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STATE OF TEXAS
OFFICE OF THE GOVERNOR
AUSTIN, TEXAS 78711

NCJRS

OCT 24 1989

WILLIAM P. CLEMENTS, JR.
GOVERNOR

ACQUISITIONS

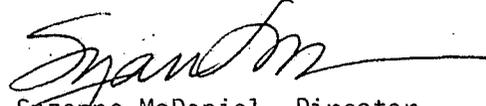
TO: Members of the 70th Legislature

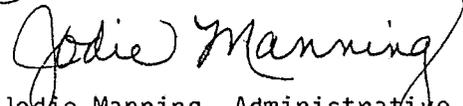
Pursuant to its legislative mandate under Article 56.05 of the Code of Criminal Procedure, the Texas Crime Victim Clearinghouse herewith transmits its report on the implementation of the Victim Impact Statement as detailed in the Texas Crime Victim Bill of Rights.

The following text presented for your consideration resulted from data gathered during the past eighteen months in personal and telephone interviews with prosecutors, victim assistance coordinators, judges, the Texas Department of Corrections, the Board of Pardons and Paroles, victim advocacy groups, and victim assistance service providers.

The Victim Assistance Programs of the Harris, Dallas, and Tarrant County District Attorney Offices collected and submitted detailed information for this report on not only the number of victim impact statements sent and returned, but also the type of offense involved. The Board of Pardons and Paroles provided all statistical data on the post-sentencing flow of the victim impact statement and made an extraordinary effort in following through on those impact statements received that were incomplete or partially illegible. Your time in reviewing this document is appreciated.

Sincerely,


Suzanne McDaniel, Director
Texas Crime Victim Clearinghouse


Jodie Manning, Administrative Aide
Texas Crime Victim Clearinghouse

U.S. Department of Justice
National Institute of Justice

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CRIME VICTIM
I M P A C T

A Report to the

70 th

Legislature

Texas Crime Victim Clearinghouse
Office of the Governor

William P. Clements, Jr.
Governor of Texas

1987

Justice, though due to the accused is due the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true.

Supreme Court Justice Benjamin Cardozo
Snyder v. Massachusetts (1934)

Balancing competing interests and equities in determining a sentence requires Solomon-like wisdom and even Solomon heard from both sides. When the court hears from the defendant, his attorney, his family and friends, his minister and others, it seems only fair that the person who has borne the brunt of the crime be allowed to speak. It is he who has looked down the barrel of the criminal's gun and who must reconstruct his life in the aftermath of crime.

The goal of victim participation in sentencing is not to pressure justice, but to aid in its attainment. 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,
South Texas Law Journal (1985)

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SUMMARY

The Texas Crime Victim Bill of Rights was created by statute with the passage of House Bill 235 during the 69th Session of the Texas Legislature. Art. 56 *et seq.* of the Code of Criminal Procedure, "Rights of Crime Victims," defines "victim," details crime victims' rights, 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 70th Legislature by the Texas Crime Victim Clearinghouse.

Preface

The Second Assault

These are the direct injuries victims may suffer: financial, physical, and emotional. But, as if that were not enough, society and the criminal justice system add to the list with what some call the "second assault". The victim is often stigmatized by society and excluded by the criminal justice system.

Friends and neighbors may blame him for the victimization—seeking a way to distinguish his plight from their own vulnerabilities. If he is to blame, then it is understandable that he was victimized; they will not be victimized since they would not precipitate such retribution for their stupidities. Rapes, murders, and assaults are presumed not to happen to "good" people.

While the victim may need to talk about the incident, others rarely want to hear about it. It is painful to acknowledge the brutality of crime and it is frightening to face the possibility that it could happen to you. So friends and family may in time turn away.

And if the victim is unfortunate enough to become involved in the criminal justice system, the "second assault" lasts even longer. Most victims and witnesses are important primarily because they are the best evidence in the case. Their role is limited to serving in that capacity. Hence, in most jurisdictions victims and witnesses receive little or no information about a case, they are subject to long delays and postponements in the proceedings, they are asked to participate without compensation for days away from work, without reimbursement for transportation or other out-of-pocket expenses, they may be placed on the witness stand with little or no preparation, and they may never be informed of the case outcome. Along the way, they may have been fingerprinted, subjected to the humiliation of a rape exam, denied the possession of their property, or made an object of intense public scrutiny in the media.

Little wonder that many victims—particularly victims who have already experienced crime and its aftermath on other occasions—may not report a crime to the police, may later refuse to cooperate with the prosecutors, and may even avoid telling their loved ones of the incident.

By contemplating the direct and secondary injuries inflicted on victims, the services and rights to which victims are beginning to lay claim become more understandable. [The NOVA Victim Service Guide is found at Appendix B]

National Organization for Victim
Assistance/Training Guide for Prosecutors

Introduction

"Perry Mason in Wonderland"

Charles Silberman, *Criminal Justice, Criminal Violence*

According to Texas public opinion polls on the effectiveness of the criminal justice system conducted over the last decade an increasing number of the public seems to share Mr. Silberman's description of the criminal court system. Often the first experience that the public has of the system, other than television dramas where the criminal is caught and convicted in thirty minutes with time for commercials, is as a victim of crime. If the suspect is apprehended, charged and brought to trial, what the victim experiences is something actually more similar to the trial scene from *Alice in Wonderland*: a crowded courtroom, in which the victim is ignored or excluded and the prosecutor spends more time speaking with the defendant, the defense attorney and the judge, than to the victim, if at all.

Victims call the toll-free information and assistance number of the Texas Crime Victim Clearinghouse weekly, expressing frustration on finding that their case has been disposed and yet no one from the prosecutor's office has spoken to them or that an inmate has been released without their knowledge.

This is the same frustration—the lack of information and involvement in the legal process—that has resulted in the enactment of state and national legislation involving victims' rights. 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. A brief federal and state perspective on the victim impact statement follow.

President's Task Force on Victims of Crime

In 1982, President Reagan appointed the Task Force on Victims of Crime, charging its members to conduct a series of hearings across the nation on the treatment of crime victims and to publish their findings and recommendations. Their findings revealed a system of justice that often re-victimized those it was designed to protect. Chairman Lois Haight Herrington states:

More than 50% of violent crime goes unreported. . . The criminal knows that his risk of punishment is miniscule. A study of four major states revealed that

Introduction, continued . . .

only 9 percent of violent crimes reported were resolved with the perpetrator being incarcerated.

Victims who do survive their attack, and are brave enough to come forward, turn to their government expecting it to do what a good government should—protect the innocent. The American justice system is absolutely dependant upon these victims to cooperate. Without the cooperation of victims and witnesses in reporting and testifying about crime, it is impossible in a free society to hold criminals accountable. When victims come forward to perform this vital service, however, they find little protection. They discover instead that they will be treated as appendages of a system appallingly out of balance. They learn that somewhere along the way the system has lost track of the simple truth that it is supposed to be fair and to protect those who obey the law while punishing those who break it. Somewhere along the way, the system began to serve lawyers and judges and defendants, treating the victim with institutionalized disinterest.

President's Task Force on
Violent Crime
Final Report/December 1982.

The **Final Report** contains 68 recommendations, some requiring legislative change and others suggesting existing procedures be modified to include common courtesy and sense. Pertinent to this report are those recommendations requiring that notice be given to the victim of pre-trial, trial and sentencing settings, as well as dates for parole hearings and release. Additionally, the Task Force recommends that the effect of the crime upon the victim be considered during bail decisions, continuances, plea bargains, dismissals, sentencing, restitution, and parole. On the topic of victim input at sentencing and parole, the Task Force recommends that:

- Prosecutors establish procedures to ensure that victims are given notice of case settings and provided the opportunity to make their views known in writing and in person of the nature of the crime and the full effect that it has had on them and their families.
- Judges allow for, and give appropriate weight to, input from victims of violent crime at sentencing.
- Parole Boards notify victims in advance of parole hearings and release and that the effect of the offender's crime on the victim be taken into consideration in making the parole decision.

The following legislative recommendations have been enacted on the Federal level with the passage of the "Omnibus Victims Protection Act of 1982," a copy of which is included in Appendix C, along with the "Federal Guidelines for Fair Treatment of Crime

Introduction, continued . . .

Victims and Witnesses" and the amended version of Rule 32(c) of the Federal Rules of Criminal Procedure (requiring a victim impact statement at sentencing). Executive and Legislative Recommendation 10 of the Task Force states that legislation should be proposed and enacted that would:

- a. Require victim impact statements at sentencing;
- b. Provide for the protection of victims and witnesses from intimidation;
- c. Require restitution in all cases, unless the court provides specific reasons for failing to require it;
- d. Develop and implement guidelines for the fair treatment of crime victims and witnesses;
- e. Prohibit a criminal from making any profit from the sale of the story of his crime. Any proceeds should be used to provide full restitution to his victims, pay the expenses of his prosecution, and finally, assist the crime victim compensation fund. [See Texas Crime Victim Compensation Act, Art. 8309-1 V.A.T.S.]

Texas Commission on Sentencing Practices and Procedures

The 68th Legislature, recognizing the need to recommend solutions to the sentencing problems in the State, established the Commission on Sentencing Practices and Procedures through Senate Concurrent Resolution (SCR) 124. Among the charges to the Commission by the Legislature, relevant to this report, were to:

- (1) determine whether current sentencing practices and procedures achieve the goals of the criminal justice system and promote public confidence in the system;
- (5) determine whether current plea negotiation practices serve the best interests of the criminal justice system and the public . . .

The Commission conducted meetings and public hearings throughout 1984 and presented its findings to the 69th Legislature in January, 1985. Now, as in 1985, Texas is experiencing a crisis in the criminal justice system. The following Commission findings, relevant to this report, hold even more true today:

Confidence in the System:

- (6) There is significant dissatisfaction with the operation of the criminal justice system. Much of the dissatisfaction stems from the size and complexity of the

Introduction, continued . . .

system, the overlapping responsibilities in the system, and the lack of information about the system.

- (7) Other sources of dissatisfaction include fear and concern over a crime rate seemingly immune from state policy, helplessness and frustration caused by the inability to affect that rate, alienation and distrust of the individual citizen toward the system, misunderstanding of the public and state and local officials as to who is responsible for what in the system, and unrealistic expectations about what the system can achieve.

Plea negotiations, jury sentencing, and sentencing information:

Current plea negotiation practices do serve the interests of the public and the system, but the judge assessing the sentence often has insufficient information upon which to base the ultimate decision.

The lack of sentencing information also inhibits sound decision making by the other components of the system, including the Board of Pardons and Paroles and the Department of Corrections.

In its summary of recommendations, the Commission calls upon the State to enact policies designed to bring the victim into the sentencing process by providing the victim:

- A. 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;
- B. 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
- C. The right to be informed of court and Board proceedings concerning the defendant, when requested by the victim.

In the discussion of the necessity for information to be made available to those who make sentencing and parole decisions, the Commission notes a glaring inconsistency in current 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. **The basic reason is a breakdown in the transferral of necessary information from the courts to the agencies.** [emphasis added]

The Commission makes the recommendation that the Code of Criminal Procedure be amended to require that commitment documents accompany the defendant to the

Introduction, continued . . .

Department of Corrections and that the Department shall not accept a defendant until the director receives the commitment documents. (enacted, Art. 42.09, Sec.8, Texas Code of Criminal Procedure)

Additionally, the Commission notes that while current law provides for presentence reports, the requirement is usually evaded. The Commission recommendation that sentencing investigation reports be provided for all defendants committed to T.D.C. was not enacted, including the provision that:

Sentencing investigation reports shall contain information relating to the circumstances of the offense with which the defendant is charged, the seriousness of the crime, the criminal and social history of the defendant, **impact of the offense on the victim and victim's family**, and any available alternatives to incarceration that do not increase the risk of harm to the public. [emphasis added]

Texas Crime Victim Bill of Rights

In 1979, the Legislature enacted the Texas Crime Victim Compensation Act. (Art. 8309-1 V.A.T.S.) The Act authorizes the establishment of a fund constituted of fines from those convicted of crime to be administered by the Industrial Accident Board. The fund provides reimbursement for those uninsured victims of violent crime for funeral, medical, and counseling expenses, in addition to lost wages.

In 1983, with the realization that compensation alone could not deal with victims' lingering physical and psychological injuries—nor the “second assault” of having to navigate the seeming maze of unfamiliar legal jargon and procedure that constitute our criminal justice system - the 69th Legislature passed H.B. 235, “The Texas Crime Victim Bill of Rights,” to afford crime victims certain rights to information, referral, and involvement in the system. A summary of Art. 56, *et seq.*, Code of Criminal Procedure, “The Rights of Crime Victims” follows; the complete text is found at Appendix D.

Article 56.01, defines “victim” as one who is the victim of sexual assault, kidnapping, or aggravated robbery or as one who has suffered bodily injury or death as a result of the criminal conduct of another. Included in this definition are the “close relative of a deceased victim” and the “guardian of a victim,” the legal relationship established because of either age or physical or mental incapacity. References in this report to “victim” are inclusive of the above.

Tracking in part the Federal Guidelines for Fair Treatment of Crime Victims and Witnesses in Criminal Justice System (Appendix C), the Texas Crime Victim Bill of Rights details these limited rights for victims:

1. the right to receive from law enforcement agencies adequate protection from harm and threats arising from cooperation with prosecution efforts;
2. the right to have the magistrate take the safety of the victim or his family into consideration in setting the amount of bail;
3. the right, if requested, to be informed of relevant court proceedings, cancelations and reschedulings;
4. the right to be informed, when requested, of procedures in the investigative process by law enforcement and of procedures in the criminal justice system, including general procedures in plea negotiations by the district attorney's office;

Texas Crime Victim Bill of Rights, continued . . .

5. the right to provide pertinent information to a probation department conducting a presentencing investigation concerning the impact of the offense on the victim and his family, prior to any sentencing of the offender;
6. the right to receive information regarding compensation and, when requested, to referral to available social service agencies;
7. the right to be notified, if requested, of parole proceedings concerning a defendant in the victim's case and to provide to the Board of Pardons and Paroles for inclusion in the defendant's file information to be considered by the Board prior to parole;
 - (a) the right to be present at all public court proceedings related to the offense, subject to the approval of the judge in the case.

The District Attorney's Office is given the duty to ensure to the extent practicable that the victim is provided the above rights. 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.

Victim Impact Statement

Article 56.03, Victim Impact Statement, directs the Texas Adult Probation Commission and the Board of Pardons and Paroles to develop a form to be used by law enforcement agencies, prosecutors, and other participants in the criminal justice system to record the impact of the offense on the victim and to provide the agencies, prosecutors, and participants with information needed to contact the victim if needed at any stage of the process. The "Victim Impact Statement" must be in a form to include and collect:

1. the rights of the victim as detailed above;
2. the name, address and telephone number of the victim or relative through which the victim may be contacted;
3. a statement of economic loss;
4. a statement of any physical or psychological injury suffered by the victim as a result of the crime, as described by the victim, physician, or counselor;
5. a statement of any psychological services requested as a result of the offense;

Texas Crime Victim Bill of Rights, continued . . .

6. 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;
7. 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 T.D.C.;
8. a statement of any other information other than facts related to the offense related to the impact of the offense on the victim.

The Victim Impact Statement is to be used by the court prior to the imposition of sentence in a criminal case. If a victim impact statement has been received prior to sentencing, Art. 56.03(e) mandates that the court shall consider the information. Article 56.04 directs the criminal district attorney, or county attorney performing the duties of district attorney, with jurisdiction over an area in which the population is 150,000 or more to designate a victim assistance coordinator. The victim assistance coordinator or designee of the prosecutor's office shall send a copy of the victim impact statement to the court sentencing the defendant. If the court sentences the defendant to T.D.C., the court shall attach the copy of the victim impact statement to the commitment papers.

Reports Required

The Texas Crime Victim Clearinghouse is directed by Art. 56.05 to prepare and submit to the 70th Legislature a report of its findings developed from a survey in cooperation with the Board of Pardons and Paroles and the Texas Adult Probation Commission of 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.

Texas Crime Victim Clearinghouse

Recognizing that there was little or no coordination for victim services in Texas and no mechanism to ensure replication of exemplary programs and procedures, the Governor's Criminal Justice Division funded a grant in 1983 to establish the Texas Crime Victim Clearinghouse as a division of the Governor's Office.

