statement containing the victim's address, phone number, and other contact information may be detached from the remainder of the statement to protect the privacy of the victim. The court is required to allow the defense a reasonable time

to read the statement before sentencing. With the approval of the court, the defense may introduce testimony or other information alleging a factual inaccuracy in the statement.

Post-Sentencing

If the defendant is sentenced to the Texas Department of Corrections, the court is required to attach a copy of the victim impact statement, if it has received one, to the commitment papers. This applies even in the rare cases when the statement could not be considered in the sentencing process because the sentence was determined by a jury rather than by the court. When newly received inmates are processed in the diagnostic unit, the TDC sociologist reviews the victim impact statement, the inmate's identification number is added to it, and a copy is made by staff members from the Board of Pardons and Paroles who work at the prison unit. The original statement is retained in the inmate's permanent file, which is kept in storage until after the defendant's release and is eventually microfilmed.

Including the impact statement in the commitment papers helps ensure that the inmate's TDC number is placed on the victim impact statement. If the victim impact statement does not contain the inmate number, there

may not be enough information to identify the correct inmate. The victim impact statement is also a crucial piece of information for decision makers at TDC and BPP, as it contains information that is not contained in the other documents in the commitment- paper package.

The Board of Pardons and Paroles is required to consider the information in the victim impact statement as part of the parole review process. Changes of address for the victim or the victim's relatives are sent directly to BPP so that the Board can notify the victim, if the victim has so requested, when the Board has given the case "further investigation" status or when the inmate has received a favorable review for parole. After notification, the victim, as well as the trial officials (the judge, district attorney, and sheriff in the county of conviction), has 10 days to send in comments to the BPP regarding the possible parole of the offender. Any response is returned to the file for review. The victim has the statutory right to appear before a full meeting of the members of the Parole Board, but such meetings are rarely scheduled. If the victim so desires, the Parole Board also sends the victim a notice of the inmate's release.

If the defendant is sentenced to a term of probation instead of a prison sentence, the

court is directed to forward the victim impact statement to the local probation department supervising the defendant.

A diagram of the flow of the victim impact statement from the filing of the charge in a violent crime through the parole process appears in Appendix C, along with a diagram of the stages of the parole process.

Summary of Changes Made by the 70th Legislature

The following measures enacted by the 70th Legislature relieved many of the procedural difficulties that had impeded the flow of the victim impact statement:

- the inclusion of the impact statement among those documents in Article 42.09, Section 8, constituting the commitment papers when an offender is transferred to prison;
- the inclusion of the statement in the commitment paper checklist sent to counties by TDC, which has increased awareness of the VIS requirement;
- the duty given to the presiding judge of each administrative judicial district of designating one officer or employee of each judicial district as responsible for ensuring that the victim impact statement, if one has been re-

ceived, accompanies a defendant sentenced to TDC;

- the requirement that, if the court sentences the defendant to a term of probation, the court shall forward any victim's impact statement to the probation department supervising the defendant; and

- the stipulation that victims be notified, if so requested, of the release of the inmate to mandatory supervision and of a favorable decision for parole review, which should reduce the number of victims who find out that the defendant has been released by reading about it in a newspaper or hearing it on the evening news. Legislation was also enacted to provide each inmate with a "tentative month of parole plan" shortly after transfer to TDC (amendments to Article 56 and Article 42.18, Code of Criminal Procedure). This could benefit victims and their families by providing them with a longer period in which to respond to the Parole Board about a planned parole date.

The 70th Legislature also passed legislation that addresses the issue of the confidentiality of the victim impact statement in records at TDC and at the Parole Board. House Bill 150 amended Section 8, Article 42.18, of the Code of Criminal Procedure by adding Subsection (f)(3-4), which provides that TDC may not disclose to

any person the name or address of a victim unless the victim approves the disclosure or the Board of Pardons and Paroles is ordered to disclose the information by a court of competent jurisdiction after the court determines that there is a good cause for disclosure. House Bill 56 amended Section 19, Article 42.18, Code of Criminal Procedure, by including the victim impact statement among the confidential and privileged information not subject to public inspection in connection with inmates of the TDC subject to parole or release to mandatory supervision. House Bill 56 also provided the victim with the opportunity to appear in person before the parole board at a parole hearing by amending Article 42.18.

The 70th Legislature also required the following actions to provide better information to victims:

- the development of a general information booklet for victims that is to be sent out with the victim impact statement;
- the inclusion of an acknowledgment of receipt, along with an offer of assistance to help complete the forms; and
- the updating of the victim impact statement form and any other information provided to victims by the Texas Crime Victim Clearinghouse, with the assistance of the Texas Adult

Probation Commission and the Board of Pardons and Paroles, to reflect changes in law relating to criminal justice and the rights of victims, no later than December 1 of each odd-numbered year.

The Issue of Confidentiality

Victims continue to express concern that information contained in the impact statement, including their name and address, will be accessible by the defendant reaching TDC, and some victims do not wish to complete the form for this reason. However, according to Texas Department of Corrections and Board of Pardons and Paroles officials, the victim impact statement remains confidential as classified "sensitive information" at all stages of processing and therefore inaccessible by inmates. As already discussed, legislation passed by the 70th Legislature restated the confidentiality requirement.

Many victims became concerned when newspaper articles appeared in March, 1988, reporting that inmates were being used to microfilm inmate files. While these files were on inmates who had died or had been discharged by the end of 1984, at which time the victim impact statement had not been implemented, there was an immediate outcry of con-

cern over the issue of confidentiality. The TDC Board took prompt action to stop the practice of using inmates to microfilm files. In a letter to the Clearinghouse, TDC Director James A. Lynaugh stated:

"The practice of using inmate labor to microfilm inmate files was discontinued in March, 1988. By that time, the files of inmates who had been discharged up to 1985 had been microfilmed. Inmates no longer microfilm nor have access to other inmate files. Inmate files in storage will now be microfilmed by employees only."

It should be re-emphasized that the inmate's files are not accessible by inmates, and that inmates do not work in the records area. Additionally, the *Ruiz* order includes the commitment papers and any information relating to the current offense of a defendant in the definition of "sensitive materials." TDC has taken every precaution to ensure that the victim impact statements remain confidential.

Development of the Victim Impact Statement Form

Every consideration was taken into account in planning the development of the statement and the implementation procedure to ensure

that no agency would be overburdened, that fiscal impact would be negligible, and that the rights of the accused would not be affected. Care was taken to involve all interested parties in the development of the original victim impact statement in 1985 and the revised version in 1987 by publishing a notice for comments in the Texas Register and soliciting comments at regional training seminars held for criminal justice professionals and for victim assistance service providers across the state.

The participants involved in revising the VIS form in 1987 included representatives from the following agencies and organizations:

- the Texas Adult Probation Commission,
- the Board of Pardons and Paroles,
- the Texas District & County Attorneys Association,
- the Texas Commission on Law Enforcement,
- the Dallas County District Attorney's Office,
- the Harris County District Attorney's Office,
- the Tarrant County District Attorney's Office,
- the Travis County District Attorney's Office,
- People Against Violent Crime,

- Victims Outreach,
- We the People,
- the Travis County Sheriff's Office,
- the Austin Police Department, and
- the Texas Crime Victim Clearinghouse.

In accordance with the requirements set out by the 70th Legislature, the following revisions were made to the victim impact statement form in 1987:

- clearer instructions and post-sentencing procedure information were provided;
- a section in the statement was included to clarify the fact that a close relative of a deceased victim should complete the form;
- more objective questions were included, together with the request that the victim include any statements from doctors or counselors on their physical or emotional condition; and
- the financial section was simplified.

It was decided that translations of the statement should continue to be provided as needed by the local offices, with a staff member or volunteer assisting the victim in completing the form. This solution was also suggested for those victims who could not understand or read the form. Areas agreed upon for further study included the need for sending an acknowledgment of receipt with the form, the issue of confidentiality, and methods for follow-up on

certain targeted crimes when a statement was not returned.

The revised form was mailed to all 300 elected prosecutors and victim assistance coordinators on November 25, 1987, along with an implementation explanation. Another memo detailing the procedure was sent to elected prosecutors on March 4, 1988. Information on the revised VIS procedure and the new forms was provided at regional training conferences held across the state and at the 1988 Governor's Training Conference on Crime Victim Assistance.

Resources Available from the Texas Crime Victim Clearinghouse

The Texas Crime Victim Clearinghouse was established in 1983 as a division of the Governor's Office to improve the treatment of victims from the crime to the courts by coordinating victim services in Texas. The Clearinghouse is funded by a grant from the Governor's Criminal Justice Division.

The Clearinghouse is the first central source in Texas to provide information about services and issues involving all crime victims and to facilitate cooperation among law enforcement agencies, prosecutors, the judiciary, corrections

agencies, emergency medical providers, hospital administrators, physicians, counselors, crisis intervention organizations, community information and referral agencies, rape crisis centers, domestic violence shelters, and victim advocacy groups. The Clearinghouse has become a model for other states and, in 1984, received the Outstanding Program nomination from the National Organization for Victim Assistance. Current Clearinghouse activities include:

- a toll-free resource and referral line that has received over 25,000 inquiries since its inception on January 20, 1984;
- the development and distribution of over 10,000 crime survivor assistance resource directories to medical, legal, and social service providers;
- the distribution of approximately 30,000 Texas crime victim rights cards and brochures summarizing the statutory rights accorded to a victim of crime;
- the development of a manual for prosecutors that details cost-effective methods of providing the rights to victims detailed by Article 56;
- regional workshops held in cooperation with the Texas District & County Attorneys Association to provide training for criminal

Crime Victim **IMPACT**

justice professionals on the Crime Victim Bill of Rights, the victim impact statement, domestic violence, and guidelines to implement victim assistance procedures; and

- the Governor's Annual Training Conference on Victim Assistance held each year with the cooperation of the State Bar of Texas, the Texas District & County Attorneys Association, and the National Organization for Victim Assistance. Continuing education credit is provided for judges, lawyers, probation officers, law enforcement officials, and social workers.

Public education and awareness activities include coordination of victim rights activities held during Crime Victim Rights Week in April

of each year, and a series of public service announcements developed with the Texas Young Lawyers Association and the State Bar of Texas on the topics of crime victim compensation and the crime victim bill of rights.

The Clearinghouse also maintains a legislative and educational library and provides technical assistance and evaluation to more than 275 victim programs in Texas. The Clearinghouse, with assistance from the Criminal Justice Division, serves as staff for the Governor's Advisory Council on Victim Assistance, which develops guidelines and distributes information concerning the federal Victims of Crime Act.

II. Status Report on the Use of the Victim Impact Statement

“Ideally, victim impact statements should present to the sentencing court both the opinions and feelings of the victims, as well as an objective account of economic, physical, and material losses suffered by the victim. When this information is coupled with information on the employment, education skill level, and financial status of the offender, a sentencing court or parole officer should have the data necessary to make an informed decision on sentencing alternatives such as restitution to the victim, as well as information relevant to the other typical dispositions of incarceration, fine, or release under supervision.”

— Paul Hudson
“The Crime Victim and the Criminal Justice System,”
Pepperdine Law Review (1984)

The criminal justice system in Texas is in a state of crisis, with most agencies faced with a lack of resources and an overwhelming number of responsibilities. A little-noted effect of prison overcrowding and the subsequent overload on the system is that the victim impact statement tends to be ignored or forgotten. With the lack of sufficient prison capacity being the driving force behind sentencing and parole decisions, there is little room for the consideration of the impact of the crime on the victim.

Although significant progress was made between the 1986 and 1988 reporting periods in

the distribution of the VIS form, there is still a long way to go before the victim impact statement is fully integrated into the criminal justice process. The complexity of the system, coupled with court backlogs and the lack of additional funding, has contributed to the limited implementation of the victim impact statement procedure. Unfortunately, there are breakdowns in communication from agency to agency, and if cracks exist, the victim impact statement tends to fall through them. Many victims still receive the impression that the criminal justice system turns its back on them — although the system

depends on their cooperation for the effective and fair administration of justice.