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; prosecutors; the judiciary; correction 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, in order to improve the treatment of victims from the crime to the courts. The Clearinghouse has become a model for other states and in 1984, received the Outstanding Program nomination from the National Organization for Victim Assistance. Clearinghouse operations include:

- **A toll-free resource and referral line** that has received over 15,000 inquiries since its inception, January 20, 1984.
- **The Crime Survivor Assistance Resource Directory**, the result of a survey of state and community services. The up-date of the directory is ongoing as a resource for the toll-free assistance line. Ten thousand directories have been published and distributed to medical, legal, and social service providers.
- A quarterly newsletter, the **Texas Crime Victim Clearinghouse News**, with a circulation of 15,000 legal, medical and social service providers, community officials and victim advocacy groups, provides information on exemplary programs, legislative developments, and educational articles.
- **Regional workshops** held each summer in cooperation with the Texas District and County Attorneys Association provide training for criminal justice professionals on the Crime Victim Bill of Rights, the victim impact statement, domestic violence and guidelines to implement victim assistance procedures.
- **The Governor's Annual Training Conference on Victim Assistance** offers a multi-disciplinary approach to training and is held each year with the cooperation of the State Bar of Texas, the Texas District and County Attorneys Association, and the National Organization for Victim Assistance. This year the Clearinghouse will hold an invitational conference to establish standards and continuing education requirements for victim assistance.

Texas Crime Victim Clearinghouse, continued . . .

- **The Crime Victim Assistance Resource Manual**—a guide for prosecutors is published and distributed to assist prosecutors in implementing improved procedures for the treatment of victims in a cost-effective manner. The manual is to be up-dated and expanded in 1987.
- Public Education and Awareness activities include a forum held during **Crime Victims Rights Week**, the third week in April of each year for victim advocates, and a series of public service announcements developed by 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 has provided **technical assistance and evaluation** to some 175 emerging and existing programs based in: police agencies; civil groups; rape crisis centers; domestic violence shelters; district and county attorneys offices; and other types of direct service agencies and community victim advocacy organizations.
- The Clearinghouse serves as staff, with the assistance of staff from the Criminal Justice Division, for the Governor's Advisory Council on Victim Assistance developing guidelines and distributing information concerning the federal **Victims of Crime Act** that provides Texas with 2.3 million dollars in grants to direct service providers of victim assistance.

Development of Victim Impact Statement Form

The Texas Adult Probation Commission and the Board of Pardons and Paroles by direction of Art. 56.03, Code of Criminal Procedure met in July of 1985, to develop a form to be used to collect and record victim impact information, detail crime victim rights and parole procedures. David Spencer, Counsel for the Commission, issued a call for comment on July 5, 1985, to prosecutors, judges, correction personnel and victim rights groups. Model forms from Maryland and South Carolina were studied along with the Washington Legal Foundation's format. Attending a meeting for the purpose of comment on the development of the victim impact statement on August 21, 1985, in Austin, Texas were:

Harris County District Attorneys Office	Doug Boyer, Adm. Assistant Bert Graham, Chief, Trial Bureau Gail O'Brien, Director, Witness Office	Houston
Texas District & County Attorneys Association	Steve Capelle, Director	Austin
Dallas County District Attorneys Office	Rider Scott, Chief Felony Prosecutor	Dallas
Board of Pardons and Paroles	John Byrd, Executive Director Barbara Slaughter, Information Specialist Betty Colonna, Computer Services Manager	Austin
Texas Commission on Law Enforcement Standards and Education	Fred Toler	Austin
Criminal Justice Policy Council	Gene Draper, Planner Tony Fabelo, Research Associate	Austin
Tarrant County District Attorneys Office	Margaret Ellis, Victim Assistance Director	Fort Worth

Development of Victim Impact Statement Form, continued . . .

Texas Crime
Victim
Clearinghouse

Suzanne McDaniel, Director

Austin

Texas Adult
Probation
Commission

David Spencer, Counsel

Austin

On September 10, 1985, the Texas Adult Probation Commission published a notice for comments in the **Texas Register**. (Appendix E) Additional comments were solicited in eight regional training seminars held for criminal justice professionals across the state by the Texas District and County Attorneys Association and from the Travis County Adult Probation Advisory Committee on Victim Assistance.

In addition to the content of the form and the flow of the victim impact statement, evidentiary and privacy concerns as well as possible overlaps with the Pre-Sentence Investigation Form used by the Texas Adult Probation Commission were discussed. Then, as now, police, prosecutors, judges, and the probation and parole system were overburdened. The Crime Victim Bill of Rights called for many new duties for prosecutors with no additional funding. The Board of Pardons and Paroles staff was directed to implement the flow of the Victim Impact Statement in their agency with no additional staff.

As a result of these meetings and solicited commentary, a final form was published and distributed to all District Attorneys, Criminal District and County Attorneys and Victim Assistance Coordinators on October 30, 1985, by the Texas Adult Probation Commission. The Fall/1985 edition of the **Texas Crime Victim Clearinghouse News** (Appendix E) containing a copy of the victim impact statement form and a request for comments was circulated to: police; sheriffs; prosecutors; victim assistance coordinators; judges; probation offices; rape crisis centers; domestic violence shelters; crisis hotlines; hospitals; elected officials; and victim advocacy organizations.

The final draft of the form, as distributed by the Texas Adult Probation Commission, consists of three sections. The first page contains a statement of Crime Victim's Rights, the referral for protection and information to the district attorneys office, the caveat that some of the information on the form may be made public or revealed to the defendant through the discovery procedure, and an explanation of the parole process and how to obtain notification of parole proceedings. The first page of the form, with release information on the back, is intended for the victim to keep for reference.

The second page of the form, collecting the victim's name, the name of the guardian of the victim or the close relative of a deceased victim, and the name of a permanent contact

Development of Victim Impact Statement Form, continued . . .

through whom the victim may be reached, is intended to be kept separate from the actual victim impact statement until the statement is sent to the court to protect the privacy of the victim, if the statement is shown to the defense counsel as a part of the discovery procedure.

The final two pages of the form are for the collection of information concerning financial loss, physical injury, psychological injury and subsequent treatment, and any effect the crime has had on the personal welfare of the victim or the victim's relationship with his family. The final page of the form states that the Board of Pardons and Paroles will be provided with a copy of the statement if the defendant is sentenced to T.D.C., and that if victims wish to be notified when the defendant is considered for parole, that they must so note on the form and inform the Board of any change in their address. Space is left at the end of the form so that the victim may make other comments, with the caveat that the victim should not relate any facts about the commission of the offense, as these facts are available in other reports.

The Dallas and Harris Counties District Attorneys Offices elected to use forms of their own development as they felt the final form too complex and left too many blanks for narrative statements. As this was the first time for the use of a victim impact statement, prosecutors were concerned that the statement might be utilized as a prior written statement by the defense and thus might subject the victim to impeachment. These forms are found at Appendix E.

Flow of the Victim Impact Statement

Prosecutor

The victim impact statement is to be distributed by prosecutors or their designees to all victims of violent crime. Article 56.04 requires that the district attorney or the district attorney's designee provide the court with a completed victim impact statement, if one has been received. Prosecutors serving jurisdictions that include a population of 150,000 or more are required to designate a victim assistance coordinator. A table of those prosecutors and coordinators serving populations of 150,000 or more is found at Appendix A, along with a listing of designees for those surveyed counties or jurisdictions serving areas with a population of 150,000 or less.

Court

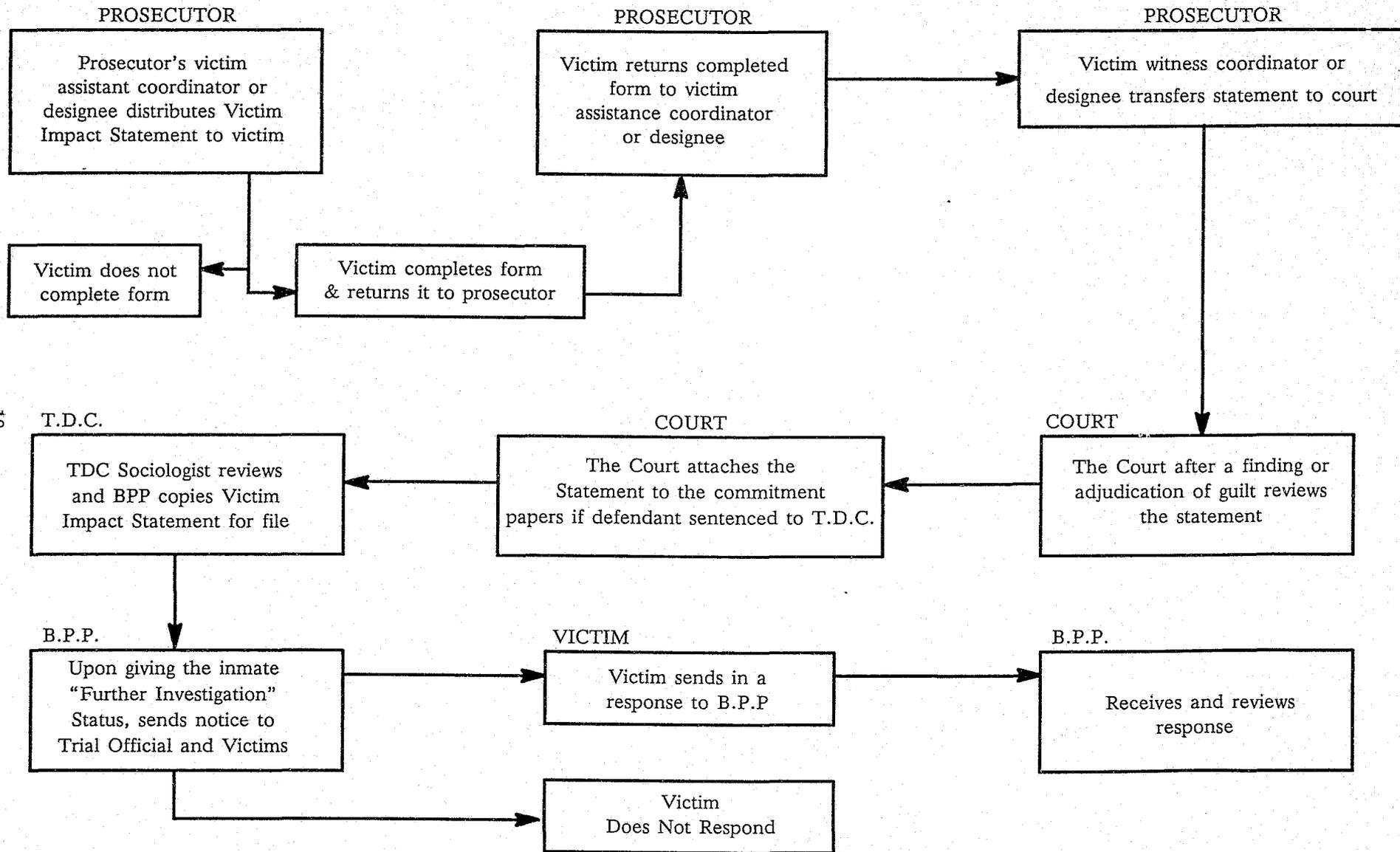
The victim impact statement is subject to discovery under Art. 34.14 of the Texas Code of Criminal Procedure before the testimony of the victim is taken, only if the court determines that the statement contains exculpatory material. Before sentencing, the court shall allow the defense a reasonable time to read the statement. With the approval of the court, the defense may introduce testimony or other information alleging a factual inaccuracy. The Court shall consider the victim impact statement, if one is received, after a finding or plea of guilty or nolo contendere and prior to sentencing.

Post-Sentencing

If the defendant is sentenced to the Texas Department of Corrections, the court shall attach the copy of the victim impact statement, if it has received one, to the commitment papers. The Parole Board shall then contact the victim if the victim has so requested, of any parole hearings, and consider the victim impact statement in their review for parole.

A diagram of the flow of the victim impact statement from the filing of the charge in a violent crime through the parole process follows.

OUTLINE OF VICTIM IMPACT STATEMENT FLOW



T.D.C.=Texas Department of Corrections
 B.B.P.=Board of Pardons and Paroles

Victim Impact Statement Implementation Survey Method

During the meetings held to develop the victim impact statement form, it was decided to concentrate survey efforts on those metropolitan district attorney offices having established victim assistance offices and computer capability. It was felt that these offices had the ability to provide more complete statistical data.

The Clearinghouse worked closely with the Harris, Dallas, and Tarrant County District Attorneys offices. These three offices agreed to keep a total of how many victim impact statement forms were distributed, and how many were returned with a break down by offense.

The other thirty-three jurisdictions serving populations of 150,000 or more were contacted by telephone for information on how many victim impact statements went out and how many were returned. In addition, a random, regional survey of 113 of those district attorneys offices serving jurisdictions of 150,000 or less was conducted to obtain the number of victim impact statements distributed and the number returned.

Note should be taken of overlaps, as in some instances a judicial district may be composed of several counties and served by more than one district attorney, and that some county attorneys have criminal as well as civil jurisdiction.

Prosecutors and victim assistance coordinators or designees were questioned on the following implementation procedures used in their 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 any problems with the implementation of the statement. A table of the district attorneys serving jurisdictions with populations of over 150,000 and their designees is shown at Appendix A, along with those jurisdictions randomly contacted by region serving jurisdictions of less than 150,000.

Additionally, a questionnaire on the use of the form was provided to the 22 district court judges in Harris County and another to the prosecutors in their courts. Judges were also surveyed in Bastrop, Collin, Galveston, Montgomery, Taylor, and Wichita Counties using

Victim Impact Statement Implementation Survey Method, continued . . .

the Harris County form. Informal comments on judicial usage of the impact statements were taken during interviews with prosecutors offices and judges.

Interviews were also conducted on the implementation flow of the form with: the Texas Adult Probation Commission; the Board of Pardons and Paroles, central office in Austin and Huntsville Institutional Services office; and the Texas Department of Corrections. Additionally, information on the implementation of the impact statement was provided by victims and victim advocacy groups.

Victim Impact Statement Survey Findings

Distribution

In the majority of jurisdictions, the victim witness coordinator or prosecutor's designee sends the impact statement to the victim when the case is filed. Brazos and Bell County send out the statement with a stamped, self-addressed return envelope. In Limestone County, the coordinator personally assists the victim in completing the impact statement. Bastrop and Jefferson County coordinators work closely with the domestic violence shelters and rape crisis centers in distributing the form. Smith County and the Hemphill/Gray/Lipscomb/Roberts and Wheeler County offices have designated a staff member from the family violence shelter as the victim assistance contact to distribute the impact statements.

Brazos, Collin, Dallas, Midland, and Tarrant Counties have established follow-up procedures to ensure the return of impact statement to the prosecutors office. The coordinator for Cameron County works closely with the probation department. In this county, emphasis is placed on distributing the victim impact statement where the defendant waives the presentence report investigation.

In addition to Dallas and Harris Counties, Limestone and Wichita Counties have now developed their own victim impact statement form. (Appendix E)

After consultation with the Adult Probation Commission it was decided that local district attorney offices could best prepare their own Spanish translation of the victim impact statement. The larger metropolitan victim assistance programs have developed translator contacts for other languages to assist the victim in completing the form.

The Bexar County District Attorneys Office does not distribute victim impact statements at this time, although planning is underway to designate a victim assistance coordinator and to distribute the statement. The office has been concerned about the confidentiality of the statement in the past, and in addition feels that it may be duplicative, as Bexar County judges currently rely heavily on the presentence investigation report, and one judge requires that the victim be informed of the plea before the case is disposed.

Several counties including Hidalgo, Jefferson and Brazoria have distributed the statements, but have not kept any records of the numbers sent or returned.

Victim Impact Statement Survey Findings, continued . . .

Prosecutor Distribution and Return Results

During the period of November 1, 1985 through December 31, 1986, Dallas, Harris, and Tarrant Counties sent out 9,229 victim impact statements: 3,911 were returned. A table illustrating the individual rates of these counties and a table diagramming the breakdown of the types of crime and the rate are found at Appendix A.

Of the other jurisdictions surveyed, 4,970 statements were distributed and 1,939 were returned. A table noting the distribution and return rate of the counties involved is found at Appendix A.

Some prosecutors commented that their reluctance in distributing the victim impact statement is due to the judges lack of consideration of the statement at sentencing. Two jurisdictions felt it was a waste of time, as the statement duplicated the presentence investigation report. Finally, some prosecutors felt that they lacked sufficient staff and resources to distribute the statement.

Prosecutor's initial concern about the issue of the defense counsel's moving for discovery of the victim impact statement prior to trial as an impeachment tool and defense objections at sentencing to the consideration of the impact statement by the court, prove unfounded in practice. One prosecutor tried to introduce the statement at sentencing before a jury in lieu of the victim, as the victim was elderly and was experiencing trauma after her trial testimony. The judge ruled against the introduction of the statement after objection from the defense counsel.

Note: As of this writing, the U.S. Supreme court has agreed to hear arguments from the Maryland Attorney General's Office and from a convicted murderer on whether the state can use victim impact statements in a death penalty case (*Booth v. Maryland*, No.86-5020) Arguments in the case will be heard in the spring of 1987. The defense argument centers on the assertion that the use of the statement is unconstitutional under the Eighth and Fourteenth Amendments as "any basis for imposing a death sentence which relates neither to the crime itself nor the defendant is an arbitrary basis and constitutionally proscribed." The Maryland Court of Appeals, and the Maryland Attorney General's answer in opposition to the defense petition, reject this argument, asserting that an important and relevant consideration at sentencing is the impact which a victim or his family suffers as a result of criminal conduct. "Certainly, a primary purpose of the General Assembly in enacting a requirement for victim impact information was to insure that some consideration would be given to victims of certain types of crime when the perpetrator was sentenced, lest the emphasis on the perpetrator as an individual be so great as to exclude

Victim Impact Statement Survey Findings, continued . . .

consideration of the victim." The court states, "In capital cases the victims include survivors of the murdered individual."

While some of the jurisdictions contacted were quite diligent about implementing and distributing the victim impact statement even with limited staff and resources; others were either unaware or unconcerned. As one person said: **"This county is 150 years old and the only thing that hasn't changed is the District Attorney's Office."**

It is the statutory duty of the victim assistance coordinator or the prosecutor's designee to ensure that the completed victim impact statement is given to the court. The majority of victim assistance coordinators or designees return the completed statement to the prosecutor's file. The prosecutor then delivers it to the court. A few jurisdictions send the completed statement directly to the court. In some instances, coordinators have found that the victim has returned the statement directly to the court or to T.D.C.

Harris County Prosecutor and Judicial Survey

A survey was conducted of the assistant district attorneys attached to the twenty-two district courts in Harris County.

Questions asked of the assistants and their answers follow:

1. Are you submitting the victim impact statement to the judge prior to sentencing?

Yes: 16; Not currently, but will begin: 2; No, because the defendant doesn't go to the judge for sentencing: 2; No: 1; Answer not available: 1

2. Is the victim impact statement being considered by the judge prior to the imposition of the sentence?

Yes: 11; Yes, but for restitution purposes only: 2; Sometimes: 1; No: 4; Answer not available: 4

3. Has defense counsel objected to the use of the victim impact statement?

No: 15; Answer not available: 7

The following survey form was sent to the twenty-two district court judges in Harris County:

Victim Impact Statement Survey Findings, continued . . .

1. Are the Assistant District Attorneys presenting the victim impact statement for your inspection?

Yes _____ Comments _____

No _____

2. Are you reviewing the victim impact statement prior to the sentencing of the defendant?

Yes _____ Comments _____

No _____

3. Are defense attorneys objecting to the use of the victim impact statement in your court?

Yes _____ Comments _____

No _____

4. If the defendant is sentenced to T.D.C., is the victim impact statement being attached to the commitment papers?

Yes _____ Comments _____

No _____

The fact that the survey drew only four responses from the twenty-two judges sent the survey is perhaps more significant than the actual responses. The **four** responding judges answered **yes** that the assistant district attorneys in their courts were presenting the victim impact statement to the court. The **four** judges also answered **yes** that they were reviewing the statement. **None** of the **four** judges mentioned any objection to the consideration of the form by the defense. **Two** of the **four** judges felt that the impact statement was being attached to the commitment papers where the defendant was sentenced to T.D.C. and **two** didn't know.

Judicial Surveys in Other Jurisdictions

During the interviews conducted with victim assistance coordinators and prosecutor designees, questions were asked about judicial reception to the use of the impact statement. Seven of the coordinators and designees agreed to survey their judges using the Harris County judicial survey form. The counties and findings are as follows:

Bastrop County	Q.1. No:	2
	Q.2. No:	2

Victim Impact Statement Survey Findings, continued . . .

	Q.3. No:	2	
	Q.4. No:	2	
Collin County	Q.1. Yes:	3	
	Q.2. Yes:	3	
	Q.3. No:	3	
	Q.4. Yes:	3	
Galveston County	Q.1. Yes:	1; Not always:	1; N/Available: 2
	Q.2. Yes:	2; N/Available:	2
	Q.3. No:	2; N/Available:	2
	Q.4. Yes:	2; N/Available:	2
Hidalgo County	Q.1. Yes:	1; No answer:	5
	Q.2. Yes:	1; No answer:	5
	Q.3. No:	1; No answer:	5
	Q.4. Yes:	1; No answer:	5
Montgomery County	Q.1. No:	4	
	Q.2. No:	3; If attached to PSI:	1
	Q.3. No:	4	
	Q.4. Unknown:	4	
Taylor County	Q.1. No:	2; Sometimes:	2
	Q.2. No:	2; Sometimes:	2
	Q.3. No:	4	
	Q.4. Yes:	2; Unknown:	2
Wichita County	Q.1. Yes:	1; No:	3
	Q.2. Yes:	1; No:	3
	Q.3. No:	4	
	Q.4. Yes:	2; No:	2

Comments from the judges as to why they were not reviewing the statements included: "The statement is duplicative of the pre-sentence report;" "In my court, sentencing is usually held immediately after a guilty plea, and there is not enough time;" and in several instances, the comment was made that, "I usually go with the prosecutor's recommendation on sentencing and expect that the prosecutor will bring it to my attention." Judges, prosecutors and victims all mentioned that the form was too long.

Victim Impact Statement Survey Findings, continued . . .

Two judges commented that they wished they had a victim impact statement in every case, not just in crimes of violence. As mentioned in this report, the majority of Bexar County judges rely on the presentence report to obtain victim restitution information, however, one judge requires that the victim be notified of the plea agreement before she will accept the prosecutor's recommendation.

Post-Sentencing Procedure

After the judge has reviewed the statement, and if the defendant is sentenced to the Texas Department of Corrections, it is the statutory duty of the court to attach the statement to the commitment papers which accompany the defendant to T.D.C.

When the inmate reaches T.D.C., the commitment papers are received at the Diagnostic Unit where the impact statement is stamped with the inmate's T.D.C. identification number. During the second phase of intake, a T.D.C. sociologist reviews the commitment papers, making sure they are complete. If the sociologist finds a victim impact statement attached to the commitment papers, it is brought to the attention of the Board of Pardons and Paroles staff at the Institutional Services Unit.

Institutional Services staff copy the statement for their files and send a copy to the central headquarters of the Board of Pardons and Paroles in Austin.

If a victim impact statement is sent directly to T.D.C., it is placed in the inmate's file and pulled by the Institutional Services staff when the inmate is scheduled for review. If the statement is sent directly to B.P.P. in Austin, it is matched with an inmate's T.D.C. identification number, entered into the computer and placed in the file.

The reasoning behind the attachment of the victim impact statement to the commitment papers is that it is the most expedient way to ensure that the defendant's T.D.C. number is placed on the impact statement. Those forms that are mailed directly to either T.D.C. or B.P.P. may get lost in the shuffle as the statement may not contain enough information on the defendant to locate the defendant without the T.D.C. number, his date of birth, or date of commitment.

If the statement is sent directly to the Board of Pardons and Paroles, or is illegible or incomplete, every attempt is made to complete the form by contacting the victim or the district attorney. Several of the copies that have been received have been illegible because of poor handwriting or because they have been completed in pencil and copied. Several statements have been sent without the victim contact or information page attached. The

Victim Impact Statement Survey Findings, continued . . .

feeling 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, as this information is needed by B.P.P. to contact the victim. At all stages of processing, according to Texas Department of Corrections and Board of Pardons and Paroles officials, the victim impact statement remains confidential as classified as "sensitive information" and therefore inaccessible by inmates.

Upon the inmate's favorable review by the Parole Panel, a victim notification letter (Appendix F), is sent. At the same time, a letter is sent to Trial Officials (the judge, district attorney and sheriff in the county of conviction). Any response is returned to the file for review. Note: Victims are notified on only those cases where the Parole Board has given the case "further investigation" status, and a victim impact statement has been received with the request by the victim to be notified.

Post-Sentencing Procedure Results

The most disturbing finding of the Victim Impact Statement Implementation Survey is that as of January 1, 1987, the Board of Pardons and Paroles had received only **106** of the **5,850** impact statements sent by the prosecutors or their designees to the courts. This disappointing figure reflects only a 1% rate of receipt. The total survey figure of **14,199** represents **146** of the **254** counties in Texas. The number of impact statements sent from the remaining counties that were not a part of the survey and those that were sent directly to T.D.C. or the B.P.P. could increase the total number (**14,199**) sent. However, it should be noted that although the total number of statements returned to the prosecutor of those counties surveyed is 5,850 and may be higher, that a number of those statements may not be attached to the commitment papers and sent to T.D.C. as: some of those statements may not actually reach the court; some may remain at the court; and in some of the cases, the statement may not be considered as the court may sentence the defendant to a term of probation, or the case may be dismissed, or the defendant found "not guilty."

Of the **106** victim impact statements received by the the Board of Pardons and Paroles, the central office has sent **6** notices to victims. **Two** responses have been received.

The Board suggests these reasons for the low number of victim notices may be due to the fact that:

1. the inmate, receiving a lengthy sentence, has not entered into the review process as not yet eligible, so a notice is not generated;

Victim Impact Statement Survey Findings, continued . . .

2. the inmate is denied parole and is either given a status of "set-off" where the case is reviewed again within one year or "serve-all", the inmate is either released to mandatory supervision or discharges the sentence in prison.

Recognizing that the implementation of the victim impact statement is still a relatively new procedure in the criminal justice system, the receipt rate remains staggering. What is the reason for this glaring breakdown in the implementation of the victim impact statement? Several theories may be put forward, for after extensive research, no one answer can be pinpointed.

Lack of Awareness: The majority of prosecutor's offices appear to have made a good faith effort to distribute the victim impact statement to the victims of violent crime covered by Art. 56.01. However, very few follow-up on those statements that are not returned. An even smaller number follow through to make sure that the statements are attached to the commitment papers and actually arrive at T.D.C. and the B.P.P. Many are unclear as to what happens to the statement after it leaves the prosecutor's office. Limited staff and resources may also contribute to this lack of follow-through.

Who's in Charge: While the statute clearly delegates to the victim assistance coordinator or prosecutor's designee the duty of providing the court with the returned victim impact statement, the statute mandates only that the "court" shall attach the impact statement to the commitment papers to accompany the defendant to T.D.C.; there is no explicit procedure or specific person delegated to perform this task.

Commitment Paper Inconsistency: The court may be unaware of the duty to attach the victim impact statement to the commitment papers. While this duty is clearly stated in Art. 56.04(c), it is not mentioned under Art. 42.09, Sec. 8, which details what is to be included in the commitment papers.

In addition, the T.D.C. and B.P.P. report continuing problems with incomplete sets of commitment papers in general, even though Art. 42.09, Sec. 8(b), states that **T.D.C. 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.**

Interagency Procedure Gap: In multiple and lengthy interviews, both agencies have assured the research team that clear procedures have been established to coordinate the flow of impact statements between the two agencies. The B.P.P. has exerted an exemplary effort to obtain missing

Victim Impact Statement Survey Findings, continued . . .

information on the victim impact statements that it has received and to locate the inmate's T.D.C. number for statements that are mailed directly to them from either victims or prosecutors. However, despite the diligent efforts of the two agencies, a large number of statements must be falling in the cracks, even considering the court to T.D.C. gap.

Due to the current prison overcrowding crisis and intermittent necessity to close the prisons, larger 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, given low priority in the crunch, is overlooked.

Mandatory Supervision: As mentioned, when an inmate is designated to "serve all" by the Parole Board or the sentence "set off", no notice to trial officials or victims is given. However, the B.P.P. states that the impact statement is logged and filed, whether or not a victim notice is sent.[See Appendix F, for Outline of Parole Procedures]

Victim Impact Statement Survey Recommendations and Conclusions

“Things fall apart; the centre cannot hold;
Mere anarchy is loosed upon the world,
The blood-dimmed tide is loosed, and everywhere
The ceremony of innocence is drowned . . .

-William Butler Yeats
“The Second Coming”

“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. After the crime is over, victims begin to struggle with their reactions to the experience. They are often overcome with fear, anger, guilt, and shame. Their relationships with their family and friends can be seriously disrupted, and if they become involved with the police and courts, they may come to believe that no one understands or cares about what has happened to them.”

—Morton Bard and Dawn Sangrey
The Crime Victim’s Book

Survey Recommendations and Conclusions, continued . . .

Discussion

“The intertwined issues of prison overcrowding and violence, costs of incarceration, and the *Ruiz* litigation have resulted in a situation where the state can no longer insure that prison space will be available to those generally agreed to need it the most, primarily violent and habitual offenders.”

1985, Commission on Sentencing Practices and Procedures Report

For years, the factors quoted in the above 1985 report have been building to bring the Texas system of criminal justice to the breaking point. Couple these now escalated factors with the severe state fiscal crisis and you have the elements necessary for an explosive impasse. Why burden a system in such a situation with even more responsibilities? The answer is because of the very real danger of overlooking in just such times, those victims of violence that the system is supposed to protect. Headlines and newscasts are full of stories of prison over-crowding and releases. What is often forgotten is that there is at least one victim for every crime for which an inmate is incarcerated.

Texas has made important strides toward balancing the system between the rights of the accused and the rights of the victim. With the enactment of legislation broadening the funding base and strengthening the enforcement of fund collection, the Texas Crime Victim Compensation fund has become solvent and effective, and for the first time in the history of our State, victims are given some statutory consideration. The number of victim assistance programs in Texas has grown exponentially in the last decade, but there is still much to be done.

At this writing, 39 states have enacted some type of Crime Victim Bill of Rights. Forty-three states have enacted victim impact legislation. The Texas Crime Victim Bill of Rights offers victims a minimum of consideration in comparison with the legislation of some other states. Several states provide the victim with an actual voice, by allowing for victim allocution at sentencing and parole hearings instead of only the written statement opportunity that the Texas statute provides. (Appendix G, Michigan Crime Victim Bill of Rights)

Approximately 95% of all cases in Texas are settled by plea bargaining. Plea bargaining is an important tool in keeping the courts moving, however slowly. Without plea bargaining, our court system would grind to a halt. While the plea bargaining procedure frees up the courts by alleviating the necessity for lengthy trials, it also eliminates the need

Survey Recommendations and Conclusions, continued . . .

for the victim's testimony, and in the process, robs the victim of a voice. Medical service providers, law enforcement and prosecutors seek "just the facts" from victims. Rarely does anyone inquire about the lingering physical, emotional and economic injuries experienced by the victim.

In conducting interviews with prosecutors and judges for this report, mention was made in numerous instances to the research team, that the use of the victim impact statement was duplicative of the presentence report. The victim impact statement is not meant to take the place of the presentence report or vice versa. As mentioned in the **Commission on Sentencing Practices and Procedure Report** section, presentence reports are rarely used, either they are waived by the defense or the judge does not consider them. As a rule in the jurisdictions that do utilize presentence reports, the probation department contacts the victim to obtain only restitution information. The emotional and physical damages to the victim and the victim's family are not covered by the report and no mention is made to the victim of the victim's rights or the parole process.

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. Deborah Kelly states in her 1984 **Pepperdine Law Review** article, "Victims' Perceptions of Criminal Justice," that:

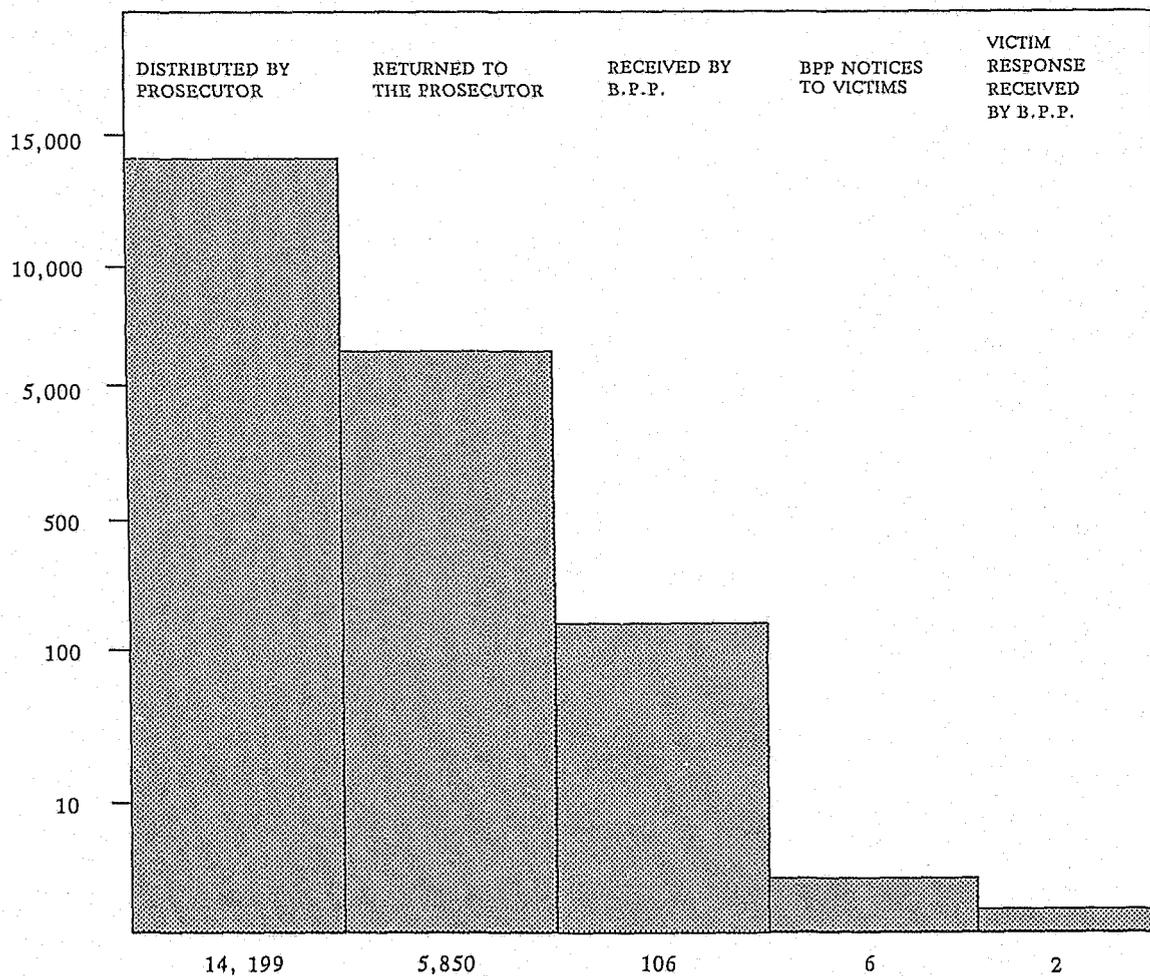
"There is no evidence to support these assumptions, the evidence that exists is to the contrary. In Florida, for example, pretrial settlement conferences which included victims, police officers, prosecutors, defense attorneys, and judges in deliberations found that cases were disposed of more quickly. 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.** [emphasis added]

It is too early to tell what impact, if any, the use of the victim impact statement has had on sentencing in Texas. It is safe to say, however, given the limited review by the courts, that it made very little. While the statement was generally provided to most victims of violent crime by victim assistance coordinators or prosecutor's designees, very little follow-up was done on those statements not returned. Very few judges considered the statement in their sentencing decision. It can be seen by the extremely small number of statements actually reaching the Board of Pardons and Paroles, that the statement made a negligible impact on parole decisions.