The Texas Crime Victim Clearinghouse is required to prepare and submit to the Legislature the results of a survey on the numbers and types of persons to whom state and local agencies provide the victim impact statement. The survey must be in a form to protect the privacy of the victim and must determine whether the local selected agency is making a good-faith effort to protect the rights of the persons served. The following is a discussion of the results of the 1988 survey.

1988 Victim Impact Statement Survey Method

The 1988 survey conducted by the Clearinghouse consisted of the following four phases:

Prosecutor Survey

The 300 elected prosecutors in Texas were requested to keep statistics during 1988 on how many statements they distributed, how many were returned to them, and how many acknowledgment receipts they received. Additional information was requested on the following procedures used in the prosecutors' offices:

- at what point in the process the impact

statement was sent or given to the victim;

- whether any follow-up was done on those impact statements not returned;
- whether any other agencies such as the probation department, rape crisis center, or domestic violence shelter were involved in the distribution or completion of the form; and
- what happened to the form after it was returned to the prosecutor's office.

Comments were also solicited on improvements to the form, on any procedural difficulties involving the statement, and on any problems with the implementation of the statement.

After a written request for statistics at the end of the year, follow-up telephone calls were made to all 44 of the jurisdictions serving populations of 150,000 or more and to 33 of the jurisdictions serving populations of 150,000 or less. Data were obtained from 147 counties and/or judicial districts representing the most populous areas in the state. A complete list of the jurisdictions responding to the survey and the accompanying statistical information appear in Appendix B.

It should be noted that overlaps occur, as in some instances a judicial district may be composed of several counties and served by more than one district attorney and some county attorneys have criminal as well as civil jurisdic-

tion. The figures are approximate because of different reporting methods and time periods and staff turnover. The actual number of victim impact statements distributed was probably higher than this report indicates because not all jurisdictions responded to this survey, and although some offices did distribute statements, they did not keep records.

Selected Metropolitan District Attorneys' Offices Survey

During the meetings held to develop the victim impact statement form, it was decided to conduct a special survey effort in selected metropolitan district attorneys' offices with established victim assistance offices and computer capabilities. It was felt that these offices had the necessary staff members and resources to provide more complete statistical data. The Clearinghouse worked closely with the district attorneys' offices in Harris, Dallas, and Tarrant counties. These three offices agreed to tally a breakdown by offense of how many victim impact statement forms were distributed and how many were returned.

Judicial Region Survey

Additionally a questionnaire was distributed to the presiding judge of each of the nine

administrative judicial regions to collect information on how the 1987 legislative requirements are being followed. The sheriff of each county was given the responsibility for ensuring that the documents in the commitment-paper package, including the victim impact statement, are complete upon their receipt at TDC. The statute was also amended to give the presiding judge of each of the nine administrative judicial regions the ultimate responsibility for determining if the sheriffs are able to fulfill this duty. It further mandates that, if the presiding judge of each administrative judicial region determines that the sheriff is unable to fulfill this duty, the presiding judge may impose the duty of ensuring that the commitment package is complete on the district clerk, and if the district clerk is unable, then on the district attorney of each county.

Post-Sentencing Procedure Survey

Interviews were also conducted on the implementation flow of the form with representatives from the following agencies and organizations:

- the Board of Pardons and Paroles (central office in Austin and institutional services office in Huntsville),
- the Texas Adult Probation Commission,

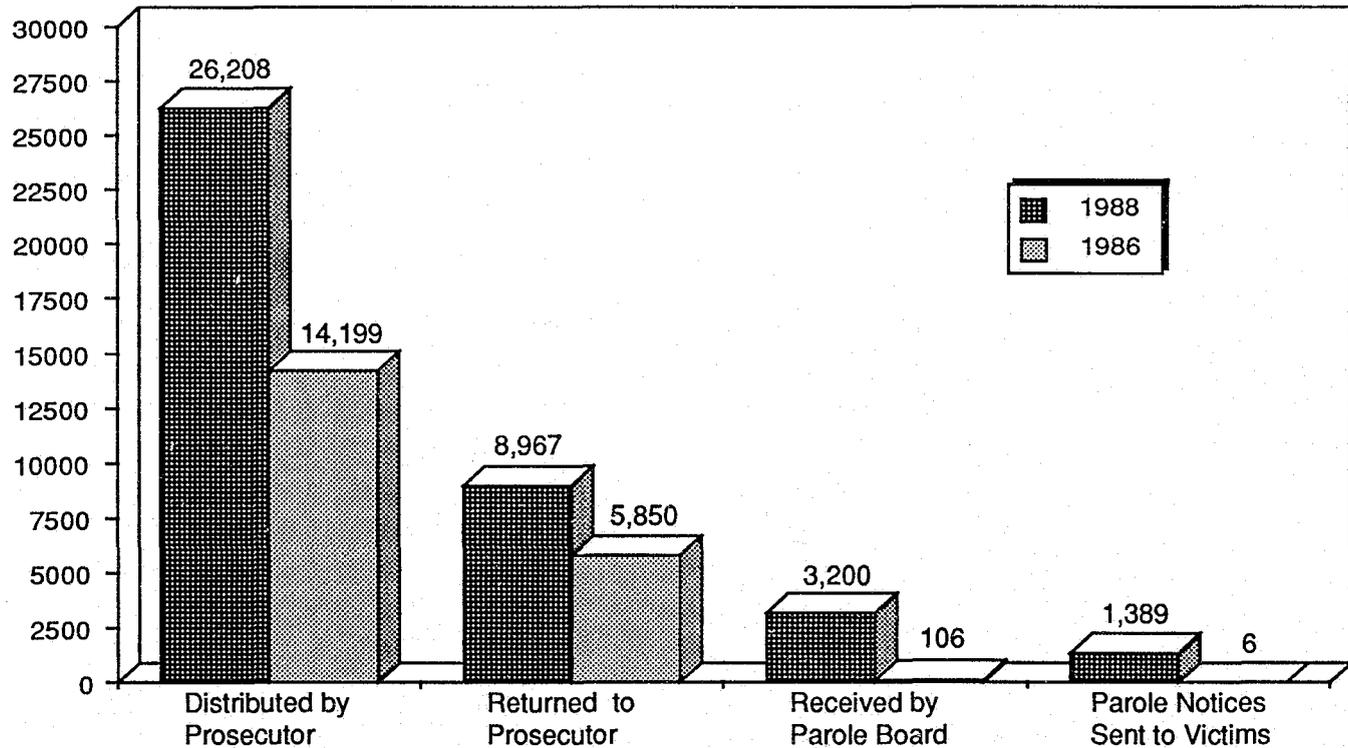
- the Texas Department of Corrections, and
- victims, victim service providers, and victim rights groups.

Additional information was solicited from criminal justice professionals in the audience at training seminars held across the state.

Overview of Survey Findings

The graph below indicates the number of victim impact statements received at various agency checkpoints in the criminal justice system and compares the 1988 survey results with the response obtained in 1986:

Victim Impact Statement Transmittal Chart



Prosecutor Survey Results

- The number of statements distributed by prosecutors during the 1988 reporting period increased 84.6 percent over the number distributed during the 1986 reporting period. This significant increase can be attributed to increased awareness of the statutory requirements and diligent efforts on the part of many prosecutors' offices to distribute the victim impact statement. However, some prosecutors' offices contacted were still unaware of or unresponsive to the VIS requirement. This indicates a need for the Clearinghouse to continue education and awareness activity.

- The number of distributed victim impact statements returned to prosecutors also increased significantly from 1986 to 1988. There were 3,117 more victim impact statements returned in 1988 than in 1986, for a 53.2 percent increase in the total number returned. However, the return rate based on the number of impact statements distributed by the prosecutors declined from 41 percent in 1986 to 34 percent in 1988. It may be possible to partially attribute the decline in the rate of return to intangible factors such as an increased concern among victims over the the issue of confidentiality. However, no office from the responding

counties had a comprehensive follow-up system for those cases in which a victim impact statement is not returned, and the lack of follow-up to explain the purpose of the form no doubt affects the return rate. Some progress has been made in that many offices have targeted certain crimes, such as offenses involving homicide, sexual assault and child abuse, for follow-up either by mail or telephone call.

- Several prosecutors have asked staff members from their local crisis line, rape crisis center, or domestic violence shelter to serve in the capacity of victim witness coordinator. In addition, volunteers such as senior citizens or college students earning academic credit for their work can be designated to assist victims. In this way, very minor disruptions to an office's procedure and budget are necessary to improve the treatment of victims by the prosecutor's office.

- In the majority of jurisdictions, the victim witness coordinator or prosecutor's designee sends the VIS to the victim when the case is filed with the prosecutor's office or after the indictment. In the larger counties, the VIS is mailed to the victim or victim's family. In smaller counties, the coordinator or designee may call the victim to come in for an appointment. The VIS is also distributed by the sheriff

and/or police departments in Carson, Childress, Collingsworth, Donley, Hall, and Red River counties. The first table in Appendix B illustrates at what point the victim is sent the VIS, the method of distribution used, and the type of follow-up, if any, in the 20 counties with populations of 150,000 or more responding to the prosecutor VIS survey.

- The 1988 survey shows that most prosecutors feel that the VIS is beneficial for the victim and helpful to their office for the address of the victim and for restitution information. Prosecutors and victim assistance coordinators expressed frustration at the lack of personnel and time available to follow up thoroughly on victim impact statements and other victim needs. Several responses indicated that, if the office had more staff and time, more personal assistance would be provided to the victim.

- While none of the survey responses indicated any significant problems with the issue of discovery of the statement by defense counsel, 11 out of the 20 prosecutors' offices responding to the question expressed some concern about the confidentiality of the statement at the Texas Department of Corrections or the Board of Pardons and Paroles. Confidentiality concerns were expressed over the re-attachment of that page of the statement containing the victim's

address, telephone number, and other contact information to the remainder of the statement as it was transmitted from the court to TDC. Several prosecutors have implemented special procedures in sensitive cases to protect the victim's name and address by waiting until the inmate is assigned a TDC number and then mailing the VIS with the inmate number directly to the Board, bypassing TDC. Three jurisdictions resolved the problem in sensitive cases by having the victim keep the statement and send it directly to the Board after getting the inmate's TDC number.

- The prosecutor's offices surveyed were asked how many of the acknowledgment receipts had been returned to their office since one of the discussion points of the VIS development committee to determine the actual utility of the acknowledgment form. The concept behind the 70th Legislature's requirement of including the acknowledgment receipt when sending out the VIS was to ensure that victims who do not return the impact statement have in fact received one. The survey found that less than one quarter of the jurisdictions were sending out acknowledgment receipt forms, and there were only 2,564 acknowledgment receipts returned to prosecutors by victims out of the total 26,208 victim impact statements distributed. The 2,264

includes both victims who chose to return the VIS and those who did not return the VIS. The committee expressed doubt that, if the victim were to choose not to complete the VIS, he or she would then choose to complete and return the acknowledgment receipt.

- The majority of prosecutors were aware that they were to give the judge the VIS when one had been completed and did so. However, the survey indicated that the majority of judges do not review the victim impact statement, even though Article 56.03(e) makes the consideration of the VIS mandatory before determining the sentence. One prosecutor stated that some judges do not read the VIS because it is considered "just more paper." Only a relatively small number of judges actually consider the VIS in their sentencing decisions. Suggested reasons for this situation are that judges expect the prosecutor to have read the statement and to consider it in the plea recommendation to the court, that some judges who use presentence reports find the VIS duplicative, that some judges have an evidentiary concern in using the statement, that some judges are unaware of the intent of the statement or the procedure altogether, and finally, that some judges feel that they already have too much paperwork to consider and too little time.

- In several jurisdictions, judges and prosecutors still confused the victim impact statement with the presentence report prepared by the probation department to provide the court with character and background information on the defendant. The victim impact statement is not meant to take the place of the presentence report or vice versa. Presentence reports are not often used because the defense frequently waives the report and, even when one has been prepared, the judge rarely considers it in his or her deliberations. In those jurisdictions that do use the presentence report, a few probation departments do contact the victim, but only for restitution information. The emotional and physical damages to the victim and the victim's family which are detailed in the VIS are not covered by the presentence report, and no mention is made of the victim's rights or the role of the VIS in the parole process.

Selected Metropolitan District Attorneys' Offices Survey Results

- During the 1988 reporting period, Dallas, Harris, and Tarrant counties sent out 16,602 victim impact statements, and 4,369 were returned, for a return rate of 26.3 percent. In 1986 these counties distributed 9,299 statements,

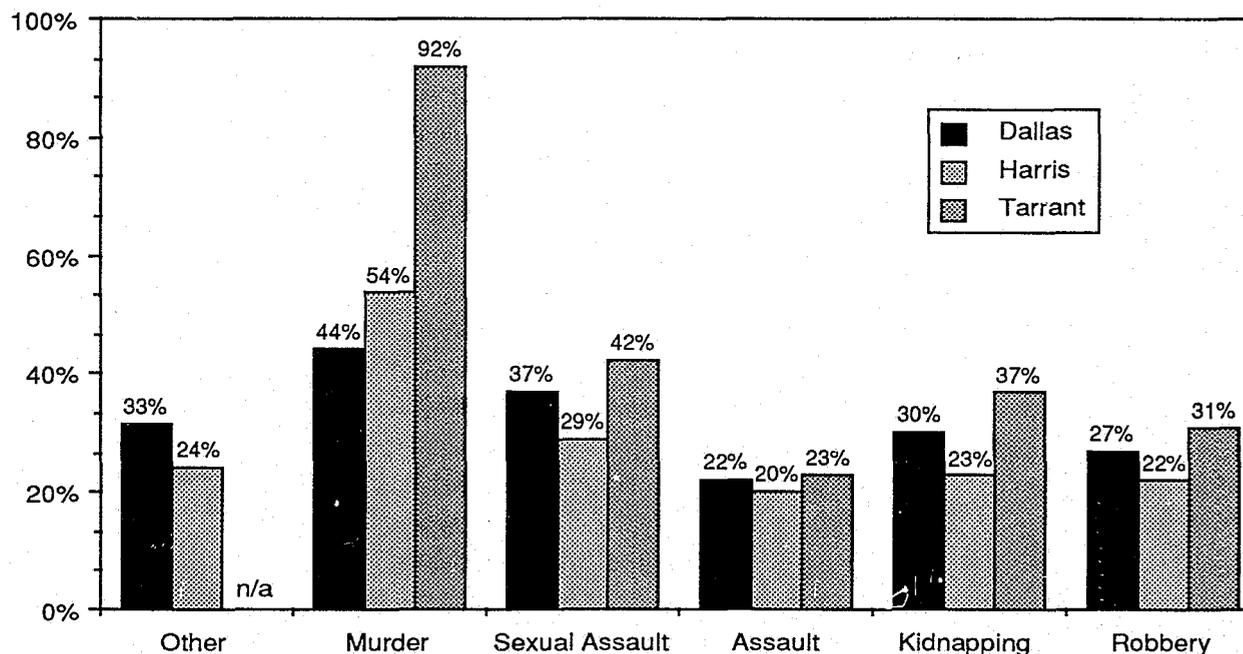
and 3,911 were returned, for a return rate of 42 percent. Tarrant County had the highest return rate, at 38 percent.

- The three counties maintained detailed statistics on the types of offenses for which the victim impact statement was distributed and returned. The categories used for tabulation were murder, sexual assault, assault, kidnapping, robbery, and other offense. The more serious the offense, the higher the return rate of

the VIS. The highest return rate was obtained for murder, followed by sexual assault and kidnapping. This suggests that prosecutors may wish to consider allocating their available victim assistance resources to the more serious offenses that are more likely to elicit a response from the victim.

- Complete data from both the prosecutor survey and the metropolitan district attorneys' office survey are listed in Appendix B.

Victim Impact Statement Return Rates by Offense



Judicial Region Survey

- As discussed in the survey method section, the 70th Legislature placed the sheriff in each county in charge of ensuring that the commitment document package is complete unless the presiding judge in the administrative region transfers this duty to the district clerk or the prosecutor in each district court in the county. While the statute has always clearly delegated to the victim assistance coordinator or prosecutor's designee the duty of providing the court with the returned victim

impact statement, the statute previously mandated only that the "court" attach the VIS to the commitment papers to accompany the defendant to TDC.

- The Clearinghouse sent a letter and survey to each of the nine presiding administrative judges, and five judges responded to the survey. The limited response from the judicial survey may indicate that the proper designation of "who's in charge" is not be followed in all judicial regions.

- The table below reflects the survey results:

Responsibilities for Commitment Papers by Judicial Region

<u>Region</u>	<u>Presiding Judge</u>	<u>Official in Charge of Forwarding Commitment Package</u>
Second	Honorable Thomas J. Stovall, Jr. Seabrook, Texas	Sheriffs, District Clerks, and Prosecutors
Fourth	Honorable Joe E. Kelly Victoria, Texas	Sheriffs, District Clerks, and Prosecutors
Sixth	Honorable Sam M. Paxson El Paso, Texas	District Clerks
Seventh	Honorable Weldon Kirk Sweetwater, Texas	Sheriffs, District Clerks, and Prosecutors
Ninth	Honorable Ray D. Anderson Brownfield, Texas	District Clerks

Post-Sentencing Procedure Results

- During 1988, the Board of Pardons and Paroles reported that it received 3,200 victim impact statements out of the 8,967 statements that were returned to prosecutors and that 1,389 notices were sent to victims. This is a significant improvement over the 1986 survey results, which showed that BPP received just 106 of the 14,199 statements distributed by prosecutors and sent only 6 notices to victims. However, the number of statements received by BPP still represents only 35.7 percent of the statements that were completed.

- Legitimate reasons why there would be a fall-off between the number of statements completed and the number received at BPP include that the offender received probation and the VIS was forwarded to the probation department, that the offense was pled down to a misdemeanor and the defendant was not sentenced to TDC, that the defendant was found not guilty or the charge was dismissed at the court level, and that because of the growing prison crisis the inmate ended up serving his or her time in county jail and never reached TDC. Because of the seriousness of the charges against a defendant in cases where a VIS is used, the Clearinghouse believes that sanctions such as

probation could not account for a large portion of the 64.3 percent fall-off between the number of statements returned and the number of statements forwarded to BPP.

- The following procedural problems within the system also may explain why many completed victim impact statements do not reach BPP: the VIS was not forwarded to the court by the prosecutor's office, the VIS was not forwarded on to TDC by the court, and TDC did not provide BPP with a copy of the VIS. The results from this survey indicate that these procedural problems still impede the flow of the VIS. The largest breakdown in the flow of the impact statement still occurs between the courts and the Texas Department of Corrections.

- The 70th Legislature added the VIS to the list of documents that make up the commitment-paper package to improve the flow of the VIS. However, TDC and BPP report continuing problems with incomplete sets of commitment papers in general, even though Article 42.09, Section 8(b), states that TDC shall not take a defendant into custody until the director receives these documents. This problem was first mentioned in the 1985 Commission on Sentencing Standards and Practices Report. In accordance with the changes made by the 70th Legislature, counties are now sent a checklist of

documents to include in the commitment-paper package, and the sheriff or other person designated by the administrative judge has the duty to ensure that the commitment package is complete. Nonetheless, the problem persists.

- Sometimes a victim impact statement becomes separated from the commitment papers and is sent directly to TDC. When this happens, the statement is placed in the inmate's file and only pulled by the institutional services staff of the Board of Pardons and Paroles when the inmate is scheduled for parole review. Although TDC has worked closely with BPP to coordinate efforts on the transmittal of victim impact statements between the two agencies for those impact statements that are included with the commitment papers, no log is kept of the number of statements that are sent directly to TDC. Since it is BPP that is responsible for tracking the number of impact statements received, no accounting is taken of statements received directly at TDC until the inmate's case is set for "further investigation," and BPP pulls the file. Although it would be of assistance in tracking the statements if TDC were to keep a record of the number of those statements that do reach TDC directly, TDC has stated that it has been unable to do so because of staff shortages.

- Sometimes victim impact statements are sent directly to BPP by victims or prosecutors. BPP has exerted an exemplary effort to locate the inmate's TDC number for statements that are mailed directly to the agency without the inmate number. Also, if the statement is illegible or incomplete, the BPP staff makes every attempt to obtain the missing information by contacting the victim or the prosecutor's office.

- Several statements have been sent without the victim contact or information page attached. The consensus is that this is the result of confusion created by the desire to keep the victim contact information separate from the statement itself at the district court level because of possible discovery motions. Once the statement leaves the court, the victim information or contact page must be reattached because this information is needed by BPP to contact the victim.

- Because of the current prison overcrowding crisis and intermittent necessity to close the prisons, large numbers of inmates are being released daily. It is possible, given the huge workload and strained resources of the two agencies, that the victim impact statement is overlooked or that the VIS is sent to BPP after the act of the inmate's discharge.

- BPP states that the impact statement is

logged and filed, whether or not a victim notice is requested. Although no notice is given to trial officials when a mandatory supervision certificate is issued, a notice is sent to victims. The low number of victim notices sent out is due in part to the fact that inmates convicted of violent offenses receive lengthy sentences and are not eligible for parole in the calendar year in which the impact statement is received. Also, not all victims wish to be notified of an offender's parole.

Possible Concerns Raised by Supreme Court Cases

Although there was no mention made in the returned surveys of judges failing to admit the VIS for evidentiary reasons, evidentiary concerns are cited as one of the underlying reasons that judges do not consider the VIS in their sentencing decisions. Background information on the Supreme Court opinion in *Booth v. Maryland*, No. 86-5020, decided on June 15, 1987, is useful for reference purposes.

In *Booth*, the prosecutor, so authorized by a Maryland statute, read to the sentencing jury in a capital case a statement from the family of the two people that Booth killed. The defense objected to the statement as unduly inflamma-

tory and irrelevant. A Maryland Court of Appeals upheld the death sentence. The Supreme Court granted certiorari and ruled in a 5-4 decision that the 8th Amendment prohibition against cruel and unusual punishment prohibits a jury in a capital case at sentencing from considering the victim impact statement.

The majority decision focused on the narrow issue of the use of the statement by a jury in the punishment phase of a capital murder case. The decision emphasized the unique nature of a capital case because of the possibility of the death sentence and noted that, "We apply no opinion to the use of these statements in non-capital cases," and, in a footnote, that "facts about the victim and family...may be relevant in a non-capital case."

In Texas, the victim impact statement statute provides that the statement shall be considered only by the court and only after a finding of guilt. Since *Booth* appears to have been decided on the narrow and unique issues inherent in a capital case heard by a jury, it would not seem to directly threaten the Texas statute.

However, note was taken by the Texas VIS development committee that the Supreme Court was concerned with the unsubstantiated nature of the Maryland victim impact statement. The committee decided to incorporate a more objec-

tive format and to include the instruction that statements from doctors and counselors that corroborate the victim's assertions about physical and emotional trauma should be attached to the statement.

The victim impact statement issue may be clarified later this year with the consideration of a case now before the Court. The Attorney General of South Carolina has petitioned for and been granted certiorari in the case of *South Carolina v. Gathers*. The questions presented for review include:

- whether the 8th Amendment precludes a prosecutor's comments during a capital murder penalty phase on the personal characteristics of

the victim where the characteristics are based on evidence admitted in the guilt phase to show the circumstances of the crime;

- whether *Booth v. Maryland* precludes prosecutorial comment during a penalty phase closing argument on evidence introduced during the guilt phase of the trial that reveals personal characteristics of the victim; and

- whether the Court's decision in *Booth v. Maryland* misconstrued the requirements of the 8th Amendment and was wrongly decided.

It is hoped that the Supreme Court decision in the *Gathers* case will give direction to those judges with evidentiary concerns about using the statement in sentencing decisions.

III. Summary and Recommendations for Change

"The goal of victim participation in sentencing is not to pressure justice — but to aid in the attainment of justice. A judge cannot be expected to make a balanced decision without hearing from both sides. In the words of John Locke, 'He that judges without informing himself to the most that he is capable, cannot acquit himself of judging amiss.'"