Survey Recommendations and Conclusions, continued . . .

Table A illustrates the dramatic breakdown in the flow of the statement as it makes its way through the various criminal justice checkpoints. The conclusion may be easily drawn that if there were cracks among agencies, the statement fell through them. It follows why so many victims have the impression that they are ignored or forgotten by the criminal justice system in the aftermath of crime—the same system that depends on their cooperation for the effective and fair administration of justice.

TABLE A
VICTIM IMPACT STATEMENT TRANSMITTAL CHART



Discussion Conclusion

The pressures of a criminal justice system bursting at the seams at each stage of the process have most often relegated the involvement of the victim of violence, in that process, to merely an evidentiary role. In interviews conducted for this report, the criminal justice

Survey Recommendations and Conclusions, continued . . .

professionals contacted expressed concern for the victim, but mentioned huge caseloads, limited resources, and little time.

The Crime Victim Bill of Rights enacted to address the concerns of victims, and the duties of the system toward them, is actually a statute of common sense and contains no dramatic or revolutionary changes in the law or criminal justice process. Ideally, there should be no need for such a statute in the Code of Criminal Procedure; the rights included should be afforded routinely.

However, the need for the Victim Bill of Rights is evident given the troubled state of the Texas Criminal Justice System, the growing lack of public confidence in it, the continuing low percentage of crimes that are reported, and the rising rate of violent crime.

The use of the victim impact statement is the most tangible change in procedure directed by the Crime Victim Bill of Rights. It is the most efficient means by which the victim can have a voice in the system and involvement in the process of justice given that 95% of all cases in Texas are disposed of by the plea bargaining process. 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.

The envisioned design for the flow of the statement from the filing of a charge in a criminal case, to conviction, and through the corrections process, was intentionally made as simple as possible. The prosecutor or the prosecutor's designee would provide the statement to the victim and return the completed statement to the courts. The courts would review the statement after a finding or adjudication of guilt, and would then attach the form to the commitment papers upon sentencing the defendant to T.D.C. The commitment papers would accompany the offender to the Texas Department of Corrections, where the inmate's identification number would be placed on the victim impact statement and a copy provided to the Board of Pardons and Paroles. The Board would then notify the victim, if the victim had so indicated the desire, of any preparole hearings, and would answer any questions that the victim had concerning release.

However, as the findings of this survey have shown, there is nothing simple about the operation of the Texas criminal justice system. The complex nature of the system itself—involving many different agencies, all with different administrative procedures and record-keeping methods—coupled with court backlogs, prison over-crowding, and a state fiscal crisis, have contributed to the very poor awareness and implementation of the victim impact statement procedure. Discussion for improvements in the procedure follow.

Survey Recommendations and Conclusions, continued . . .

Victim Impact Statement Form

Issue:

Survey findings show that victims, prosecutors, and judges all consider the form too complicated and lengthy. Many victims find the language used in the form intimidating. For example, that section of the form detailing psychological injuries was often left blank, while in the commentary section, the victim would note continuing anxiety, nightmares, or the inability to forget the crime. Additionally, it was mentioned that the information given on the form about the necessity to contact the parole board for further information on procedures and the status of the inmate is confusing.

Confidentiality concerns were expressed over the re-attachment of that page of the statement containing the victim's address, phone number, and other contact information—to the remainder of the statement as it was transmitted to the court and T.D.C.

In many instances victims or prosecutors mailed the statement directly to T.D.C. or B.P.P. As these agencies rarely reported receiving statements in this manner, it was felt that mailing instructions were not clearly detailed on the form.

Recommendation:

That the Texas Adult Probation Commission, the Board of Pardons and Paroles and the Texas Crime Victim Clearinghouse consider these findings in designing a shorter, less intimidating format for the victim impact statement. That the statement contain in clear language and on the first page, instructions for mailing the statement to the Board of Pardons and Paroles in the event that the defendant has already been convicted, and for obtaining information about parole procedures and inmate status. The Texas Crime Victim Clearinghouse shall by June 1, 1987, distribute the revised form along with clear directions on its implementation and flow to prosecutors, judges, and probation departments, and to continue to monitor and survey the implementation of the form and publish the findings to the 71st Legislature.

Survey Recommendations and Conclusions, continued . . .

Prosecutors

“To the victim or witness, crime is an extraordinary and frightening event. To the law enforcement professional, victims and witnesses are frequently regarded as merely necessary elements in the criminal justice system.”

National District Attorneys Association
Draft on Victim Assistance

“Professionals in the criminal justice system are kind of like doctors who work in the emergency room and who are subjected daily to the pain and suffering of people. They care, but they become sort of immune or insensitive—not intentionally,”

Grant Jones, Nueces County
District Attorney

Art. 56.04 requires that those prosecutors serving areas with populations of 150,000 or more designate a person as a victim assistance coordinator in their office. While every member of the prosecutor's staff should share the responsibility of answering the questions of victims, in those offices where there is a high case volume, it is best to centralize this responsibility. In fact, the victim assistance coordinator often saves the prosecutor valuable time and can orient the victim to procedures and provide case status information and social service referrals more effectively and efficiently.

As noted in the survey, many prosecutors in smaller jurisdictions have also designated a person on their staff as a victim assistance coordinator. Several offices have asked staff from their local crisis line, rape crisis center or domestic violence shelter to perform this function. In addition, volunteers such as senior citizens or college students earning academic credit for their work can be designated to assist victims.

Very minor disruptions to office procedure and budget are necessary to improve the treatment of victims by the prosecutor's office. The Texas Crime Victim Clearinghouse has published and is now updating a manual for prosecutors that details cost effective methods of providing the rights to victims as detailed by Art. 56, *et seq.*

Issue:

While the survey found that some prosecutors were making diligent efforts to distribute the victim impact statement, many were not. In addition, very little follow-up action was taken to ensure that the statement was returned. In

Survey Recommendations and Conclusions, continued . . .

addition, the majority of jurisdictions were unaware of what happened to the victim impact statement after it reached the court.

Recommendation:

That training in implementing Art. 56, *et seq.* be provided at the regional and annual meetings of the Texas District and County Attorneys Association. That every district or county attorney having criminal jurisdiction develop procedures according to their resources to ensure that at a minimum, victims of violent crime are afforded the rights detailed in Art. 56, *et seq.* In addition, that every district attorney or prosecutor having criminal jurisdiction, have a written policy and procedure on the implementation of the victim impact statement in their jurisdiction, including its passage through the court process.

That every district or county attorney shall implement follow-up procedures on the return of the victim impact statement to their office, at minimum targeting those crimes of homicide.

Finally, that the district attorney coordinate efforts with the Administrative Judge, the Probation Department, and the Criminal District Clerk, to ensure the transmittal of the victim impact statement—where one is received—to T.D.C., if the defendant is so sentenced, or to the Probation Department, if the court orders probation.

The Court

“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 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

Survey Recommendations and Conclusions, continued . . .

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)

Issue:

Survey results showed that few judges were aware of the victim impact statement or confused it with the presentence report if one were provided. In those instances where a victim impact statement was given to the judge, the majority failed to review it, even though Article 56.03(e) makes the consideration mandatory.

Recommendation:

That training in the implementation of Art. 56 *et seq.*, be included at the Annual Conference of Criminal District and County Court Judges. That each administrative judge be made aware of the victim impact statement form and procedure and a written policy be developed to ensure the consideration of the form, if one has been received, and to ensure the attachment of the statement to the commitment papers if the defendant is sentenced to T.D.C. or sent to the Probation Department if probation is ordered.

Finally, that the Administrative Judge, the District Attorney, the Probation Department and the Criminal District Clerk coordinate efforts to carry out this policy.

Probation

"No my life hasn't changed that much since I was raped. I still go home after work and watch television—but now I have a .357 in my lap."

-A rape victim

Issue:

In several jurisdictions, judges and prosecutors confused the victim impact statement with the presentence report used by the probation department. In developing the impact statement, it was decided that the statement should be a

Survey Recommendations and Conclusions, continued . . .

separate instrument as the presentence report is rarely used. Even then, the presentence report is often waived by the defendant, or not ordered by the judge. In those jurisdictions that do use the presentence report, a few probation departments do contact the victim, but only for restitution information.

In addition, in the instances in which a judge does not sentence the defendant to T.D.C., but instead orders probation, the probation department does not receive a copy of the victim impact statement for their files.

Recommendation:

That the implementation of Art. 56 *et seq.* be included in the procedures and continuing education training of the Probation Department. That in those jurisdictions where the judge relies on the presentence report to obtain information about the victim, that the probation department use the victim impact statement form, which in addition to restitution information, also details the physical and emotional injuries to the victim and provides the victim with a statement of the rights afforded under Art. 56 *et seq.*, including information concerning parole procedures and notification.

In addition, that in those cases where the judge sentences the defendant to a term of probation, that the court provide a copy of the victim impact statement to the probation department.

Commitment Papers

Issue:

The largest breakdown in the flow of the impact statement occurs between the courts and T.D.C. This problem is not unique to the victim impact statement as T.D.C. and B.P.P. report that often the commitment papers that accompany the defendant to T.D.C. and to which the impact statement is to be attached, are incomplete or missing. One reason for the low percentage of statement transfers from the courts to T.D.C. may be lack of awareness. While Art. 56.04(c) directs that the court shall attach the statement to the commitment papers, the impact statement is not included among those items that make up the commitment paper package in Art. 42.09, Sec. 8. In addition, no specific person is designated the duty to ensure that the commitment papers are complete and transferred to T.D.C. with the defendant.

Survey Recommendations and Conclusions, continued . . .

Recommendation:

That the victim impact statement, if one has been received, be included among those papers listed in Art. 42.09, Sec. 8, that shall accompany the defendant to T.D.C. In addition, that the checklist sent by T.D.C. to the county, as introduced in current T.D.C. Sunset Legislation (H.B. 515), include the victim impact statement among the items that the county shall transfer with the defendant to T.D.C. As also introduced by T.D.C. Sunset Legislation (H.B. 515), that the presiding judge of each administrative judicial district shall designate one officer or employee of each judicial district in the administrative judicial district as responsible for ensuring that the documents and information required by Art. 42.09, Sec. 8, Code of Criminal Procedure, and including the victim impact statement, where one has been received, accompany defendants sentenced to T.D.C.

Finally, that the Administrative Judge, the Criminal District Clerk, the Probation Department, the District Attorney, and the Sheriff, coordinate efforts to ensure the transmittal of the victim impact statement to T.D.C. if the court so orders or to the Adult Probation Department if the court orders probation.

Texas Department of Corrections

Issue:

While the Texas Department of Corrections has worked closely with the Board of Pardons and Paroles 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 T.D.C. Therefore, no account is taken of statements received in this manner until the inmate's case is set for "further investigation" and the B.P.P. pulls the file. While recommended changes to the victim impact statement form that would clearly state that the form should be sent to the Board of Pardons and Paroles should alleviate this event, in the interim, it would be of assistance in tracking the statements, if T.D.C. were to keep a record of the number of those statements that do reach T.D.C. directly.

Although T.D.C. and B.P.P. both assure the research team that the impact statement is confidential, victims continue to express concern that information contained in the impact statement, including their name and address, will be accessible by the defendant reaching T.D.C. In fact, some victims do not wish to complete the form for this reason. Bexar County has used this reason for not

Survey Recommendations and Conclusions, continued . . .

distributing victim impact statements. It should be noted that there is pending legislation in the House of Representatives restating the confidentiality requirement.

It should be emphasized, however, that the Director of the Bureau of Classification and Records, who is the supervisor of the Records Section at T.D.C., has assured the research team that the inmate's files are not accessible by inmates and that inmates do not work in the 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." As stated in that order, (Stipulated Modification of Section II, D, and Section II, A of Amended Decree of March 29, 1982):

VII. Impermissible Conduct and Priveleges

- A. Forthwith, the defendant [State of Texas] shall promulgate and enforce rules to ensure that:

(18) No inmate has access to sensitive information, and all sensitive materials [are] kept inaccessible;

Recommendation:

That T.D.C. keep a log of the number of statements sent directly to them. In addition, T.D.C. should take every precaution to ensure that these statements remain confidential as they contain the victim's current address and telephone number.

Board of Pardons and Paroles

Issue:

Next to the process of trial and sentencing, the victim is affected most by the parole decision. Even in those situations where the parole decision is not discretionary and a hearing is not held, the victim should be taken into consideration and notified. In addition, the statutory ten days is often not enough time for the victim to respond to a parole hearing notice. The most disturbing result of prison over-crowding and the subsequent overload on the Board is 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 is currently under consideration that would provide each inmate with a "tentative month parole plan" shortly after transmittal to T.D.C. (H.B.91). If this measure is

Survey Recommendations and Conclusions, continued . . .

enacted, it will greatly reduce some of the notification problems now currently faced by the Board. Ideally, if the victim so desires, the Parole Board should send the victim a notice of not only any pre-parole action, but also the inmate's release using the information provided on the victim impact statement form. However, the Board feels that currently this would be an impossibility given the demands on their agency and feels the situation will be solved by the enactment of the "tentative month parole plan."

Recommendation:

That if the "tentative month parole plan" for inmates parole is adopted by the Legislature, that upon request, victims be notified as soon as possible of any hearing or parole decision.

In addition, that the Board provide the victim with more than 10 days to respond to the parole hearing notice. The Board should also provide clear instructions for use on the victim impact statement form about how to contact the Board regarding the parole status of the inmate and about the parole procedures.

Texas Crime Victim Clearinghouse

Issue:

One of the major problems in the implementation of the victim impact statement is lack of awareness at each stage of the criminal justice system.

Recommendation:

That the Texas Crime Victim Clearinghouse continue efforts to provide and coordinate training for the criminal justice system on the Crime Victim Bill of Rights and the Victim Impact Statement and provide clear procedures for the implementation of the statement in its publications.

Finally, that the Clearinghouse continue to monitor implementation efforts and report its findings to the Seventy-First Legislature.

Victim Advocacy Groups and Service Providers

Issue:

A small percentage of those who commit crime are actually apprehended and go through the court system. The decision to focus the Crime Victim Bill of Rights and the initial distribution of the victim impact statement in the prosecutor's

Survey Recommendations and Conclusions, continued . . .

office reflects this unfortunate statistic. However, at least one police department has implemented its own victim impact statement, pre-dating the enactment of Art. 56 *et seq.* (Austin Police Department). Several prosecutors report that they utilize the help of victim advocacy organizations and service providers, such as, rape crisis centers and domestic violence shelters to assist in the distribution and completion of the statements. These organizations can also be instrumental in coordinating the use of the statements in their communities.

Recommendation:

That victim advocacy groups and victim assistance service providers make victims aware of the provisions of the Texas Crime Victim Bill of Rights and offer their assistance in distributing and completing the statement.

Finally, that they work with their local criminal justice system to ensure the effective implementation and coordination of the statement.