— Lois Haight Herrington
"The Victim of Crime,"
South Texas Law Journal (1985)

As with many relatively new procedures, the largest obstacle in the implementation of the victim impact statement has been lack of awareness at the appropriate stages of the criminal justice system. Concentrated efforts have been made to educate those involved at each step of the flow of the victim impact statement on the use and importance of the statement and the necessity of coordinating the transmittal of the statement through the system. This report finds that awareness has increased during the past two years, as evidenced by the significant increases in the number of statements distributed, returned, and forwarded by the courts to TDC and BPP, but more training is necessary to fully imple-

ment the VIS process. The following major problems remain:

- Although the statement is being provided to victims of violent crime by most prosecutors' offices, very little follow-up is being done on those statements not returned, and the return rate actually declined from 41 percent in 1986 to 34 percent in 1988.
- Only 35.7 percent of the completed statements were received by BPP in 1988, indicating that there are still procedural gaps in the transmittal of the statement through the criminal justice system.
- More victim impact statements are being routed through the criminal justice system, but that is all that is being done — the VIS is being

routed. This report finds that the information in the statement is not being adequately considered by the appropriate decision makers in the process. There is no doubt that the overriding concerns raised by the prison overcrowding crisis have contributed significantly to this situation. However, lack of awareness and apathy also play roles.

Initial skepticism over the implementation of the victim impact statement was expressed by criminal justice professionals because it was felt that the inclusion of the statement at sentencing and at parole decisions was inviting harsher penalties, retribution, obstruction, and delay. Although no comprehensive studies have been made on this subject, it is safe to say, given the limited review by the courts, that the VIS has had a negligible influence on the process. Few judges consider the statement in their sentencing decisions. A relatively low percentage of statements actually reach the Board of Pardons and Paroles for consideration in parole decisions, and prison overcrowding limits the discretion available to the parole officials who do review a completed VIS.

With approximately 95 percent of all cases in Texas settled by plea bargaining, the low compliance of judges in considering the VIS is particularly troubling. During the plea-

bargaining process, the victim impact statement is the only way that the victim's lingering physical, emotional, and economic injuries are taken into consideration. It is hoped that the information provided in this report and the adoption of the following recommended changes will serve to remedy the problems that have arisen with the implementation of the VIS.

Changes Recommended for Prosecutors' Offices

- The majority of prosecutors' offices responding to the survey have instituted procedures to distribute the VIS in their offices. However, some offices, particularly the smaller ones, expressed confusion over or difficulty in implementing these procedures. It is evident, especially from the comparative lack of response from smaller counties, that the Clearinghouse needs to continue regional training seminars with the Texas District & County Attorneys Association, implement a special track for smaller jurisdictions on program management at the Governor's Annual Victim Assistance Training Conference, and provide technical assistance on site when so requested. It is suggested that the population threshold of 150,000 be removed from the requirement of

designating a victim assistance coordinator in the prosecutor's office.

- Every district attorney or county attorney with criminal jurisdiction should have a written policy on the procedures used to implement the victim impact statement in his or her jurisdiction. Appendix D contains the Harris County procedure, along with the letter that is used to accompany the VIS in cases of sexual assault.

- Because of limited resources, very little follow-up action is being taken in the prosecutors' offices to ensure that the statement is returned whenever possible. More follow-up is urgently needed. Several jurisdictions report that volunteers and interns assist in the provision of victim services by the prosecutors' offices. It is suggested that the use of volunteers be expanded whenever possible to better follow up on the statements that are distributed to victims. A reminder notice or telephone call near to the time of case disposition can be used in targeted cases such as homicide, sexual assault, and cases involving child victims. At a minimum, follow-up procedures should be used to aid in the completion of the VIS by family members of homicide victims, since the metropolitan district attorney office survey showed that the most serious offenses have the best

potential to generate returned statements.

- The acknowledgment receipt form is infrequently returned, even to those offices that include self-addressed postcards or envelopes. It is suggested that the acknowledgment receipt form be supplanted by more organized follow-up to ensure that the statement was received and its provisions understood by the victim. It is strongly suggested that the verification form used by Tarrant County, a copy of which appears in Appendix E, be used to confirm that an effort has been made to obtain a completed victim impact statement when a statement is not returned. The verification form can then be used to complete the commitment-paper package when no victim impact statement exists for the case.

- Prosecutors are rarely aware of what happens to the VIS once it is passed on to the court. It is suggested that the procedure in each prosecutor's office include a follow-up mechanism for tracking the statement's passage through the court process. A telephone call could be all that is required to keep the VIS from being lost in the shuffle. The prosecutor is in a good position to coordinate efforts with the administrative judge and the criminal district clerk to ensure the proper transmittal of the victim impact statement. Steps need to be

taken to make sure that the statement is sent on to TDC, if the defendant is so sentenced, or to the county probation department, if the court orders probation in lieu of imprisonment.

Changes Recommended for the Courts

- Every Texas judge needs be made aware of the law that requires the consideration of the victim impact statement in sentencing deliberations. Training in the implementation of Article 56 should be included at the Annual Conference of Criminal District and County Court Judges. It was not possible for the Clearinghouse to obtain time during the 1988 judicial conference for a section on the victim impact statement; however, it is hoped that this year such a section will be included. Continuing legal education credit was given to judges that attended the 1988 Governor's Annual Training Conference on Victim Assistance, and it is planned that credit will again be given to judges that attend this year's conference. The Clearinghouse will continue to make informational mailings to court officials and provide awareness materials to judges whenever possible.

- It is suggested that a written policy be developed at the court level to ensure the proper

consideration of the VIS, if one has been received, and to ensure the attachment of the statement to the commitment papers if the defendant is sentenced to TDC or transmittal to the appropriate probation department if probation is ordered. The policy should include procedures for close coordination of VIS transmittal efforts with prosecutors' offices, criminal district clerks, and sheriffs.

- From the survey responses for this report, it is apparent that there is still some confusion between the presentence report and the VIS. In those jurisdictions where the judge relies on the presentence report to obtain information about the victim, it is suggested that the probation department include a copy of the victim impact statement as part of the presentence report instead of obtaining only restitution information from the victim. In addition to restitution information, the VIS details the physical and emotional injuries to the victim. This would accomplish three goals: the presentence report would offer the judge more complete information about the victim's concerns, there would no longer be a confusion between the presentence report and the VIS because the VIS would be included as part of the presentence report, and more victims would be given the opportunity to complete a VIS, and, there-

fore, receive a statement of the rights afforded under Article 56, including information concerning parole procedures and notification.

- Because the survey showed that some judges assume that the prosecutor has read the statement and used it to influence the plea recommendation, it is suggested that judges query prosecutors on this point so there is no question whether the VIS has played a role or not. Prosecutors involved in plea negotiations can make it clear whether the VIS was used to develop their recommendations to the court.

Changes Recommended in Post-Sentencing Procedures

- The survey discovered that problems with the completeness of commitment papers still occur and that victim impact statements that are diverted from the flow and sent directly to TDC or BPP cause confusion. It is suggested that every effort be made to ensure that the VIS, if one exists, is included in the commitment paper package. All administrative judges, in accordance with state law, need to make clear who is responsible for seeing that the VIS is included with the commitment papers. When no completed victim impact statement exists for the case and the offense is a violent one, the

sheriff or other authorized official can be sure that the commitment papers in his or her charge are complete if the verification form developed by Tarrant County (Appendix E) is always used when there is no VIS to include in the package.

- The use of the VIS should be included in local probation office procedures, and continuing education training on the purpose of the VIS should be provided to probation officers. Continuing education and awareness activities provided by the Clearinghouse in conjunction with the Texas Adult Probation Commission will continue. Last year the Commission gave continuing education credit to those officers attending the Governor's Training Conference on Victim Assistance, and credit will again be sought for this year's conference.

- Because of concerns about confidentiality, the TDC Board took prompt action to stop the practice of using inmates to microfilm files and has requested funding for additional prison staff to microfilm records. Because of staff shortages, TDC has been unable to keep records of the statements that are sent directly to the agency. It is suggested that funding for additional prison staff be given a high priority.

- Although the enactment of the "tentative month of parole plan" by the 70th Legislature has helped in some cases, there still is a need to

allow more response time in which to protest early releases. It is suggested that the 71st Legislature adopt the new procedure proposed by the Board of Pardons and Paroles whereby the judge and other trial officials would include any objection to parole at the time of sentencing. Comments from the victim should be included in the Parole Board proposal. Large case loads and personnel turnover have increased the need for this new procedure, and the Board feels that there is a need to have more and earlier information to expedite the parole planning process. In addition, the judge would still have the VIS available for reference at the time of sentencing, and the VIS could prove useful in the judge's decision on how to respond to the possible parole of the inmate. Currently, the judge, prosecutor, and sheriff, along with the victim (if the Board has received an impact statement or written request from the victim), are notified within a very short time of the inmate's possible parole date and given only 10 days to reply with any objections. It is a sad commentary on the state of the criminal justice system to say that it has become necessary to protest parole consideration at the time of sentencing because offenders are being paroled so early into their sentences. It is now possible to be released on parole after completing 3

months of a 2-year sentence, 7.6 months of a 5-year sentence, and 15.2 months of a 10-year sentence.

- Better provisions for notifying victims of pending parole actions have greatly increased the number of victims so informed, but more improvement is necessary. The Parole Board is considering the idea of establishing a separate section of the agency for victims and restitution to victims. This proposal is especially welcomed as all information for victims would be centralized and personnel would be particularly sensitive to the needs of victims. An advisory board of victims would be formed to offer assistance on victim issues that involve the Parole Board. The Parole Board has also indicated a desire to participate with the Clearinghouse in developing a parole information booklet for victims.

- While the 70th Legislature provided the victim with the opportunity to appear in person before the Parole Board at a parole hearing, such hearings occur only in exceptional cases. In the vast majority of cases, the individual board members review the inmate's file privately and then pass the file on to the next board member. However, it may be possible for the victim to appear before the parole commissioners in the city where the correctional facility is located. This situation should be studied, and

existing legislation modified if necessary.

- Finally, it is recommended that the efforts by TDC and BPP to ensure the effective implementation and coordination of the statement continue. Much progress has been made on closing procedural gaps between the two agencies, but further efforts are required to make sure that no victim impact statements are misplaced or otherwise diverted from their proper path through the process.

Conclusion

The Texas Crime Victim Clearinghouse will continue to provide training for the criminal justice system on the crime victim bill of rights and the victim impact statement and coordinate the efforts of other interested parties in this regard. Victim advocacy groups and victim assistance service providers have greatly helped in making victims aware of their rights and have provided invaluable assistance in distributing and completing the statement, and their continued involvement in the process should be encouraged.

At the close of the 1989 legislative session, the Clearinghouse will prepare materials on any legislation that affects victims and distribute them. The Clearinghouse will also assist in

the revision of the impact statement form and accompanying information and distribute the revised form. The Clearinghouse will monitor and survey the implementation of the form in 1990 and provide those findings to the 72nd Legislature.

The criminal justice system should help rather than hinder victims' efforts to assert their rights and take control of their lives once again. It is horrible enough to have been the victim of a violent crime without having to contend with a criminal justice system that focuses only on the rights of the accused. No administrative process could ever erase the anguish felt by the parents, spouse, and children of a murder victim or eliminate the emotional pain of a victim of a brutal rape. However, the victim impact statement is a tangible way for victims to have a voice in the criminal justice system, and being heard is an important part of re-establishing self-respect.

The benefits of the victim impact statement system do not accrue only to victims. Listening carefully to what victims have to say can also help judges and parole officials make well-informed decisions that best reflect the circumstances of the case. The net result is a criminal justice system that truly represents the interests of the people of Texas.