Conclusion Summary

Though still a relatively new procedure, the victim impact statement appears to share the same situation as that of the victim—largely ignored or forgotten by the criminal justice system. The use of the statement should not be abandoned; it is still the most effective voice the victim can have, given the current crisis in the criminal justice system. The major problem in the implementation or non-implementation of the statement is the lack of awareness and enforcement of existing legislation. The disturbing 1% receipt rate of statements by the Board of Pardons and Paroles indicates the need for the Texas Crime Victim Clearinghouse to continue to monitor implementation and to report its findings to the 71st Legislature.

A shorter and less complex statement form with clear language concerning completion and return procedures should be developed and distributed. Concentrated efforts should be made on the part of all to educate those involved at each stage of the criminal justice system on the use and importance of the statement and the necessity of coordinating the transmittal of the statement through the system.

If the following legislative measures, as introduced during the 70th Legislature are enacted, the survey information indicates that many of the procedural difficulties that currently impede the flow of the victim impact statement would be eliminated: the inclusion of the statement in the commitment paper checklist sent to counties by T.D.C.; the inclusion of the impact statement among those documents in Art. 42.09, Sec. 8, constituting the commitment papers; and finally, that the presiding judge of each administrative judicial district shall designate one officer or employee of each judicial district as responsible for ensuring the the documents required under Art. 42.09, Sec. 8, including the victim impact statement, if one has been received, accompany defendants sentenced to T.D.C.

Acknowledgments

Numerous individuals and organizations have assisted in this survey and in the development of the Victim Impact Statement: Nell Myers and Bob Stearns of People Against Violent Crime; Shirley Barrett of Texans for Victims Rights; James and Joyce Knoll of the Coalition for Victims Rights; former Representative Gerald Hill; Representative Bob Richardson; Representative Dan Morales; Representative Terral Smith; Senator Frank Tejeda; Senator John Montford; Senator Ray Farabee; Senator Kent Caperton; Senator Bob McFarland; Gary Kansteiner of the Texas Legislative Council; John Byrd, Barbara Slaughter, Betty Colonna, and Greg Henson of the Board of Pardons and Paroles; Don Stiles and David Spencer of the Texas Adult Probation Commission; S.O. Woods of the Texas Department of Corrections; John B. Holmes, Jr., Doug Boyer, Bert Graham, Rusty Hardin, and especially, Gail O'Brien of the Harris County District Attorneys Office; Anita Moss and Rider Scott of the Dallas County District Attorneys Office; Margaret Ellis of the Tarrant County District Attorneys Office; Queen Walker of the Brazos County District Attorneys Office; Donna Lewis of the Limestone County District Attorneys Office; Carmen Robles of the Cameron County District Attorneys Office; "Cappy" Eads, Jill Shaw and Kathy Phillips of the Bell County District Attorneys Office; Steve Capelle and Amy Hodgins of the Texas District and County Attorneys Association; Dan Eddy of the National Association of Attorneys General; Chris Edmunds and Kathy Adams-House of the National Organization for Victim Assistance; and all the other victims, prosecutors, victim assistance coordinators, and judges who participated in the survey. To all we gratefully acknowledge your assistance.

Suzanne McDaniel, Director
Jodie Manning, Administrative Aide
Texas Crime Victim Clearinghouse

APPENDICES

APPENDIX A

VICTIM IMPACT STATEMENT IMPLEMENTATION SURVEY RESULTS

- Counties with Populations of 160,000 or More
- Judicial Districts with Populations of 150,000 or More
- Counties with Populations of 150,000 or Less
- Victim Impact Statement Survey Participants
- Metropolitan Implementation Study
 - Dallas County
 - Harris County
 - Tarrant County
- Victim Impact Statement Implementation Survey Totals

VICTIM IMPACT STATEMENT SURVEY

I. Counties of 150,000 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	139	63
** Bexar	Fred Rodriguiz	Not Named	0	0
• Brazoria	Jim Mapel	Steve Crenshaw	0	0
Cameron	Benjamin Euresti, Jr.	Carmen Robles	50	10
Dallas	John Vance	Anita Moss	1,614	1,398
El Paso	Stephen W. Simmons	Carols Pinon	450	180
Galveston	Michael S. Guarino	Donna Bennett	231	131
Harris	John B. Holmes, Jr.	Gail O'Brien	6,034	1,937
• Hidalgo	Rene Guera	Evelia Hinojosa	0	0
• Jefferson	Tom Maness	Melinda Lindsey-Hoyt	0	0
Lubbock	Travis Ware	Jane Piercy	226	84
McLennan	Vic Feazell	Lisa Harrison	216	36
Nueces	Grant Jones	Rosa Maria Cervantes	12	12
Tarrant	Tim Curry	Margaret Ellis	1,581	576
Travis	Ronald Earle	Debra Harrison	2,085*	613*

** Bexar County did not designate a coordinator nor distribute statements.

• Jefferson County, Hidalgo and Brazoria Counties did distribute statements, but did not keep records, as did several other counties.

* Includes misdemeanor offenses from county attorneys office.

VICTIM IMPACT STATEMENT SURVEY, continued . . .

II. Judicial Districts of 150,000 or More

District	County	District or County Attorney	Designee	V.I.S. Form	
				Sent	Received
9th	Montgomery	Peter C. Spears, III Charles D. Houston	Nan Halwas	195	85
	Polk		Darla Krumrey	0	0
2nd 9th	Montgomery	Peter C. Spears, III Joe L. Price		195	85
	Polk				
23rd	San Jacinto	Jim Mapel Daniel W. Shindler	Steve Crenshaw	0	0
	Trinity		Debbie Lee	0	0
28th & 105th	Brazoria	Grant Jones	Rosa Maria Cervantes	12	12
	Kenedy				
34th 205th 210th	Kleberg	Stephen W. Simmons	Carlos Pinon	452	180
	Nueces				
114th	Culberson	Jack Skeen Marcus D. Taylor	Leah Linyard	0	0
	El Paso				
47th	Hudspeth	Danny E. Hill Randall L. Sherrod	Carole McDaniel	0	0
	Armstrong		Carole McDaniel	0	0
181st 251st	Potter	Danny E. Hill Randall L. Sherrod	Carole McDaniel	0	0
	Randall		Carole McDaniel	0	0
72nd	Crosby	John L. Barnhill Travis Ware	Jane Piercy	226	84
	Lubbock				
103rd 107th 138th 197th	Cameron	Benjamin Euresti, Jr. Lee Price Fernon	Carmen Robles	0	0
	Willacy				

*Note: Some counties listed as not having distributed the statement did distribute but did not keep records.

VICTIM IMPACT STATEMENT SURVEY, continued . . .

III. County/Judicial District of 150,000 or Less

County/ District	District or County Attorney	Designee	V.I.S. Form	
			Sent	Received
Anderson	Richard Handorf	Carol Folmar	3	0
Angelina	Gerald Goodwin		0	0
Aransas, San Patricio	Thomas L. Bridges	Kathleen Briggs	216	3
Archer, Clay	Jack McGaughey		0	0
Atascosa	Alger H. Kendall		0	0
Austin, Fayette, Waller	Charles D. Houston	Darla Krumrey	0	0
Bailey, Parmer	Johnny W. Atkinson		0	0
Bandera, Gillespie, Kendall & Kerr	E. Bruce Curry	Kay Brown	3	0
Bastrop	Charles D. Penick	Georgia Compton	0	0
Blanco, Burnet, Llano, Mason & San Saba	Sam Oatman	Henry Nolan	0	0
Borden Scurry	Ernie B. Armstrong		0	0
Bosque, Comanche, Hamilton	Andy J. McMullen	Kay Nelson	0	0
Bowie	John F. Miller, Jr.	Jimmy Jagers	0	0
Brazos	William R. Turner	Queen Walker	855	641
Brewster, Presidio, Pecos & Jeff Davis	Phil J. Pollan	David Peters	0	0
Briscoe, Dickens, Upton, Floyd & Motley	John R. Hollums	Penny Ogden	0	0
Brooks, Jim Wells	Rolando Ramirez	Dino Tamez	0	0
Brown, Coleman, Mills	Stephen Ellis	Mary Lynn Taylor	0	0
Burleson, Lee, Washington	Charles Sebesta			
Callahan	Robert E. McCool	Pat Holland	0	0
Calhoun	Dan Heard	Sharon Wright	1	1
Camp, Titus	Charles Mac Cobb		0	0
Carson, Childress, Hall, Collingsworth & Donley	David McCoy		0	0
Cass	Neal Birmingham		0	0
Castro	Jimmy Frank Davis		0	0
Chambers & Liberty	Carroll E. Willborn	Georgia Clapper	0	0
Cherokee	Charles Holcomb	Carolyn Easley	0	0
Cochran, Hockley, Sutton	Warren Tabor	Dairrell Spence	0	0
Coke, Schleicher, Irion, Tom Green & Sterling	Gerald A. Fohn	Lanoy Fiveash	0	0
Collin	Tom O'Connell	Peggy Carroll	0	0

*Note: Some counties listed as not having distributed the statement did distribute but did not keep records.

VICTIM IMPACT STATEMENT SURVEY, continued . . .

III. County/Judicial District of 150,000 or Less

County/ District	District or County Attorney	Designee	V.I.S. Form	
			Sent	Received
Colorado, Gonzales, Lavaca & Guadalupe	W. C. Kirkendall	Cindy Brandenberger Beverly Broadnax	0	0
Comal	William L. Schroeder	Debbie Clark	0	0
Crockett	J. W. Johnson			
Coryell	Phillip Zeigler	Delores	0	0
Denton	Jerry Cobb	Kerrie Duffy	0	0
Dewitt	Wiley Cheatham		0	0
Duvall, Starr & Jim Hogg	F. A. Cerda	Rudy Gutierrez	0	0
Edwards, Terrell, Kinney, & Val Verde	Thomas F. Lee		0	0
Ector	R. C. Augesen	Tausha Bradshaw	60	40
Fort Bend	Sam Dick	Dottie Funkhouser	78	2
Gray, Hemphill, Lipscomb, Roberts & Wheeler	Guy Hardin	Linda Stevenson	0	0
Gregg	Carter Beckworth		0	0
Grimes	Latham Boone III	David Barron	0	0
Hale	Terry McEachryn	Thomasina Pierce	0	0
Hardin	R. F. Horka		0	0
Haskell, Kent, Stonewall & Throckmorton	John Fouts		0	0
Hill	Dan V. Dent		0	0
Jasper	Robert M. Jackson		0	0
Limestone	Rex Leach	Donna Lewis	3	3
Medina, Uvalde, Real	Rogelio F. Munoz	Deborah Adams	0	0
Midland	Al Schorre	Tedda McAnear	0	0
Nacogdoches	Herbert B. Hancock	Deedy Abernathy	125	20
Newton, Sabine, & San Augustine	Bill A. Martin		0	0
Ochiltree	Bruce Robertson	Theresa Cotter	12	12
Orange	Steve C. Howard	Vincent Botley	0	0

*Note: Some counties listed as not having distributed the statement did distribute but did not keep records.

VICTIM IMPACT STATEMENT SURVEY

Metropolitan Implementation Study—Dallas County

Period Covered: January 1986 through December 1986

	<u>Murder</u>	<u>Sexual</u>	<u>Assault</u>	<u>Kidnap</u>	<u>Agg. Robb.</u>	<u>Other</u>	<u>Total</u>
Sent	136	234	501	15	320	8	1614*
Received	62	118	181	9	126	2	1398*
% Category	46%	50%	36%	60%	39%	25%	41%
% Total Sent	11%	19%	41%	1%	26%	1%	
% Total Rcd.	12%	24%	36%	2%	25%	0%	

Metropolitan Implementation Study—Harris County

Period Covered: November 1985—December 1986

	<u>Murder</u>	<u>Sexual</u>	<u>Assault</u>	<u>Kidnap</u>	<u>Agg. Robb.</u>	<u>Other</u>	<u>Total</u>
Sent	531	1,359	2,384	150	1,561	49	6,034
Received	218	519	638	30	521	11	1,937
% Category	41%	38%	27%	20%	33%	22%	32%
% Total Sent	9%	23%	40%	2%	26%	1%	
% Total Rcd.	11%	27%	33%	2%	27%	1%	

Metropolitan Implementation Study—Tarrant County

Period covered: November 1985—September 1986

	<u>Murder</u>	<u>Sexual</u>	<u>Assault</u>	<u>Kidnap</u>	<u>Agg. Robb.</u>	<u>Other</u>	<u>Total</u>
Sent	122	312	679	31	437	n/a	1,581
Received	55	152	178	1	129	n/a	576*
% Category	45%	49%	26%	3%	30%	n/a	36%
% Sent	8%	20%	43%	2%	28%	n/a	n/a
% Total Rcd.	11%	30%	35%	0%	25%	n/a	

*Category figures may not add up to totals due to change in record keeping method

VICTIM IMPACT STATEMENT SURVEY, continued . . .

Victim Impact Statement Implementation Survey Totals

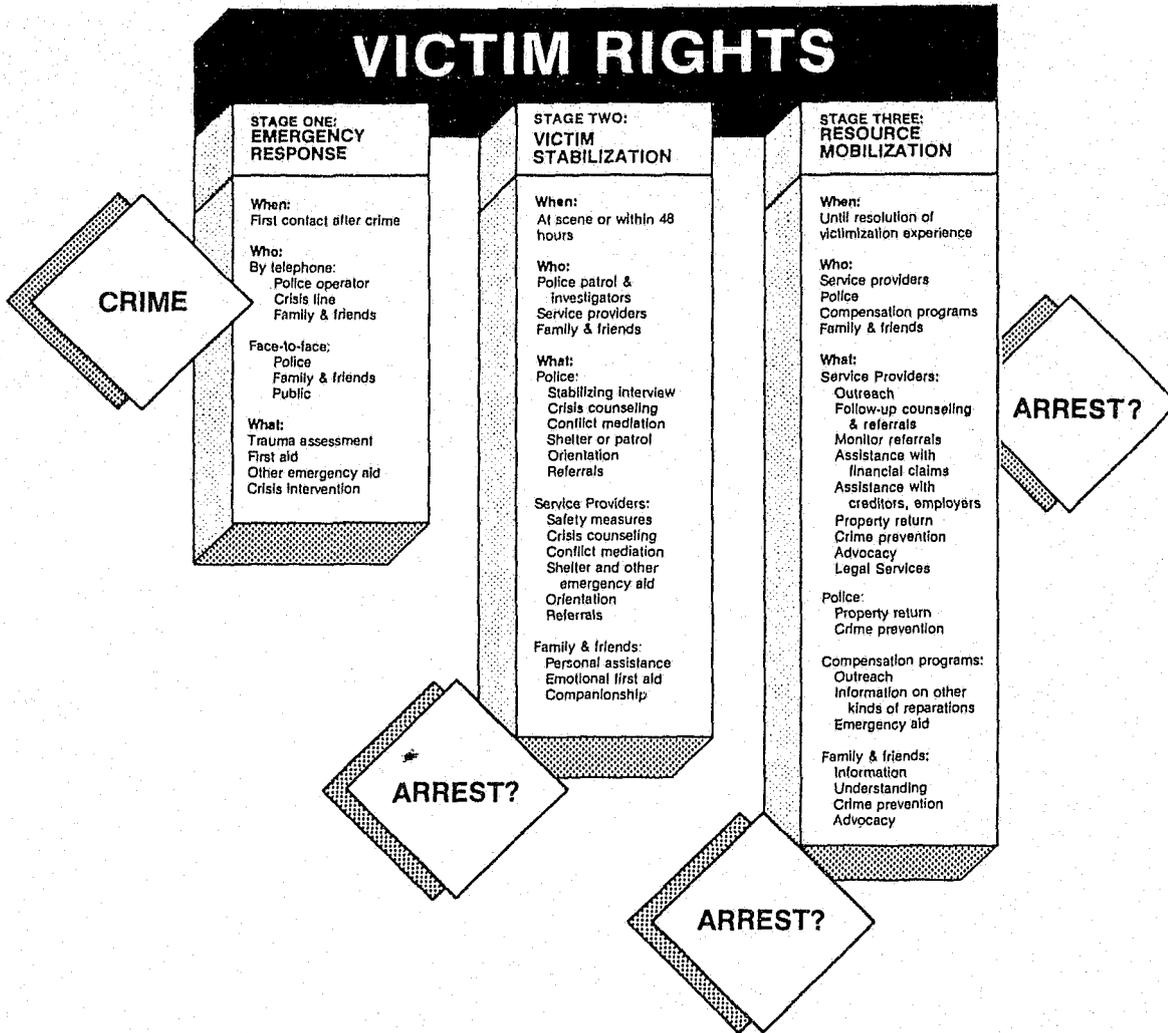
Category	Victim Impact Statements	
	Sent	Received
Counties of 150,000 Population or More	12,640	5,040
Judicial Districts of 150,00 or More	195	85
Counties of 150,000 Population or Less	1,364	725
Total Above Three Categories	14,199	5,850