APPENDICES

A. Sample Victim Impact Statement

VICTIM IMPACT STATEMENT

Atencion: *Necesita asistencia traduciendo esta forma en espanol, por favor llame al _____ .*

CRIME VICTIM INFORMATION PACKAGE

The purpose of this package is to provide information to you, the victim of a violent crime, or to you the family member or guardian of a victim of crime, and to get information from you that will help to prosecute and sentence any person accused of committing a crime against you or your family. This package contains three sections:

1. **Crime Victim Rights**—A description of the rights of crime victims for you to keep, appears on the back of this page. If you need further information please contact the prosecutor or the prosecutor's victim assistance coordinator.
2. **Victim Information Sheet**—This page is to be filled out and returned to the prosecutor's office. It will be used by the prosecutor to get in touch with you and by the Board of Pardons and Paroles to contact you if you request notification of the inmate's release. If you do not wish to complete the victim impact statement form or be notified of any parole action, please return the acknowledgment notice to the prosecutor or victim assistance coordinator.

If the address that you give on the information form should change and if the defendant is sentenced to TDC and you wish to be informed of any parole action, you **must** contact the Texas Board of Pardons & Paroles, P.O. Box 13401, Capitol Station, Austin, Texas 78711 (512-459-2700) with your change of address.

3. **Victim Impact Statement**—this form is used by the judge at sentencing and the parole board if the defendant is sentenced to TDC to consider what physical, emotional and financial impact the crime has had on you. If the victim is deceased or unable to complete the form, family members or the victim's guardian have the right to complete the form and describe what impact the crime has had on their lives. This statement should be mailed back to the prosecutor or victim assistance coordinator along with the victim information sheet.

96

Please remember that if the person accused of the crime is sentenced to TDC (Texas Department of Corrections) then the Victim Impact Statement will be considered by the Board of Pardons and Paroles in making decisions about recommending or denying parole. ***It is your responsibility to notify the Parole Board of any changes on the Victim Information Sheet, including any change of address, as they will use this information to contact you if you request notice of parole action.*** In completing the form, remember that if you have any questions, you may contact the prosecutor or victim assistance coordinator, and that you do not have to answer any question that you do not wish to answer, as some portions of the statement may be disclosed to the public or the defense on a judge's finding of good cause.

If you or your family have been contacted or threatened by the defendant or the defendant's family since the crime occurred, please contact your local law enforcement agency and prosecutor immediately.

TEXAS CRIME VICTIM RIGHTS

A victim of a violent crime is someone who (1) has suffered bodily injury or death or who has been the victim of a crime involving sexual assault, kidnapping, or aggravated robbery, (2) the close relative (spouse, parent, brother/sister, or adult child) of a deceased victim, or (3) the guardian of a victim. ***As a victim of violent crime, close relative of a deceased victim, or guardian of a victim, you have the following rights:***

1. The right to ***protection from threats of harm*** arising from cooperation with prosecution efforts.
2. The right to have ***your safety*** and that of your family taken into consideration when ***bail*** is being considered.
3. ***If you so request***, the right to be ***informed*** about court proceedings, including whether or not they have been canceled or rescheduled.
4. ***If you so request***, the right to ***information*** about procedures in the criminal investigation of your case by law enforcement, and about general procedures in the criminal justice system, including ***plea bargaining***, from the prosecutor's office.
5. The right to receive information about the ***Texas Crime Victim Compensation Fund*** which provides financial assistance to victims of violent crimes and if you so request, to ***referral*** to available ***social service agencies*** that may provide additional help.
6. The right to provide information to a probation department conducting a ***presentence investigation*** on the impact of the crime.
- 37 7. ***If you so request***, the right to be notified of ***parole proceedings*** by the Board of Pardons and Paroles, to participate in the parole process, and to be notified of the defendant's release.
8. The right to be present at all public ***court proceedings***, if the presiding judge permits.
9. The right to be provided with a safe waiting area before and during court proceedings.
10. The right to ***prompt return of any property*** no longer required as evidence.
11. ***If you so request***, the right to have the prosecutor ***notify your employer*** of the necessity of your testimony that may involve your absence from work.
12. The right to complete a ***Victim Impact Statement***, detailing the emotional, physical and financial impact that the crime has had on you and your family, and to have that statement considered by the judge at ***sentencing*** and by the parole board prior to taking any ***parole*** action.

Defendant: _____ Cause No. _____ Court No. _____
Last Name, First Name

Texas Department of Corrections Identification Number: _____

CRIME VICTIM INFORMATION SHEET

Please print and use a pen to complete the following information.

This information is important to the court, to the prosecuting attorney and to the parole board to allow them to be able to get in touch with you whenever necessary. If they are unable to contact you the case against the person or persons who committed this crime against you may be delayed, or even dismissed. If the victim is deceased or physically unable to complete this form, this form should be filled out by a close relative (husband/wife, mother/father, brother/sister, or adult child). If the victim is a minor or is incompetent, this form should be filled out by a parent or guardian.

DO YOU WANT TO BE NOTIFIED IF THE DEFENDANT IS CONSIDERED FOR PAROLE? YES NO

NOTE: IF YOU DO WANT TO BE NOTIFIED, IT IS YOUR RESPONSIBILITY TO INFORM THE BOARD OF PARDONS AND PAROLES OF ANY CHANGE OF ADDRESS. You may get information about the release of the person from the Texas Department of Corrections, or about parole procedures in general by writing to the TEXAS BOARD OF PARDONS AND PAROLES, P.O. Box 13401, Capitol Station, Austin, Texas 78711, or by calling the Family Information Coordinator at (512)459-2700.

Information submitted by: Victim Close Relative of Victim Guardian of Victim

(1) a. Victim's full name:

_____ Last First Middle
b. Victim's address: Street: _____ Apt. no.: _____
City: _____ State: _____ Zip: _____
c. Victim's home phone: Area code: (_____) _____ - _____
d. Victim's work phone: Area code: (_____) _____ - _____

(2) If you are the guardian or close relative of the victim give:

a. Your full name:

_____ Last First Middle
b. Your address: Street: _____ Apt. no.: _____
City: _____ State: _____ Zip: _____
c. Your home phone: Area code: (_____) _____ - _____
d. Your work phone: Area code: (_____) _____ - _____
e. Your relationship to victim: _____

(3) Please give the name, address and phone number of a relative or other permanent contact who will always know how to reach you.

a. Name:

_____ Last First Middle
b. Address: Street: _____ Apt. no.: _____
City: _____ State: _____ Zip: _____
c. Home phone: Area code: (_____) _____ - _____
d. Work phone: Area code: (_____) _____ - _____

(4) Victim's date of birth: _____ Victim's Sex: Male Female
Month/Day/Year

(This page is reserved for the use of the prosecutor, victim assistance coordinator or Board of Pardons and Paroles).

Defendant: _____ **Cause No.** _____ **Court No.** _____
Last Name, First Name

Texas Department of Corrections Identification Number: _____

CRIME VICTIM IMPACT STATEMENT

Please **print** and use a **pen** to complete this statement. This information will be used by the prosecutor, the judge and the parole board to evaluate the effect this crime has had on you. It will be reviewed by the judge at sentencing and by the parole board prior to any parole decision if the defendant is sentenced to prison. Please use another page if you have additional information. If the address information on this statement changes, please contact the prosecutor, victim assistance coordinator or Parole Board.

If the victim of this crime is deceased or physically unable to fill out this statement, it should be completed by a close relative (husband/wife, mother/father, brother/sister, or adult child). If the victim is a child or incompetent, this statement should be filled out by a guardian.

(1) a. Victim's name:

Last

First

Middle

(2) This statement is submitted by: Victim Close relative Guardian

Close Relative's Relationship to victim: _____

Last

First

Middle

(3) a. Have you suffered any **physical injury** as a result of this crime?

No Yes. If yes, please mark the answer best describing the extent of your physical injuries.

treated at crime scene only

treated at medical center and released

hospitalized for _____ days

other (please explain) _____

b. If injured, please describe your injuries, you may include a copy of your doctor's statement if you wish. _____

(Continued on back page)

(4) Have you had any **emotional** injuries as a result of this crime? No Yes, If yes, please mark the appropriate answer(s):

- Loss of Sleep
- Loss of Appetite
- Fear of Being Alone
- Want to be Alone
- Cry More Easily
- Nightmares
- Depression
- Anxiety
- Fear of Strangers
- Family not as Close
- No trust in anyone
- Lack of concentration
- Job Stress
- Anger

Other: _____
Please explain, if you wish: _____

(5) Have you or your family sought **counseling** as a result of the crime? No Yes, If yes, please explain, you may include copies of statements from your doctor or counselor. _____

(6) Please describe any effect this crime has had on your **personal well-being** or your relationship with your family. _____

(7) Have you experienced any **financial loss**, such as lost wages, property damage, doctor or hospital bills, counseling expenses, as a result of this crime? No Yes, If yes, please explain: _____

41

Estimate of Economic Loss	Costs to date	Future Costs Expected
Property Loss	\$ _____	\$ _____
Medical Expenses	\$ _____	\$ _____
Counseling Expenses	\$ _____	\$ _____
Income Loss From Work	\$ _____	\$ _____
Other Expenses (explain)	\$ _____	\$ _____
Amount Covered by Insurance	\$ _____	\$ _____

It would be helpful if copies of receipts, bills, or canceled checks were attached.

(8) Do you feel that as a result of this crime, the victim's ability to earn a living in the future has been harmed? You may include copies of statements from doctors or counselors. No Yes, If yes, please explain: _____

(9) Please give any other information that you believe is important about the effect of this crime on you and your family. Please **do not** relate any facts about the crime itself. Those facts are already available in other reports. _____

I have read the information in this statement and it is true and correct to the best of my knowledge.

Date: _____

Signature of victim guardian relative

B. VICTIM IMPACT STATEMENT PROSECUTOR SURVEY RESULTS

- I. Counties of 150,000 Population or More
- II. Judicial Districts Serving Populations of 150,000 or More
- III. County/Judicial Districts of Less than 150,000
- IV. Selected Metropolitan District Attorneys' Offices
 - Dallas, Harris and Tarrant County Totals*
 - Dallas County Data by Offense*
 - Harris County Data by Offense*
 - Tarrant County Data by Offense*
- V. Distribution Method by County
- VI. County Participant List

VICTIM IMPACT STATEMENT SURVEY

I. Counties of 150,00 Population or More

<u>County</u>	<u>District or County Attorney</u>	<u>Designee</u>	<u>V.I.S. Form</u>	
			<u>Sent</u>	<u>Received</u>
Bell	Arthur "Cappy" Eads	Kathy Phillips	203	130
Bexar	Fred G. Rodriguiz	Michael Raymond	1,255	428
Brazoria	Jim Mapel	Steve Crenshaw	80	75
Cameron	Benjamin Euresti, Jr.	Carmen Robles	206	76
Collin	Tom O'Connell	Peggy Carroll	179	120
Dallas	John Vance	Anita Moss	7,231	1,838
Denton	Jerry Cobb	Jane Fitzgerald	0**	0**
El Paso	Steve W. Simmons	Alida A. Perez	1,622	750
Fort Bend	Sam Dick	Sherry Stavinoha	72	18
Galveston	Michael J. Guarino	Donna L. Bennett	630	209
Harris	John B. Holmes, Jr.	Gail O'Brien	7,107	1,663
Hidalgo	Rene Guerra	Deborah Marmelejo	0**	0**
Jefferson	Tom Maness	Debbie Mott	106	2
Lubbock	Travis S. Ware	Jane Piercy	242	58
McLennan	Vic Feazell	Lisa Harrison	0**	0**
Montgomery	Peter C. Speers, III	Naneen Halwas	163	72
Nueces	Grant Jones	Rosa Marie Cervantes	0**	0**
Smith	Jack Skeen, Jr.	Leah Linyard	0**	0**
Tarrant	Tim Curry	Shari Shanafelt	2,264	868
Travis	Ronald Earle	Position Open	1,182*	494*
TOTAL			22,684	6,903

* Includes misdemeanor offenses from county attorneys office.

** Statements distributed but statistics unavailable.

VICTIM IMPACT STATEMENT SURVEY, continued . . .

II. Judicial Districts of 150,000 or More

<u>District</u>	<u>County</u>	<u>District or County Attorney</u>	<u>Designee</u>	<u>V.I.S. Form</u>	
				<u>Sent</u>	<u>Received</u>
9th	Montgomery	Peter C. Spears, III	Nan Halwas	163	72
	Polk	"	"		
	San Jacinto Waller	"	"	28	6
9 (A)th & 258th	Montgomery	Peter C. Spears, III	Nan Halwas		
	Polk	"	"		
	San Jacinto Trinity	Joe L. Price	"		
23rd	Brazoria	Jim Mapel	Steve Crenshaw	80	75
	Matagorda	Danny W. Schindler	"		
	Wharton	"	"		
28th & 105th	Kenedy	Grant Jones	Rosa Marie Cervantes	*	*
	Kleberg	"	"	*	*
	Nueces	"	"	*	*
34th 205th & 210th	Culberson	Steve W. Simmons	Alida A. Perez		
	El Paso	"	"	1622	750
	Hudspeth	"	"		
114th	Smith Wood	Jack Skeen, Jr.	Leah Linyard		
		Marcus D. Taylor	Suzy Wright	83	47
47th	Armstrong	Danny Hill	Carole McDaniel		
	Potter Randall	" Randall L. Sherrod	" Mary Mitchell	1056 469	780 245
181st & 251st	Potter Randall	Danny Hill	Carole McDaniel	**	**
		Randall L. Sherrod	Mary Mitchell	**	**
72nd	Crosby Lubbock	John Barnhill			
		Travis S. Ware	Jane Piercy	242	76
103rd 107th 138th & 197th	Cameron Willacy	Benjamin Euresti, Jr.	Carmen Robles	206	76
		Lee P. Fernon			

* Statements were distributed but statistics were unavailable, or receipt records not kept.

** Same as for 47th District

VICTIM IMPACT STATEMENT SURVEY, continued . . .

III. County/Judicial Districts of Less than 150,000

County	District/County Attorney	Victim Assistance Designee	V.I.S. Form	
			Distributed	Returned
Aransas	Thomas L. Bridges	Linda Eichhorn	73	69
Atascosa	Alger H. Kendall, Jr.	Carrie Moy	26	9
Austin	Travis J. Koehn	Darla Krumrey	6	5
Bee		Kim Hardy	21	4
Borden	Ernie B. Armstrong	Ann Everett	5	2
Brazos	William Turner (D.A.)	Queen E. Walker		
	James M. Kubovlak	Vera Lara Hooge	1	1
Burleson	Charles Sebesta, Jr.	Melinda Giesenschlag	19	2
Carson	David M. McCoy			
Castro	Jimmy F. Davis			
Cherokee	Charles R. Holcomb	Carolyn Easley	10	3
Childress	David M. McCoy			
Collingsworth	David M. McCoy			
Dawson	Ricky B. Smith			
Delta	Frank Long	Phyllis Rogers	21	11
Donley	David M. McCoy		*	*
Ector	Eric Augensen	Natalie Warren	70	55
Erath	John Terrill	Sharon Calder	13	9
Franklin	Frank Long	Phyllis Rogers		
Freestone	Robert W. Gage	Janet Rogillio	11	6
Frio	Alger H. Kendall, Jr.	Carrie Moy	24	13
Hall	David M. McCoy		*	*
Hamilton	Andy J. McMullen	Kay Nelson	28	14
Harrison	Rick Berry		100	50
Hopkins	Frank Long	Phyllis Rogers		
Jack	Patrick Morris		4	0
Johnson	Dan M. Boulware	Callie Loretta Adams	39	15
Jones	Jack G. Willingham	Peggy Higginbotham	15	6
Karnes	Alger H. Kendall, Jr.	Carrie Moy	11	7
Kerr	E. Bruce Curry		8	3
Kimble	Ronald L. Sutton		20	14
Lamar	Tom D. Wells		7	6
La Salle	Alger H. Kendall, Jr.	Carrie Moy	10	4
Limestone	Don. W. Cantrell	Florence Smith	25	14
Midland	Al Schorre	Tedda McAnear	101	33
Moore	Barry E. Blackwell	Dee Ann Kelly	3	3
Navarro	Patrick Batchelor	Robert Carroll	40	10
Orange	Stephen C. Howard	Vincent Bottley	15	15
Pecos	Phil J. Pollen		0	0

VICTIM IMPACT STATEMENT SURVEY, continued . . .

III. County/Judicial Districts of Less than 150,000, continued . . .

<u>County</u>	<u>District/County Attorney</u>	<u>Victim Assistance Designee</u>	<u>V.I.S. Form</u>	
			<u>Distributed</u>	<u>Returned</u>
Rains	Frank Long	Phyllis Rogers		
Red River	Thomas H. Fowler		*	*
Robertson	Jimmie McCullough		0	0
Rockwall	Galen Ray Sumrow	Joyce Ibison	16	10
San Patricio	Thomas L. Bridges	Linda Eichhorn	73	69
Scurry	Ernie B. Armstrong	Ann Everett	5	2
Sherman	Barry E. Blackwell	Dee Ann Kelly	0	0
Taylor	James Edison	Connie Calvin	49	28
Terry	Gary Cook		9	6
Throckmorton	Dwayne Gibson		1	0
Tom Green	Dick Alcala	Lanoy Fiveash	126	101
Val Verde	Thomas F. Lee	Irma L. Navarro	150	68
Van Zandt	Tommy W. Wallace		5	3
Victoria	George J. Filley, III	Lynda M. Anderle	32	31
Webb	Julio A. Garcia	Pedro Garcia	174	25
Wichita	Barry L. Macha	Kay Geurin	299	156
Willacy	Lee Price Fernon		5	0
Wilson	Alger H. Kendall, Jr.	Carrie Moy	12	5
Wise	Patrick Morris		0	0
Yoakum	Linda Shoemaker			
	Lowrey		1	1
Zapata	Julio A. Garcia	Pedro Garcia	174	25

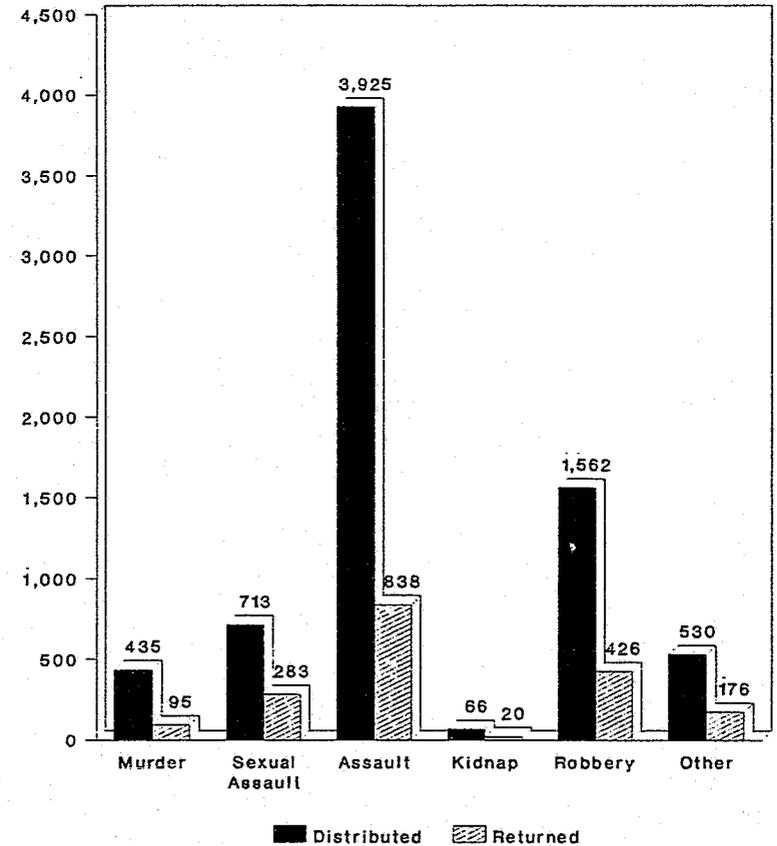
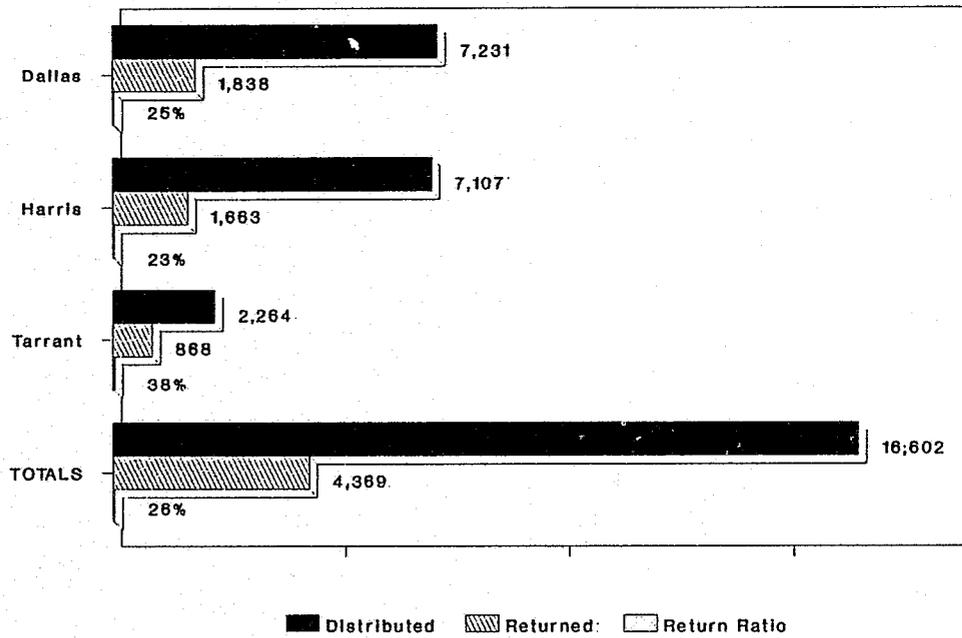
* Statements were distributed but statistics were unavailable, or receipt records not kept.

VICTIM IMPACT STATEMENT SURVEY, continued...

IV. Selected Metropolitan District Attorneys' Offices

Dallas County
Data by Offense

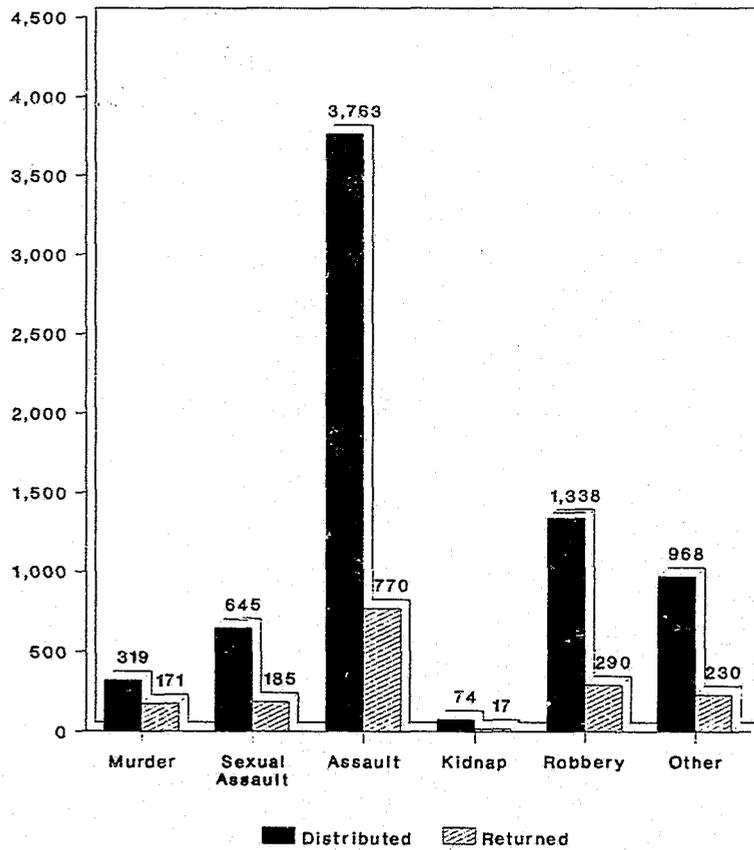
Dallas, Harris and Tarrant County Totals