Victim Impact Statement Survey Participants

Anderson	Castro	Gillespie	Lavaca	San Jacinto
Angelina	Chambers	Gonzales	Lee	San Patricio
Aransas	Cherokee	Gray	Liberty	San Saba
Archer	Childress	Gress	Limestone	Schleicher
Armstrong	Clay	Grimes	Lipscomb	Scurry
Atascosa	Cochran	Guadalupe	Llano	Smith
Austin	Coke	Hale	Lubbock	Starr
Bailey	Coleman	Hall	Mason	Sterling
Bandera	Collin	Hamilton	Matagorda	Stonewall
Bastrop	Collingsworth	Hardin	McLennan	Sutton
Bell	Colorado	Harris	Medinad	Tarrant
Bexar	Comal	Haskell	Midland	Terrell
Blanco	Comanche	Hemphill	Mills	Throckmorton
Borden	Crosby	Hidalgo	Montgomery	Titus
Bosque	Crockett	Hill	Motley	Tom Green
Bowie	Coryell	Hockley	Nacogdoches	Travis
Brazoria	Culberson	Hudspeth	Newton	Trinity
Brazos	Dallas	Irion	Nueces	Upton
Brewster	Denton	Jasper	Ochiltree	Uvalde
Briscoe	Dewitt	Jeff Davis	Orange	Val Verde
Brooks	Dickens	Jefferson	Parmer	Waller
Brown	Donely	Jim Hogg	Pecos	Washington
Burnet	Duval	Jim Wells	Polk	Wharton
Burleson	Ector	Kendall	Potter	Wheeler
Callahan	Edwards	Kenedy	Presidio	Willacy
Calhoun	El Paso	Kent	Randall	Wood
Cameron	Fayette	Kerr	Real	
Camp	Floyd	Kinney	Roberts	
Carson	Fort Bend	Kleberg	Sabine	
Cass	Galveston	Lampasas	San Augustine	

APPENDIX B
NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE (NOVA)
— “Victim Services Guide”

THE VICTIM RIGHTS SYSTEM



VICTIM AND WITNESS RIGHTS

STAGE FOUR: AFTER ARREST	STAGE FIVE: PRE-COURT APPEARANCE	STAGE SIX: COURT APPEARANCE	STAGE SEVEN: PRE-SENTENCE	STAGE EIGHT: POST-SENTENCE
<p>When: First contact after arrest</p> <p>Who: Prosecutor Police Service providers Family & friends</p> <p>What: Prosecutor: Consultation in charging decisions Consultation on bail scheduling Protection or relocation</p> <p>Service Providers: Start or continue with Stages II and III.</p> <p>Police: Protection or relocation Crime prevention Advocacy</p> <p>Family & friends: Peer self-help Crime prevention Advocacy</p>	<p>When: Prior to hearing/trial</p> <p>Who: Prosecutors Service providers Family & friends</p> <p>What: Prosecutor: Criminal justice orientation Scheduling and hearing notification Case status information Preparation of testimony Witness preparation Employer Intervention Consultation on plea bargaining Counseling Advocacy</p> <p>Service providers: Criminal justice orientation Scheduling and hearing notification Case status information Witness preparation Employer Intervention Consultation on plea bargaining Counseling Advocacy</p> <p>Family & friends: Peer self-help Advocacy</p>	<p>When: Day of hearing or trial</p> <p>Who: Prosecutor Service providers Family & friends</p> <p>What: Prosecutor: Transportation Reception Escort Counseling Childcare Witness fees Preparation for outcomes Advocacy</p> <p>Service providers: Transportation Reception Escort Counseling Childcare Witness fees Preparation for outcomes Advocacy</p> <p>Family & friends: Peer self-help Advocacy</p>	<p>When: After conviction or entry of guilty plea</p> <p>Who: Probation Prosecutor Judiciary Service providers Family & friends</p> <p>What: Probation: Notice of outcome Notice of sentencing hearing Victim impact statement Restitution plan Counseling</p> <p>Prosecution: Notice of outcome Notice of sentencing hearing Victim impact statement Restitution plan Counseling</p> <p>Judiciary: Victim statement Restitution plan</p> <p>Service providers: Victim impact statement Restitution plan Counseling Information on civil entitlements</p> <p>Family & friends: Peer self-help Advocacy</p>	<p>When: After sentencing</p> <p>Who: Probation, corrections & parole Service providers Prosecutor Family & friends</p> <p>What: Probation, corrections & parole: Victim impact statement for parole hearing Victim input to revocation hearings Notice on hearing outcomes</p> <p>Prosecutor: Victim impact statement for parole hearing Victim input to revocation hearings Notice on hearing outcomes</p> <p>Service Providers: Victim impact statement for parole hearing Victim input to revocation hearings Notice on hearing outcomes Counseling Legal services</p> <p>Family & friends: Protection Advocacy</p>

APPENDIX C

Federal Legislation

- “Omnibus Victims Protection Act of 1982”
- / — “Federal Guidelines for Fair Treatment of Crime Victims and Witnesses”
- “Rule 32(c) Federal Rules of Criminal Procedure

Public Law 97-291
97th Congress

Oct. 12, 1982
[S. 2420]

An Act

To provide additional protections and assistance to victims and witnesses in Federal cases.

Victim and
Witness
Protection Act of
1982.
18 USC 1501
note.
18 USC 1512
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Victim and Witness Protection Act of 1982".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that:

(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, has an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

(4) Under current law, law enforcement agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victim, as a result of such cooperation, is threatened or intimidated.

(5) While the defendant is provided with counsel who can explain both the criminal justice process and the rights of the defendant, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes and appeals are over; many times that property is damaged or lost, which is particularly stressful for the elderly or poor.

(b) The Congress declares that the purposes of this Act are—

(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process;

(2) to ensure that the Federal Government does all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and

(3) to provide a model for legislation for State and local governments.

VICTIM IMPACT STATEMENT

SEC. 3. Paragraph (2) of rule 32(c) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(2) REPORT.—The presentence report shall contain—

"(A) any prior criminal record of the defendant;

"(B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant's behavior;

"(C) information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense; and

"(D) any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense."

18 USC app.

PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

SEC. 4. (a) Chapter 73 of title 18 of the United States Code is amended by adding at the end the following new sections:

"§ 1512. Tampering with a witness, victim, or an informant

18 USC 1512.

"(a) Whoever knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

"(1) influence the testimony of any person in an official proceeding;

"(2) cause or induce any person to—

"(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

"(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

"(D) be absent from an official proceeding to which such person has been summoned by legal process; or

"(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

Penalty.

"(b) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

"(1) attending or testifying in an official proceeding;

"(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

"(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

"(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

Penalty. or attempts to do so, shall be fined not more than \$25,000 or imprisoned not more than one year, or both.

"(c) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

"(d) For the purposes of this section—

"(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

"(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

"(e) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

"(1) that the official proceeding before a judge, court, magistrate, grand jury, or government agency is before a judge or court of the United States, a United States magistrate, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

"(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

"(f) There is extraterritorial Federal jurisdiction over an offense under this section.

18 USC 1513. "§ 1513. Retaliating against a witness, victim, or informant

"(a) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for—

"(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer;

Penalty. or attempts to do so, shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

"(b) There is extraterritorial Federal jurisdiction over an offense under this section.

18 USC 1514. "§ 1514. Civil action to restrain harassment of a victim or witness

"(a)(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining

order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party's attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

"(B) A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

"(C) A temporary restraining order issued under this section shall expire at such time, not to exceed 10 days from issuance, as the court directs; the court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 10 days or for such longer period agreed to by the adverse party.

"(D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when such motion comes on for hearing, if the attorney for the Government does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.

"(E) If on two days notice to the attorney for the Government or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

"(F) A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(b)(1) A United States district court, upon motion of the attorney for the Government, shall issue a protective order prohibiting harassment of a victim or witness in a Federal criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

"(3) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(4) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent

Temporary restraining order.

Expiration.

Protective order.

harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Government may, at any time within ninety days before the expiration of such order, apply for a new protective order under this section.

Definitions.

"(c) As used in this section—

"(1) the term 'harassment' means a course of conduct directed at a specific person that—

"(A) causes substantial emotional distress in such person; and

"(B) serves no legitimate purpose; and

"(2) the term 'course of conduct' means a series of acts over a period of time, however short, indicating a continuity of purpose.

18 USC 1515.

"§ 1515. Definitions for certain provisions

"As used in sections 1512 and 1513 of this title and in this section—

"(1) the term 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(2) the term 'physical force' means physical action against another, and includes confinement;

"(3) the term 'misleading conduct' means—

"(A) knowingly making a false statement;

"(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

"(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

"(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

"(E) knowingly using a trick, scheme, or device with intent to mislead;

"(4) the term 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

"(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

"(B) serving as a probation or pretrial services officer under this title; and

"(5) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of the function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary."

(b) The table of sections at the beginning of chapter 73 of title 18 of the United States Code is amended—

(1) so that the item relating to section 1503 reads as follows:

"1503. Influencing or injuring officer or juror generally."; and

(2) by adding at the end the following:

"1512. Tampering with a witness, victim, or an informant.

"1513. Retaliating against a witness, victim, or an informant.

"1514. Civil action to restrain harassment of a victim or witness.

"1515. Definitions for certain provisions."

(c) Section 1503 of title 18 of the United States Code is amended—

(1) in the heading of such section, by striking out "juror or witness" and inserting in lieu thereof "or juror";

(2) by striking out "witness" the first place it appears after "impede any" and all that follows through "or any grand" and inserting "grand" in lieu thereof; and

(3) by striking out "injures any party or witness" and all that follows through "matter pending therein, or".

(d) section 1505 of title 18 of the United States Code is amended by—

(1) striking out paragraphs (1) and (2);

(2) striking out "such" the first place it appears in the fourth paragraph and inserting in lieu thereof "any pending";

(3) striking out "such" the second place it appears in the fourth paragraph and inserting in lieu thereof "any"; and

(4) striking out "such inquiry" in the fourth paragraph and inserting in lieu thereof "any inquiry".

(e) Section 1510(a) of title 18 of the United States Code is amended—

(1) by striking out the comma immediately following "bribery" and all that follows through "thereof";

(2) by striking out the semicolon immediately following "investigator" the first place it appears and all that follows through "Shall be fined" and inserting "shall be fined" in lieu thereof.

RESTITUTION

SEC. 5. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end the following:

"§ 3579. Order of restitution

18 USC 3579.

"(a)(1) The court, when sentencing a defendant convicted of an offense under this title or under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of the offense.

"(2) If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.

"(b) The order may require that such defendant—

"(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

"(A) return the property to the owner of the property or someone designated by the owner; or

Property.

"(B) if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of—

"(i) the value of the property on the date of the damage, loss, or destruction, or

"(ii) the value of the property on the date of sentencing, less the value (as of the date the property is returned) of any part of the property that is returned;

Bodily injury.

"(2) in the case of an offense resulting in bodily injury to a victim—

"(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including non-medical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

"(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

"(C) reimburse the victim for income lost by such victim as a result of such offense;

Death.

"(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services; and

"(4) in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate.

Victim's estate.

"(c) If the Court decides to order restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

"(d) The court shall impose an order of restitution to the extent that such order is as fair as possible to the victim and the imposition of such order will not unduly complicate or prolong the sentencing process.

Restitution.

"(e)(1) The court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that the court may, in the interest of justice, order restitution to any person who has compensated the victim for such loss to the extent that such person paid the compensation. An order of restitution shall require that all restitution to victims under such order be made before any restitution to any other person under such order is made.

"(2) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by such victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of that State.

Time period.

"(f)(1) The court may require that such defendant make restitution under this section within a specified period or in specified installments.

"(2) The end of such period or the last such installment shall not be later than—

"(A) the end of the period of probation, if probation is ordered;

"(B) five years after the end of the term of imprisonment imposed, if the court does not order probation; and

"(C) five years after the date of sentencing in any other case.

"(3) If not otherwise provided by the court under this subsection, restitution shall be made immediately.

"(g) If such defendant is placed on probation or paroled under this title, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation and the Parole Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke probation or parole, the court or Parole Commission shall consider the defendant's employment status, earning ability, financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

Probation or parole.

"(h) An order of restitution may be enforced by the United States or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

Enforcement.

"§ 3580. Procedure for issuing order of restitution

18 USC 3580.

"(a) The court, in determining whether to order restitution under section 3579 of this title and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

"(b) The court may order the probation service of the court to obtain information pertaining to the factors set forth in subsection (a) of this section. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.

"(c) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

Information disclosure.

"(d) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

"(e) A conviction of a defendant for an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim."

(b) The table of sections at the beginning of chapter 227 of title 18 of the United States Code is amended by adding at the end the following new items:

"3579. Nature of order of restitution.

"3580. Procedure for issuing order of restitution."

FEDERAL GUIDELINES FOR FAIR TREATMENT OF CRIME VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

18 USC 1512
note.

SEC. 6. (a) Within two hundred and seventy days after the date of enactment of this Act, the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act. In preparing the guidelines the Attorney General shall consider the following objectives:

(1) **SERVICES TO VICTIMS OF CRIME.**—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

(A) availability of crime victim compensation (where applicable);

(B) community-based victim treatment programs;

(C) the role of the victim in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and

(D) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

(2) **NOTIFICATION OF AVAILABILITY OF PROTECTION.**—A victim or witness should routinely receive information on steps that law enforcement officers and attorneys for the Government can take to protect victims and witnesses from intimidation.

(3) **SCHEDULING CHANGES.**—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have available a system for alerting witnesses promptly by telephone or otherwise.

(4) **PROMPT NOTIFICATION TO VICTIMS OF MAJOR SERIOUS CRIMES.**—Victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims should, if such persons provide the appropriate official with a current address and telephone number, receive prompt advance notification, if possible, of judicial proceedings relating to their case, including—

(A) the arrest of an accused;

(B) the initial appearance of an accused before a judicial officer;

(C) the release of the accused pending judicial proceedings; and

(D) proceedings in the prosecution of the accused (including entry of a plea of guilty, trial, sentencing, and, where a term of imprisonment is imposed, the release of the accused from such imprisonment).

(5) **CONSULTATION WITH VICTIM.**—The victim of a serious crime, or in the case of a minor child or a homicide, the family of the victim, should be consulted by the attorney for the Government in order to obtain the views of the victim or family about the disposition of any Federal criminal case brought as a result of such crime, including the views of the victim or family about—

(A) dismissal;

(B) release of the accused pending judicial proceedings;

(C) plea negotiations; and

(D) pretrial diversion program.

(6) **SEPARATE WAITING AREA.**—Victims and other prosecution witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

(7) **PROPERTY RETURN.**—Law enforcement agencies and prosecutor should promptly return victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.

(8) **NOTIFICATION TO EMPLOYER.**—A victim or witness who so requests should be assisted by law enforcement agencies and attorneys for the Government in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or attorneys for the Government, is subjected to serious financial strain, should be assisted by such agencies and attorneys in explaining to creditors the reason for such serious financial strain.

(9) **TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES.**—Victim assistance education and training should be offered to persons taking courses at Federal law enforcement training facilities and attorneys for the Government so that victims may be promptly, properly, and completely assisted.

(10) **GENERAL VICTIM ASSISTANCE.**—The guidelines should also ensure that any other important assistance to victims and witnesses, such as the adoption of transportation, parking, and translator services for victims in court be provided.

(b) Nothing in this title shall be construed as creating a cause of action against the United States.

Restriction.

(c) The Attorney General shall assure that all Federal law enforcement agencies outside of the Department of Justice adopt guidelines consistent with subsection (a) of this section.

PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

SEC. 7. Within one year after the date of enactment of this Act, the Attorney General shall report to Congress regarding any laws that are necessary to ensure that no Federal felon derives any profit from the sale of the recollections, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

Report to
Congress.
18 USC 3579
note.

BAIL

SEC. 8. Section 3146(a) of chapter 207 of title 18, United States Code, is amended in the matter preceding paragraph (1)—

(1) by inserting after "judicial officer," the second place it appears the following: "subject to the condition that such person not commit an offense under section 1503, 1512, or 1513 of this title,"; and

(2) by inserting after "impose" the following: "a condition of release that such person not commit an offense under section 1503, 1512, or 1513 of this title and impose".

EFFECTIVE DATE

18 USC 1512
note.

Sec. 9. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b)(1) The amendment made by section 2 of this Act shall apply to presentence reports ordered to be made on or after March 1, 1983.

(2) The amendments made by section 5 of this Act shall apply with respect to offenses occurring on or after January 1, 1983.

Approved October 12, 1982.

LEGISLATIVE HISTORY—S. 2420 (H.R. 7191)

SENATE REPORT No. 97-532 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 14, considered and passed Senate.

Sept. 30, H.R. 7191 considered and passed House; S. 2420, amended, passed in
[sic].

Oct. 1, Senate concurred in House amendments with an amendment; House
concurred in Senate amendment.

**RULES OF CRIMINAL PROCEDURE
FOR THE
UNITED STATES DISTRICT COURTS
ANNOTATED
VII. JUDGMENT**

Rule 32. Sentence and Judgment

(a) Sentence.

(1) Imposition of Sentence. Sentence shall be imposed without unreasonable delay. Before imposing sentence the court shall

(A) determine that the defendant and his counsel have had the opportunity to read and discuss the presentence investigation report made available pursuant to subdivision (c)(3)(A) or summary thereof made available pursuant to subdivision (c)(3)(B);

(B) afford counsel an opportunity to speak on behalf of the defendant; and

(C) address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of punishment.

The attorney for the government shall have an equivalent opportunity to speak to the court.

[See main volume for text of (2); (b)]

(c) Presentence Investigation.

[See main volume for text of (1)]

(2) Report.—The presentence report shall contain—

(A) any prior criminal record of the defendant;

(B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant's behavior;

(C) information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense; and

(D) any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense.

(3) Disclosure.

(A) At a reasonable time before imposing sentence the court shall permit the defendant and his counsel to read the report of the presentence investigation exclusive of any recommendation as to sentence, but not to the extent that in the opinion of the court the report contains diagnostic opinions which, if disclosed, might seriously disrupt a program of rehabilitation; or sources of information obtained upon a promise of confidentiality; or any other information which, if disclosed, might result in harm, physical or otherwise, to the defendant or other persons. The court shall afford the defendant and his counsel an opportunity to comment on the report and, in the discretion of the court, to introduce testimony or other information relating to any alleged factual inaccuracy contained in it.

(B) If the court is of the view that there is information in the presentence report which should not be disclosed under subdivision (c)(3)(A) of this rule, the court in lieu of making the report or part thereof available shall state orally or in writing a summary of the factual information contained therein

APPENDIX D
TEXAS CRIME VICTIM BILL OF RIGHTS

1 AN ACT

2 relating to the rights of crime victims and the effect of those
3 rights on the sentencing and availability of bail and release to
4 parole for defendants and to victim assistance coordinators and
5 their duties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. The Code of Criminal Procedure, 1965, is amended
8 by adding Chapter 56 to read as follows:

9 CHAPTER 56. RIGHTS OF CRIME VICTIMS

10 Art. 56.01. DEFINITIONS. In this chapter:

11 (1) "Close relative of a deceased victim" means a person who
12 was the spouse of a deceased victim at the time of the victim's
13 death or who is a parent or adult brother, sister, or child of the
14 deceased victim.

15 (2) "Guardian of a victim" means a person who is the legal
16 guardian of the victim, whether or not the legal relationship
17 between the guardian and victim exists because of the age of the
18 victim or the physical or mental incompetency of the victim.

19 (3) "Victim" means a person who is the victim of sexual
20 assault, kidnapping, or aggravated robbery or who has suffered
21 bodily injury or death as a result of the criminal conduct of
22 another.

23 Art. 56.02. CRIME VICTIMS' RIGHTS. (a) A victim, guardian
24 of a victim, or close relative of a deceased victim is entitled to

1 the following rights within the criminal justice system:

2 (1) the right to receive from law enforcement agencies
3 adequate protection from harm and threats of harm arising from
4 cooperation with prosecution efforts;

5 (2) the right to have the magistrate take the safety of the
6 victim or his family into consideration as an element in fixing the
7 amount of bail for the accused;

8 (3) the right, if requested, to be informed of relevant
9 court proceedings and to be informed if those court proceedings
10 have been canceled or rescheduled prior to the event;

11 (4) the right to be informed, when requested, by a peace
12 officer concerning the procedures in criminal investigations and by
13 the district attorney's office concerning the general procedures in
14 the criminal justice system, including general procedures in guilty
15 plea negotiations and arrangements;

16 (5) the right to provide pertinent information to a
17 probation department conducting a presentencing investigation
18 concerning the impact of the offense on the victim and his family
19 by testimony, written statement, or any other manner prior to any
20 sentencing of the offender;

21 (6) the right to receive information regarding compensation
22 to victims of crime as provided by the Crime Victims Compensation
23 Act (Article 8309-1, Vernon's Texas Civil Statutes), the payment of
24 medical expenses under Section 1, Chapter 299, Acts of the 63rd
25 Legislature, Regular Session, 1973 (Article 4447m, Vernon's Texas
26 Civil Statutes), for a victim of a sexual assault, and when
27 requested, to referral to available social service agencies that

1 may offer additional assistance; and

2 (7) the right to be notified, if requested, of parole
3 proceedings concerning a defendant in the victim's case and to
4 provide to the Board of Pardons and Paroles for inclusion in the
5 defendant's file information to be considered by the board prior to
6 the parole of any defendant convicted of any crime subject to this
7 Act.

8 (b) A victim is entitled to the right to be present at all
9 public court proceedings related to the offense, subject to the
10 approval of the judge in the case.

11 (c) The district attorney's office shall ensure to the
12 extent practicable that a victim, guardian of a victim, or close
13 relative of a deceased victim is afforded the rights granted by
14 Subsection (a) of this article.

15 (d) A judge, attorney for the state, peace officer, or law
16 enforcement agency is not liable for a failure or inability to
17 provide a right enumerated in this article. The failure or
18 inability of any person to provide a right or service enumerated in
19 this article may not be used by a defendant in a criminal case as a
20 ground for appeal. A victim, guardian of a victim, or close
21 relative of a deceased victim does not have standing to participate
22 as a party in a criminal proceeding or to contest the disposition
23 of any charge.

24 Art. 56.03. VICTIM IMPACT STATEMENT. (a) The Texas Adult
25 Probation Commission, with the participation of the Board of
26 Pardons and Paroles, shall develop a form to be used by law
27 enforcement agencies, prosecutors, and other participants in the

1 criminal justice system to record the impact of an offense on a
2 victim of the offense, guardian of a victim, or a close relative of
3 a deceased victim and to provide the agencies, prosecutors, and
4 participants with information needed to contact the victim,
5 guardian, or relative if needed at any stage of a prosecution of a
6 person charged with the offense.

7 (b) The victim impact statement must be in a form designed
8 to inform a victim, guardian of a victim, or a close relative of a
9 deceased victim with a clear statement of rights provided by
10 Article 56.02 of this code and to collect the following
11 information:

12 (1) the name of the victim of the offense or, if the victim
13 has a legal guardian or is deceased, the name of a guardian or
14 close relative of the victim;

15 (2) the address and telephone number of the victim,
16 guardian, or relative through which the victim, guardian of a
17 victim, or a close relative of a deceased victim, may be contacted;

18 (3) a statement of economic loss suffered by the victim,
19 guardian, or relative as a result of the offense;

20 (4) a statement of any physical or psychological injury
21 suffered by the victim, guardian, or relative as a result of the
22 offense, as described by the victim, guardian, relative, or by a
23 physician or counselor;

24 (5) a statement of any psychological services requested as a
25 result of the offense;

26 (6) a statement of any change in the victim's, guardian's,
27 or relative's personal welfare or familial relationship as a result

1 of the offense;

2 (7) a statement as to whether or not the victim, guardian,
3 or relative wishes to be notified in the future of any parole
4 hearing for the defendant and an explanation as to the procedures
5 by which the victim, guardian, or relative may obtain information
6 concerning the release of the defendant from the Texas Department
7 of Corrections; and

8 (8) any other information, other than facts related to the
9 commission of the offense, related to the impact of the offense on
10 the victim, guardian, or relative.

11 (c) The victim assistance coordinator, or if a victim
12 assistance coordinator does not serve the county or judicial
13 district in which the offense occurred, the attorney for the state
14 prosecuting the defendant, shall send a victim impact statement to
15 a victim, guardian, or close relative of a deceased victim.

16 (d) If a victim, guardian of a victim, or close relative of
17 a deceased victim states on the victim impact statement that he
18 wishes to be notified of parole proceedings, the victim, guardian,
19 or relative is responsible for notifying the Board of Pardons and
20 Paroles of any change of address.

21 (e) Prior to the imposition of a sentence by the court in a
22 criminal case, the court, if it has received a victim impact
23 statement, shall consider the information provided in the
24 statement. Before sentencing the defendant, the court shall permit
25 the defendant or his counsel a reasonable time to read the
26 statement, comment on the statement, and, with the approval of the
27 court, introduce testimony or other information alleging a factual

1 inaccuracy in the statement.

2 (f) The court may not inspect a victim impact statement
3 until after a finding of guilt or until deferred adjudication is
4 ordered and the contents of the statement may not be disclosed to
5 any person unless:

6 (1) the defendant pleads guilty or nolo contendere or is
7 convicted of the offense; or

8 (2) the defendant in writing authorizes the court to inspect
9 the statement.

10 (g) A victim impact statement is subject to discovery under
11 Article 39.14 of this code before the testimony of the victim is
12 taken only if the court determines that the statement contains
13 exculpatory material.

14 Art. 56.04. VICTIM ASSISTANCE COORDINATOR. (a) A district
15 attorney, criminal district attorney, or county attorney performing
16 the duties of district attorney, whose jurisdiction is over an area
17 in which the population is 150,000 or more, according to the most
18 recent federal census, shall designate a person as victim
19 assistance coordinator in his office. A prosecutor required to
20 designate a victim assistance coordinator under this article must
21 consult with the prosecutor in the county or district charged with
22 the prosecution of misdemeanors and consider that prosecutor's
23 suggestions as to the most effective manner in which the victim
24 assistance coordinator can perform duties imposed by this article.

25 (b) The duty of the victim assistance coordinator is to
26 ensure that a victim, guardian of a victim, or close relative of a
27 deceased victim is afforded the rights granted victims, guardians,

1 and relatives by Article 56.02 of this code. The victim assistance
2 coordinator shall work closely with appropriate law enforcement
3 agencies, prosecuting attorneys, the Board of Pardons and Paroles,
4 and the judiciary in carrying out that duty.

5 (c) The victim assistance coordinator, or a designee of the
6 prosecutor's office, shall send a copy of a victim impact statement
7 to the court sentencing the defendant. If the court sentences the
8 defendant to imprisonment in the Texas Department of Corrections,
9 it shall attach the copy of the victim impact statement to the
10 commitment papers.

11 Art. 56.05. REPORTS REQUIRED. (a) The Board of Pardons and
12 Paroles, the Texas Adult Probation Commission, and the Texas Crime
13 Victim Clearinghouse, designated as the planning body for the
14 purposes of this article, shall develop a survey plan to maintain
15 statistics on the numbers and types of persons to whom state and
16 local agencies provide victim impact statements during each year.

17 (b) At intervals specified in the plan, the planning body
18 may require any state or local agency to submit, in a form
19 prescribed for the reporting of the information, statistical data
20 on the numbers and types of persons to whom the agency provides
21 victim impact statements and any other information required by the
22 planning body. The form must be designed to protect the privacy of
23 persons afforded rights under this chapter and to determine whether
24 the selected agency or office is making a good faith effort to
25 protect the rights of the persons served.

26 SECTION 2. Article 17.15, Code of Criminal Procedure, 1965,
27 is amended to read as follows:

1 Art. 17.15. RULES FOR FIXING AMOUNT OF BAIL. The amount of
2 bail to be required in any case is to be regulated by the court,
3 judge, magistrate or officer taking the bail; they are to be
4 governed in the exercise of this discretion by the Constitution and
5 by the following rules:

6 1. The bail shall be sufficiently high to give reasonable
7 assurance that the undertaking will be complied with.

8 2. The power to require bail is not to be so used as to make
9 it an instrument of oppression.

10 3. The nature of the offense and the circumstances under
11 which it was committed are to be considered.

12 4. The ability to make bail is to be regarded, and proof may
13 be taken upon this point.

14 5. The future safety of a victim of the alleged offense may
15 be considered.

16 SECTION 3. Section 15(f), Article 42.12, Code of Criminal
17 Procedure, 1965, is amended to read as follows:

18 (f)(1) In this subsection: (A) "close relative of a
19 deceased victim" means a person who was the spouse of a deceased
20 victim at the time of the victim's death, a parent of the deceased
21 victim, or an adult brother, sister, or child of the deceased
22 victim; (B) "guardian of a victim" means a person who is the legal
23 guardian of a victim, whether or not the legal relationship between
24 the guardian and victim exists because of the age of the victim or
25 the physical or mental incompetency of the victim; and
26 (C) "victim" means a person who is a victim of sexual assault,
27 kidnapping, or aggravated robbery or who has suffered bodily injury

1 or death as the result of the criminal conduct of another.

2 (2) Before considering for parole a prisoner who is serving
3 a sentence for an offense in which a person was a victim, the
4 Board, using the name and address provided on the victim impact
5 statement, shall make a reasonable effort to notify a victim of the
6 prisoner's crime or if the victim has a legal guardian or is
7 deceased, to notify the legal guardian or close relative of the
8 deceased victim. If the notice is sent to a guardian or close
9 relative of a deceased victim, the notice must contain a request by
10 the Board that the guardian or relative inform other persons having
11 an interest in the matter that the prisoner is being considered for
12 parole. If a hearing is held, the Board shall allow a victim,
13 guardian of a victim, close relative of a deceased victim, or a
14 representative of a victim or his guardian or close relative to
15 provide a written statement. This subsection may not be construed
16 to limit the number of persons who may provide statements for or
17 against the release of the prisoner on parole. The Board shall
18 consider the statements and the information provided in a victim
19 impact statement in determining whether or not to recommend parole.
20 However, the failure of the Board to comply with notice
21 requirements of this subsection is not a ground for revocation of
22 parole.

23 (3) Before ordering the parole of any prisoner, the Board
24 may have the prisoner appear before it and interview him. A parole
25 shall be ordered only for the best interest of society, not as an
26 award of clemency; it shall not be considered to be a reduction of
27 sentence or pardon. A prisoner shall be placed on parole only when

1 arrangements have been made for his employment or for his
2 maintenance and care, and when the Board believes that he is able
3 and willing to fulfill the obligations of a law-abiding citizen.
4 Every prisoner while on parole shall remain in the legal custody of
5 the institution from which he was released but shall be amenable to
6 the orders of the Board.

7 SECTION 4. (a) The Texas Adult Probation Commission, with
8 the participation of the Board of Pardons and Paroles, shall
9 develop, produce, and distribute the victim impact statement form
10 described by Article 56.03, Code of Criminal Procedure, 1965, to
11 each district attorney, criminal district attorney, and county
12 attorney in this state no later than the 60th day after the
13 effective date of this Act.

14 (b) The Texas Crime Victim Clearinghouse shall prepare and
15 submit to the legislature during the 70th Regular Session a copy of
16 findings developed from the survey required under Article 56.05,
17 Code of Criminal Procedure, 1965.

18 SECTION 5. This Act takes effect September 1, 1985.

19 SECTION 6. The importance of this legislation and the
20 crowded condition of the calendars in both houses create an
21 emergency and an imperative public necessity that the
22 constitutional rule requiring bills to be read on three several
23 days in each house be suspended, and this rule is hereby suspended.

President of the Senate

Speaker of the House

I certify that H.B. No. 235 was passed by the House on April 24, 1985, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 235 on May 23, 1985, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 235 was passed by the Senate, with amendments, on May 20, 1985, by a viva-voce vote.

Secretary of the Senate

APPROVED:

Date

Governor

APPENDIX E

DEVELOPMENT OF VICTIM IMPACT STATEMENT FORM

- *Texas Register* Announcement
- *Crime Victim Clearinghouse News*
- Harris County District Attorney Victim Impact Statement Form
- Dallas County District Attorney Victim Impact Statement Form
- Limestone County District Attorney Victim Impact Statement Form
- Wichita County District Attorney Victim Impact Statement Form

In
Addition The *Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units; and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Adult Probation Commission Victim Impact Statement

Pursuant to House Bill 235, 69th Legislature, 1985, the Texas Adult Probation Commission, with the participation of the Board of Pardons and Paroles, is developing a form for a victim impact statement. The newly-enacted Crime Victims' Rights Act, Code of Criminal Procedures, Article 56.03(a), effective September 1, 1985, provides that the form is to be used by law enforcement agencies, prosecutors, and other participants in the criminal justice system to record the impact of an offense on a victim of the offense, guardian of a victim, or a close relative of a deceased victim and to provide the agencies, prosecutors, and participants with information needed to contact the victim, guardian, or relative if needed at any stage of a prosecution of a person charged with the offense.

The final version of the form will be ready no later than October 31, 1985. (House Bill 235, §4) A draft version of the form is available to anyone who has an interest in this matter for review and comment. The Texas Adult Probation Commission and the Board of Pardons and Paroles want to receive as many comments and suggestions as possible from all concerned agencies and members of the public. Comments should be received no later than October 10, 1985, to be considered in the drafting of the final form. The adoption of this form will be on the agenda of the Texas Adult Probation Commission at its meeting of October 25, 1985. To obtain a copy of the current draft, please call or write David Spencer, General Counsel, Texas Adult Probation Commission, P.O. Box 12427, Austin, Texas 78711, (512) 834-8188, ext. 103.