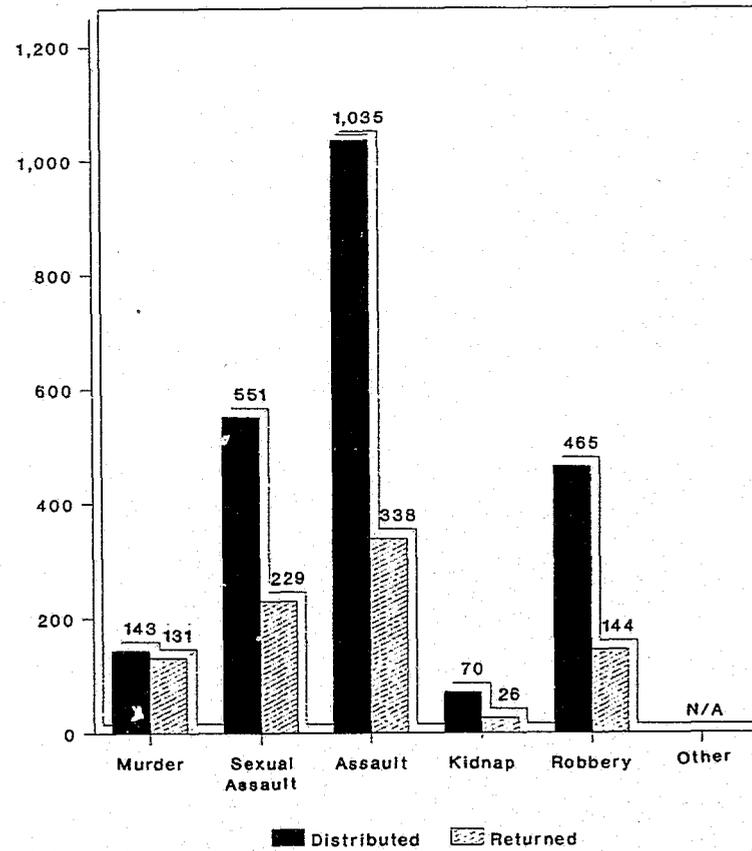
VICTIM IMPACT STATEMENT SURVEY, continued...

IV. Selected Metropolitan District Attorneys' Offices

Harris County
Data by Offense



Tarrant County
Data by Offense



VICTIM IMPACT STATEMENT SURVEY, continued...

V. Distribution Method by County

COUNTY	VIS DISTRIBUTION POINT	VIS DISTRIBUTION METHOD	FOLLOW-UP
Bell	Time charge is filed	Mail	Mail
Bexar	Time charge is filed	Mail	Phone call (if bad address)
Brazoria	After Grand Jury Indictment	Mail	Phone call (if bad address)
Cameron	After Grand Jury Indictment	Mail/Person	Phone call
Collin	After Grand Jury Indictment	Mail/Person	Phone call
Dallas	Time charge is filed	Mail	Phone call
Denton	Time charge is filed	Mail	Phone call/Mail
El Paso	After Grand Jury Indictment	Mail	None
Fort Bend	After Grand Jury Indictment	Mail	None
Galveston	After Grand Jury Indictment	Mail	None
Harris	Time charge is filed	Mail	None
Hidalgo	After Grand Jury Indictment	Phone/Mail	Phone call
Jefferson	After Grand Jury Indictment	Mail	Phone call/Mail
Lubbock	Time charge is filed	Mail	Phone call during the time of case disposition
McLennan	Time charge is filed	Mail	Phone call during the time of case disposition
Montgomery	Time charge is filed	Mail/Person	Mail
Nueces	After Grand Jury Indictment	Person	Phone call
Smith	After Grand Jury Indictment	Mail/Person	None
Tarrant	Time charge is filed	Mail	Phone call (only in sexual assault/homicide)
Travis	Time charge is filed	Mail	Mail

VICTIM IMPACT STATEMENT SURVEY, continued...

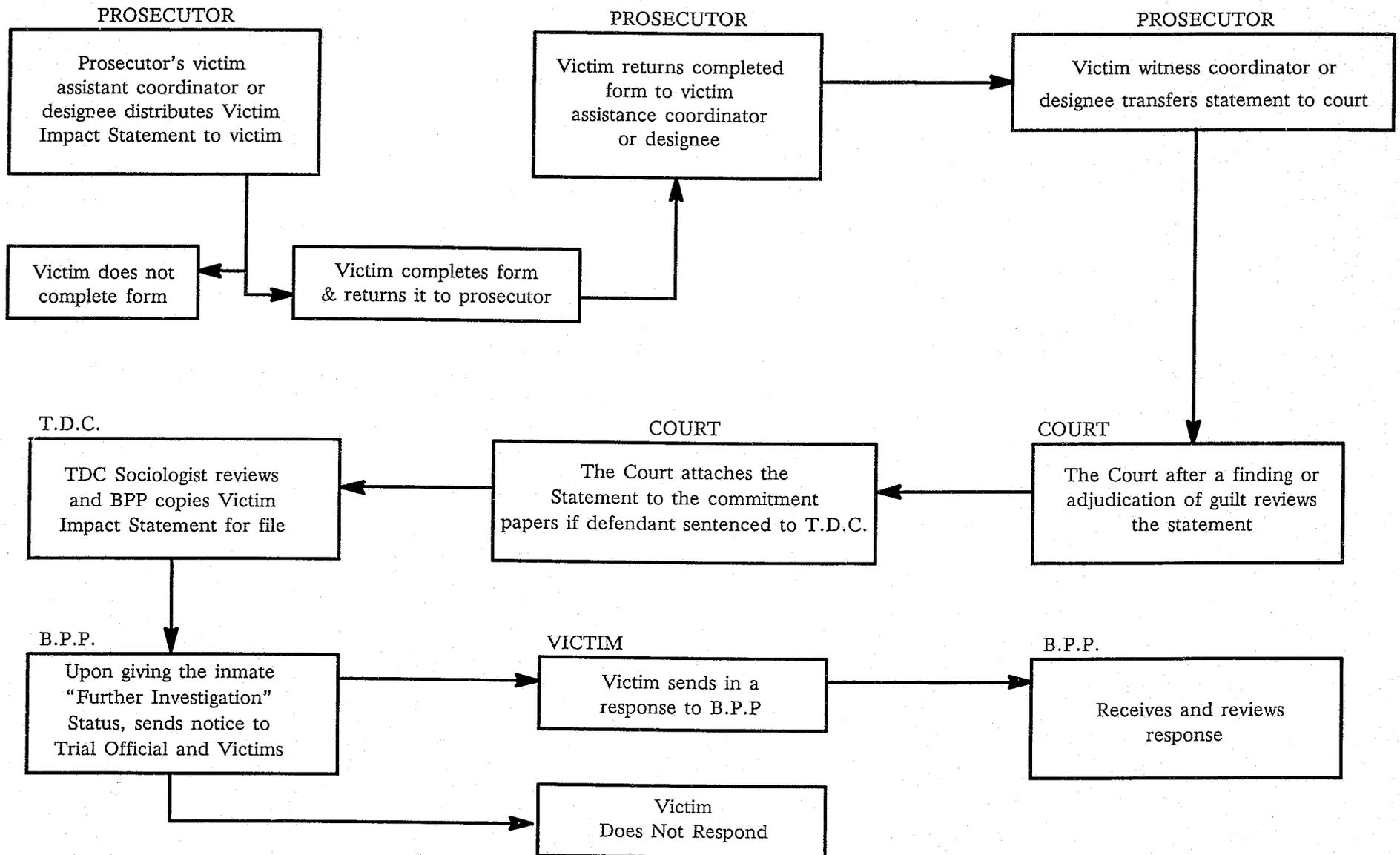
VI. County Participant List

Andrews	Deaf Smith	Kenedy	Reeves
Aransas	Delta	Kerr	Robertson
Archer	Denton	Kimble	Rockwall
Armstrong	Donley	Kleberg	San Jacinto
Atascosa	Ector	Lamar	San Patricio
Austin	El Paso	Lampasas	San Saba
Bandera	Erath	La Salle	Scurry
Bee	Fort Bend	Lee	Sherman
Bell	Franklin	Leon	Smith
Bexar	Freestone	Limestone	Somervell
Borden	Frio	Live Oak	Sterling
Bosque	Gaveston	Lubbock	Tarrant
Brazoria	Giespie	Matagorda	Taylor
Brazos	Grayson	McCulloch	Terry
Brown	Grimes	McLennan	Throckmorton
Burleson	Hall	McMullen	Tom Green
Calhoun	Hamilton	Medina	Travis
Callahan	Harris	Menard	Trinity
Cameron	Harrison	Midland	Upton
Camp	Hartley	Milam	Uvalde
Carson	Hays	Mills	Val Verde
Castro	Hemphill	Montague	Van Zandt
Cherokee	Henderson	Montgomery	Victoria
Childress	Hidalgo	Moore	Waller
Clay	Hill	Nacogdoches	Washington
Cochran	Hockley	Navarro	Webb
Coleman	Hood	Nueces	Wharton
Collin	Hopkins	Ochiltree	Wichita
Collingsworth	Houston	Oldham	Willacy
Comanche	Hudspeth	Orange	Williamson
Concho	Jack	Pecos	Wilson
Cooke	Jefferson	Polk	Wise
Crosby	Johnson	Potter	Wood
Culberson	Jones	Rains	Yoakum
Dallam	Karnes	Randall	Young
Dallas	Kaufman	Real	Zapata
Dawson	Kendall	Red River	

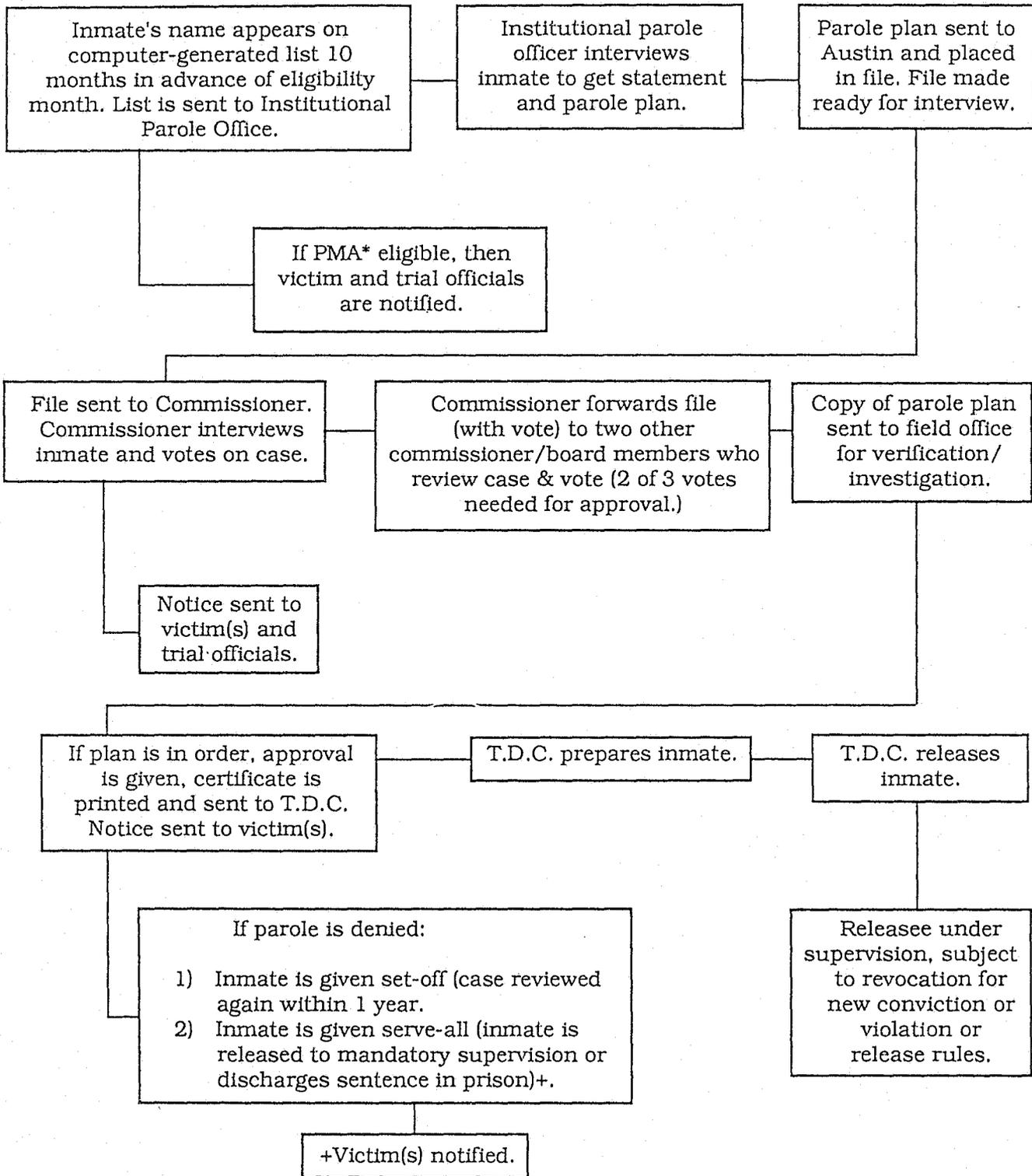
C. FLOW OF THE VICTIM IMPACT STATEMENT THROUGH THE PAROLE PROCESS

- I. Outline of Victim Impact Statement Flow**
- II. Outline of Parole Procedures**
- III. Board of Pardons and Paroles Notices to Victims**
 - Review Consideration*
 - Certificate Notification Letter*

OUTLINE OF VICTIM IMPACT STATEMENT FLOW



OUTLINE OF PAROLE PROCEDURES



53

* PMA = Prison Management Act
 SOURCE: BOARD OF PARDONS AND PAROLES

Board of Pardons and Paroles

Notice To Victims

Review Consideration

Date

RE:

The Board of Pardons and Paroles is currently reviewing the above named inmate for possible release to parole. Review of a case does not mean this inmate will be released. In no event will any inmate be released prior to legal eligibility. The review process is started several months in advance of eligibility in order to comply with existing state law and to provide you with adequate time to respond.

If you are the guardian or close relative of a deceased victim, please inform other persons having an interest in the matter that the inmate is being considered for parole.

To help us with our decision on this case, we ask that you give us your input. As a victim, guardian, close relative of a victim or an interested person in this case, your information is vital to us in insuring that we make an informed decision.

If you wish to express your feelings regarding the parole of this inmate, write your comments on the reverse side of this form and mail to the Board of Pardons and Paroles, P. O. Box 13401, Capitol Station, Austin, Texas 78711, within 10 days of the above date.

Sincerely,

Board of Pardons and Paroles

Board of Pardons and Paroles

Notice to Victims

Certificate Notification Letter

Date

RE:

Pursuant to your request for notice and in compliance with Article 42.18, Section 8 and Section 56.02 of The Texas Code of Criminal Procedure, you are hereby notified that the Board issued a release certificate for the above referenced inmate on / /19 . Please note that the actual release date for a prisoner being released to parole or mandatory supervision is subject to change with the addition or deletion of good conduct time credits. The Board of Pardons and Paroles ("Board") does not control the awarding of time credit for good conduct.

This inmate is to be released for supervision by this Board for the balance of his term of sentence. He will be supervised under the terms and conditions of:

Mandatory Supervision

or

Parole

Very truly yours,

Board of Pardons and Paroles

55

D. PROCEDURE AND COVER LETTER USED IN HARRIS COUNTY

I. Harris County District Attorney's Office Victim Witness Impact
Statement Procedures - 1987

II. Cover Letter Used for Victims of Sexual Assault

*(Paragraph six deleted for victims of other crimes. Salutation
changed when sent to relative of murder victim.)*

HARRIS COUNTY DISTRICT ATTORNEY'S OFFICE
VICTIM WITNESS DIVISION
VICTIM IMPACT STATEMENT PROCEDURES - 1987

1. The Harris County District Attorney's Office accepts a case for prosecution.
2. The intake information sheet from each case accepted for prosecution is xeroxed and delivered to the Victim Witness Division daily, Monday through Friday.
3. Victim Witness Coordinators prepare Victim Impact Statement packages which include:
 - a. Cover Letter
 - b. Victim Impact Statement
 - c. Crime Victims Compensation Application
 - d. Crime Victims Compensation Brochure
 - e. Return Postal Card (Acknowledging Receipt of Package by Victim)
 - f. Texas Crime Victim Clearinghouse Booklet (Future Inclusion)
4. Upon receipt of the package, the victim has the option of completing and returning both the Victim Impact Statement and the Return Postal Card, or the victim may send in the Return Postal Card alone. (If the victim would like assistance with the Victim Impact Statement or the Crime Victims Compensation application, a Victim Witness Coordinator will help the victim complete the paperwork over the telephone or in the office.)
5. The completed Victim Impact Statement is received in the Victim Witness Division.
6. The Victim Witness Coordinator reviews the Victim Impact Statement and signs on the appropriate line as having received the form.
7. A Victim Impact Statement in-house envelope is prepared by the Victim Witness Coordinator. The secretary makes two copies of the Victim Impact Statement. The original and one copy are enclosed in the in-house envelope and sent to the trial prosecutor assigned to the case. A copy is retained in the Victim Witness Division.
8. Upon a plea of guilty, nolo contendere or a finding of guilt, the prosecutor gives the Victim Impact Statement to the sentencing judge for inspection prior to the imposition of sentence.
9. After the judge has imposed sentence, the prosecutor gives the original Victim Impact Statement to the court clerk and gives a copy of the Victim Impact Statement to the court clerk and

gives a copy of the Victim Impact Statement to his/her secretary to attach to the Statement of Facts.

10. If the defendant is sentenced by the jury, the prosecutor gives the original Victim Impact Statement to the court clerk and will again give a copy of the Victim Impact Statement to his/her secretary to attach to the Statement of Facts.
11. The Harris County Sheriff's Office collects the Statements of Facts along with the Victim Impact Statements from the Harris County District Attorney's Office prior to the transportation of defendants to the Texas Department of Corrections. The papers accompany the defendants being transported to the Texas Department of Corrections.
12. If a probated sentence is imposed, the trial prosecutor will give the original Victim Impact Statement to the probation officer and retains a copy of the Victim Impact Statement in the Harris County District Attorney's in-house file. By retaining a copy in the file, it will be readily available if a probation revocation hearing is scheduled in the future.
13. If probation is revoked and the defendant is sent to the Texas Department of Corrections, the probation officer should give the original Victim Impact Statement to the court clerk. The prosecutor then gives the copy of the Victim Impact Statement to his/her secretary to attach to the Statement of Facts.

In addition to the procedure outlined above, the Victim Witness Division provides a back-up system to ensure that Victim Impact Statements completed and returned by victims in Harris County arrive at the Board of Pardons and Paroles. Every three months, all Victim Impact Statements involving Texas Department of Corrections dispositions are pulled from the Victim Witness Division file. The Texas Department of Corrections inmate numbers are obtained from the Harris County Clerk's Office and written on the face page of the Victim Impact Statement. The Victim Impact Statement is then copied and sent directly to the Board of Pardons and Paroles to be placed in the inmate's file. The copy is retained in the Victim Witness Division.

If a victim wishes to complete a Victim Impact Statement after the final disposition in district court, the Victim Witness Division will supply the victim with a form and directions to mail the completed Victim Impact Statement directly to the Board of Pardons and Paroles upon completion. Again, if assistance is needed, the victim can either call or come into the Victim Witness Division office.

Victim Witness Division
Gail S. O'Brien
Director



DISTRICT ATTORNEY'S BUILDING
201 FANNIN, SUITE 200
HOUSTON, TEXAS 77002

JOHN B. HOLMES, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

State of Texas v. (defendant):

Charged With:

Court Number:

Case Number:

Dear :

I am your witness coordinator. Please call me when you receive this letter so I can inform you of the status of your case. I will explain the court process to you and try to answer any questions you may have.

Enclosed you will find three items. If you need help filling them out, please call me. I can assist you over the telephone or make an appointment to meet with you in my office.

1) The Victim Impact Statement: This form is used to gather information which will help the prosecutors, courts and correctional agencies. Please return this form to the Witness Office as soon as possible.

2) Crime Victims Compensation Application: An application for state financial assistance for victims of violent crimes. After this form has been completed, it should be mailed directly to the Austin address listed on the application.

3) Green Post Card: A post card acknowledging receipt of the Victim Impact Statement. After completing this card, please return it to the Victim Witness Division as soon as possible. You may enclose it with the Victim Impact Statement.

As a victim of sexual assault, once the defendant is indicted, you have the right under Article 21.31 of the Texas Criminal Procedure - Code and Rules to request that the judge order the defendant to undergo a medical test for sexually-transmitted diseases (including AIDS). If you wish to exercise this right, please contact me as soon as possible. If you receive such test results in the future concerning the defendant, remember that these results are confidential. Of course, you have the right to share your own medical records and the results from any tests you may decide to take with any person you choose.

The Victim Witness Division is part of the Harris County District Attorney's Office and was created to help you with any questions you may have. If you move, change jobs or get a new telephone number, please contact me. My office has lists of counselors who can talk with you over the telephone, come to your home, arrange group or private sessions, or talk to family members or concerned friends. Many services are free or on a sliding-scale basis. Please contact me if I may be of assistance to you.

Sincerely,

Ms. North
Witness Coordinator 221-6655

**E. TARRANT COUNTY VERIFICATION FORM RECOMMENDED
FOR STATEWIDE USE**

(See discussion on page 30 and page 32)

**** This form can be reproduced from this report ****

Cause Number _____

State of Texas

v6.

The _____ County Criminal District Attorney's Victim Assistance Office has complied with Chapter 56.03(c) C.C.P. in the above referenced cause number. This verification is attached in the absence of a Victim Impact Statement to accompany the commitment papers to the Texas Department of Corrections for one of the following reasons:

- _____ The Victim Impact Statement has not been returned by the victim, guardian or close relative.
- _____ Mailing attempts by the Victim Assistance Office were unsuccessful, or a notification of next-of-kin was unavailable.
- _____ Other: _____
- _____
- _____

Verified through Victim Assistance records this _____ day of _____, 19 _____.

(Verified by)

Acknowledgments

Numerous individuals and organizations have assisted in this survey and in the development of the victim impact statement: Nell Myers, Joyce Isaacs, Geraldine Mason, and Bob Stearns of People Against Violent Crime; Janie Wilson, Jennifer Wilson, and Judy Wilbanks of We the People; Patsy Day of Victims Outreach; former Representative Gerald Hill; Representative Bob Richardson; Representative Dan Morales; Representative Terral Smith; Representative Sam Johnson; Representative Juan Hinojosa; former Senator Ray Farabee; Senator Frank Tejeda; Senator John Montford; Senator Kent Caperton; Senator Bob McFarland; Gary Kansteiner of the Texas Legislative Council; Paul Tanner, Barbara Slaughter and Betty Colonna of the Board of Pardons and Paroles; Don Stiles and David Spenser of the Texas Adult Probation Commission; James Lynaugh, S.O. Woods and Carl Jeffries of the Texas Department of Corrections; John B. Holmes, Jr., Gail O'Brien, and Ray Speece of the Harris County District Attorney's Office; Anita Moss of the Dallas County District Attorney's Office; Shari Shanafelt of the Tarrant County District Attorney's Office; Queen Walker of the Brazos County District Attorney's Office; "Cappy" Eads, Jill Shaw, and Kathy Phillips of the Bell County District Attorney's Office; Tom Krampitz of the Texas District and County Attorneys Association; Honorable Steve Capelle, U.S. Magistrate; Dan Eddy of the National Association of Attorneys General; Chris Edmunds, Kathy Adams-House, Scott Beard, and Diane Alexander of the National Organization for Victim Assistance; Jane Kellogg and Joni Sager of the Governor's Criminal Justice Division; and all other victims, prosecutors, victim assistance coordinators, and judges who participated in the survey. To all we gratefully acknowledge your assistance.

Suzanne McDaniel, Director
Maureen L. Wilks, Administrative Assistant
Texas Crime Victim Clearinghouse