Issued in Austin, Texas, on September 3, 1985.

TRD-857998 David Spencer
 General Counsel
 Texas Adult Probation Commission

Filed: September 3, 1985
For further information, please call (512) 834-8188.

★ ★ ★



Texas Crime Victim Clearinghouse News

1985 STATE DIRECTORY FOR CRIME SURVIVOR ASSISTANCE

The Texas Crime Victim Clearinghouse is currently mailing copies of its "1985 State Directory for Crime Survivor Assistance" to every county and district attorney, police chief and county sheriff throughout the state. Over 1500 directories have been distributed; plans to send a copy to all rape crisis centers, domestic violence shelters, and judges in Texas are underway.

Our deepest appreciation goes to those victim assistance coordinators, criminal justice professionals, and volunteers who willingly contributed their time and efforts to provide accurate information about local programs, resources and services throughout the state.

The Texas Crime Victim Clearinghouse has already begun updating the 1985 directory. For information changes or to obtain a copy of the directory, please forward your request to: Texas Crime Victim Clearinghouse, P.O. Box 12428, Austin, Texas 78711.

SURVEY RESULTS

Rape and child abuse and neglect were among the five most critical problems facing women in Texas according to a survey by the Governor's Commission for Women.



Governor's Training Conference on Crime Victim Assistance Attendees

GOVERNOR'S TRAINING CONFERENCE ON VICTIM ASSISTANCE

The first annual training conference on victim assistance, sponsored by the Texas Crime Victim Clearinghouse, the State Bar of Texas and the National Organization for Victim Assistance (NOVA), was held at the Texas Law Center in Austin. The conference provided a forum to discuss major concerns and achievements relating to victim assistance programs and legislation.

Robert DeLong, chair of the State Bar's Committee on Victim Assistance, said that the conference brought together leaders in the field, who could then go back to their communities and share their knowledge of state and federal innovations in training, counseling, program management and legislation. Norm Early, district attorney of Denver, CO and NOVA president-elect, and Marlene Young, executive director of NOVA, were keynote speakers. State Bar President Charles Smith was commended for the Bar's continued involvement in the issue of victim assistance as evidenced by forums held in the past, and the Texas Young Lawyer's public service announcement project—"Victims and the Law".

continued, page. 2 . . .

GOVERNOR'S TRAINING CONFERENCE CONTINUED...

Sixteen workshops were held in the following four subject areas: *Texas Crime Victim Legislation*, including the crime victim bill of rights, family violence issues and federal victim of crime act (VOCA) funding; *Current Victim Assistance Issues*, such as post-traumatic stress disorder and client confidentiality; *Communities and Victim Assistance*, and *Advanced Program Issues*, such as program management, funding and volunteer training. Victim advocacy groups and service providers distributed educational materials at the Information Exchange held during the three day conference. Please contact the Clearinghouse for information on next year's conference.

**GOVERNOR'S
CONFERENCES ON
PREVENTION OF CHILD
ABUSE AND NEGLECT**

"Communities throughout Texas are recognizing and accepting responsibility for the prevention of child abuse," said, Linda Gale White to the more than 550 participants attending the Governor's Regional Conferences on the Prevention of Child Abuse, "Community Problem: Community Solutions." Held in San Antonio, Abilene and Tyler this fall, the conferences were a follow-up to last year's Governor's Leadership Training Conference in Austin. Conference co-sponsors included the Department of Human Services, the Texas Coalition for the Prevention of

Child Abuse, Target Stores and Prudential Insurance Company.

Workshops showed representatives from the church, civic organizations, and criminal justice and social service systems how their talents could be used to develop comprehensive community prevention services by combining forces in community coalitions.

A "Handbook on Developing Community Coalitions" was published and distributed at the conferences by the Texas Coalition for the Prevention of Child Abuse. Free single copies can be obtained by writing to TCPCA, P.O. Box 49648, Austin, Texas 78765.

NOBLE EFFORT

Houston has been chosen by the National Organization for Black Law Enforcement Executives (NOBLE) as one of the locations for a special Victim Assistance Program. The Northeast section of the city, known for being a high crime area, was targeted two years ago for the pilot program.

The Victim Assistance Program highlights the problems of the inner city minority crime victims, said Chief Michael Tippitt of the Precinct 7 Constable's Office in Harris County. Tippitt is state president of the Texas NOBLE chapter. He said most of the program's assistance comes in the form of financial aid that is given to victims of major crimes in the area.

"So far the pilot program has been successful. The federal government is rewriting the grant to enhance it. Victims have gone unnoticed for many years, but now they are being helped," said Tippitt.

The Victim Assistance Program in northeast Houston is headed by Captain Hiram Contreras of the Houston Police Department.

**CRIME VICTIM
AWARENESS WEEK**

The week of April 13-19, 1986 has been designated for the observance of Crime Victim Rights Week in Texas by Governor Mark White. Several cities will be hosting local observances. For suggestions on what your community can do, or to share your local plan with other communities, please contact the Clearinghouse at 1-800-252-3423. Activities will be detailed in a special "Crime Victim Rights Week" edition of the clearinghouse newsletter.



Texas Crime Victim Clearinghouse News

Office of the Governor
Governor Mark White

Suzanne McDaniel Willms, Director
Judith Sloan-Price, Coordinator
Jodie Manning, Assistant
Stephanie Logan, Intern

Staff Office:
105 Sam Houston Building
P.O. Box 12428, Austin, Texas 78711
512-463-1886 / 800-252-3423

A QUARTERLY PUBLICATION

Defendant: _____ Cause No.: _____ Court: _____

CRIME VICTIM'S RIGHTS

THE PURPOSE OF THIS DOCUMENT IS TO PROVIDE INFORMATION TO YOU, THE VICTIM OF A CRIME, AND TO GET INFORMATION FROM YOU WHICH WILL HELP THE POLICE, PROSECUTORS, COURTS AND CORRECTIONAL AGENCIES TO PROSECUTE ANY PERSON ACCUSED OF COMMITTING A CRIME AGAINST YOU.

These rights pertain to each person who is (1) the victim of a crime involving sexual assault, kidnapping or aggravated robbery, or who has suffered bodily injury or death as the result of a crime, (2) the guardian of a victim, or (3) the close relative (spouse, parent, brother, sister or adult child) of a deceased victim.

As a victim of one of these crimes, guardian of a victim, or close relative of a deceased victim, you are entitled to the following rights:

- (1) To receive **adequate protection from harm and threats of harm** arising from cooperation with prosecution efforts;
- (2) To have the **safety of the victim and the victim's family** considered as an element in **fixing the amount of bail** for the accused;
- (3) To be **informed**, if you request it, of relevant **court proceedings**, including any cancellations or re-scheduling;
- (4) To be **informed**, at your request, by a peace officer of **procedures in criminal investigations**, and by the district attorney's office concerning the general **procedures in the criminal justice system**, including guilty plea negotiations and arrangements;
- (5) To provide **pertinent information** to a probation department about the **impact of the offense** on the victim and the victim's family;
- (6) To receive information regarding **compensation to victims of crime**, payment of medical expenses for a victim of sexual assault, and, at your request, to be **referred** to available social service agencies that may offer additional assistance;
- (7) To be **notified**, if you request it, of **parole proceedings** concerning any person convicted of the offense against you and to provide information to the Board of Pardons and Paroles to be considered prior to granting parole (if you want to be notified, it is your responsibility to keep the Board of Pardons and Paroles informed of your current address); and
- (8) To be **present at all public court proceedings** related to the offense, subject to the approval of the judge in the case.

If you have been threatened or harmed because of your cooperation in this case, or if any of these rights have not been respected, or if you would like more information about your rights or about the criminal justice system, you should contact the Victim Assistance Coordinator or the District Attorney's Office.

You may remove this front page so that you will have a copy of these rights for handy reference. Please fill out the rest of the form and return it to the Victim Assistance Coordinator or to the office of the prosecutor who is prosecuting this crime. **You do not have to answer any question that you do not wish to answer. Under some circumstances the information in this form may be made public, or may be revealed to the defendant and his or her lawyer.**

RELEASE INFORMATION

This information applies if a person is found guilty of committing a felony offense against you, and is sentenced to prison in the Texas Department of Corrections.

The Texas Board of Pardons and Paroles determines which prisoners who are sentenced to prison for felonies are to be paroled from the Texas Department of Corrections. To grant or deny parole to an inmate is a discretionary decision. However, no one may be released on parole until he is legally eligible under the law passed by the Texas legislature.

Inmates whose offenses were committed on or after August 29, 1977, and who have not been paroled, are released to mandatory supervision when their actual time served and their earned "good time" equal the maximum term of their sentences. An inmate may be released to mandatory supervision up to 180 days earlier at the discretion of the Board.

Persons released on parole or mandatory supervision are supervised by Texas parole officers throughout the state, and by parole officers of other states for Texas releases living in those states.

For additional information concerning the release of an inmate from the Texas Department of Corrections, you may write the Board of Pardons and Paroles, P.O. Box 13401, Capitol Station, Austin, Texas 78711, or call the Director of Board and Commissioner Services, telephone number (512) 459-2700. If you want to be notified of parole proceedings, it is your responsibility to notify the Board of Pardons and Paroles of any change of your address.

Defendant: _____ Cause No.: _____ Court: _____

Received by: _____ on _____ By: _____
(agency) (date) (signature of prosecutor or designee)

VICTIM IMPACT STATEMENT

The information requested below is important to help the prosecutor, the judge and the correctional personnel who will be dealing with this case to evaluate properly the effect this crime has had on you. This form will be considered by the judge before he or she sets the defendant's punishment and, if the defendant is sent to prison, it will also be considered by the Board of Pardons and Paroles before he or she is paroled. Please answer the questions completely and accurately. If there is not enough space on this form, you may use additional pages.

(1) (a) Have you had any **economic loss** as the result of this crime? This includes property lost or damaged, lost wages due to missing work, bills for doctors, hospitals, psychiatric counselling, etc.

Yes: _____ No: _____

(b) If the answer to (1)(a) is "Yes", give the amount of economic loss you have suffered. Itemize the losses, and attach copies of bills and receipts if possible.

(c) What is the total amount of your economic loss? \$ _____

(2) (a) If you are the guardian or relative of a victim, has the victim suffered **economic loss**?

Yes: _____ No: _____

(b) If the answer to (2)(a) is "Yes", please give that amount as well. Itemize the losses and attach copies of bills and receipts if possible.

(c) What is the total amount of the victim's losses? \$ _____

(3) (a) Is any part of these losses covered by insurance?

Yes: _____ No: _____

(b) If the answer to (3)(a) is "Yes", please give the following information:

(c) How much money have you been paid for the loss up to today? \$ _____

(d) How much do you expect to be paid in the future? \$ _____

(e) Name of insurance company: _____
(f) Company's address: _____

(g) Company's phone: _____

(4) (a) Do you feel that, as a result of this crime, your **ability to earn a living** in the future has been harmed?
Yes: _____ No: _____
(b) If the answer to (4)(a) is "Yes", please state how your earning ability has been damaged. You may include statements from doctors, employers and counsellors as well as your own statements.

(5) (a) Have you had any **physical injury** as the result of this crime?
Yes: _____ No: _____
(b) If the answer to (5)(a) is "Yes", circle one of the following which best describes the extent of your physical injuries:
(aa) treated at crime scene only
(bb) treated at medical center and released
(cc) hospitalized for _____ days
(dd) other (specify): _____

(c) If the answer to (5)(a) is "Yes", briefly describe, in your own words, the physical injuries you have suffered. You may include statements from medical personnel as well.

(6) (a) If you are the guardian or relative of a victim, has the victim had **physical injuries**?
Yes: _____ No: _____
(b) If the answer to (6)(a) is "Yes", circle one of the following which best describes the extent of the physical injuries:
(aa) treated at crime scene only
(bb) treated at medical center and released
(cc) hospitalized for _____ days
(dd) other (specify): _____

- (c) If the answer to (6)(a) is "Yes", briefly describe the victim's physical injuries. You may include statements from medical personnel as well as the victim's statements and your own statements.

- (7) (a) Have you had any **psychological injury** as the result of this crime? (Psychological injury can include any emotional disturbance, change in attitude or feelings, etc.)

Yes: _____ No: _____

- (b) If the answer to (7)(a) is "Yes", circle one of the following which best describes the extent of your psychological injuries:

(aa) counseling required

(bb) other (specify): _____

- (c) If the answer to (7)(a) is "Yes", briefly describe, in your own words, the psychological injuries you have suffered. You may include statements from doctors and counsellors as well.

- (8) (a) If you are the guardian or relative of a victim, has the victim suffered **psychological injury**?

Yes: _____ No: _____

- (b) If the answer to (8)(a) is "Yes", circle one of the following which best describes the extent of the victim's psychological injuries:

(aa) counseling required

(bb) other (specify): _____

- (c) If the answer to (8)(a) is "Yes", briefly describe the victim's psychological injuries. You may include statements from doctors and counsellors as well as the victim's statements and your own statements.

- (9) (a) Have you requested any **psychological services** as the result of this crime?

Yes: _____ No: _____

(b) If the answer to (9)(a) is "Yes", please give any information about the psychological services that you would like the judge and the Board of Pardons and Paroles to consider.

(10) State any effect this crime has had on your **personal welfare** or your **relationship with your family**. If you are the guardian or relative, you may include information about yourself as well as the victim.

(11) The Board of Pardons and Paroles will be provided with a copy of this statement, and will consider it before making a decision to recommend parole for any person convicted of this crime. Do you want to be **notified when the person is considered for parole**?

Yes: _____ No: _____

If you do want to be notified, **it is your responsibility to inform the Board of Pardons and Paroles of any change in your address**. You may get information about the release of the person from the Texas Department of Corrections by writing to the Texas Board of Pardons and Paroles, P.O. Box 13401, Capitol Station, Austin, Texas 78711, or by calling the Director of Board and Commissioner Services at (512) 459-2700.

(12) Please give any other information that you feel is important about the **impact of this crime**. Please **DO NOT** relate any facts about the commission of the offense. 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 or relative

Defendant: _____ Cause No. _____ Court: _____

VICTIM INFORMATION

The information on this page is important to the court and to the prosecuting attorney to allow them to be able to get in touch with you whenever it is 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 of this crime is a minor or is incompetent, this form should be filled out by his or her parent or guardian. If the victim is deceased, it should be filled out by a close relative (husband or wife, mother or father, brother or sister, or adult child).

- (1) (a) Victim's full name: _____
(b) Victim's address: _____
(c) Victim's phone: _____

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

- (a) Your full name: _____
(b) Your address: _____
(c) Your phone: _____
(d) Relationship to victim: _____

(3) Please give the address and phone number of a relative or other permanent contact through whom you may be reached:

- (a) His/her name: _____
(b) His/her address: _____
(c) His/her phone: _____
(d) Relationship to victim: _____

(4) If you can be reached at work, please give your work phone: _____

(5) Victim's date of birth: _____

(6) Victim's Social Security number: _____

(7) Victim's sex: M _____ F _____

(This page is reserved for the use of the prosecuting attorney or victim assistance coordinator.)

CRIME VICTIM IMPACT STATEMENT

"The crime victim impact statement is intended to provide victims of sexual assault, kidnapping or aggravated robbery or victims who suffered bodily harm with input into the sentencing and parole decisions," said David Spencer, General Counsel for the Texas Adult Probation Commission.

The statement, a directive of HB 235, the "Crime Victim Bill of Rights" passed by the 69th Legislature, went into effect November 1, 1985.

Initial response to the use of the statement has been positive. Responses and implementation will be reviewed by the Commission and the Clearinghouse. A copy of the Victim Impact Statement is reprinted in the newsletter. Please contact the Clearinghouse with your comments.

BATTERED WOMEN RECEIVE HELP

The Austin Center for Battered Women and the Austin Apartment Association have founded a program to assist battered women and children in need of temporary housing. The new program offers battered women and children reduced apartment rents to enable them to leave the women's shelter and move into a place of their own until they are financially secure.

In order for a women to stop the abuse that she has been suffering, she must establish financial independence and live apart from the abuser for at least six months. Otherwise, she might return to the abuser when financial troubles arise, said Ellen Fisher, director of the Center for Battered Women in Austin.

"The odds these women face in the community are stagger-

ing. If they can make it through the first six months living on their own, the chances are real good they're going to make it."

The Austin Apartment Association has offered 50 apartment units to battered women staying in the shelter or who are receiving counseling from the center.

Apartment rents will be reduced by a third for at least six months and security deposits will be waived. Occupants also have access to a storage unit of furniture donated by the apartment association.

Fisher said this is the first program of its kind in the nation. For more information, contact the Center for Battered Women at (512) 445-6611.

COMPENSATION REPORT

Over 7 million dollars was paid this past year to victims of crime who suffered loss of earnings and incurred medical services and required counseling and related services. Eleven million dollars in funds collected from those convicted of crimes in Texas are available to assist victims receiving injuries from crime. In addition, the Industrial Accident Board will apply for additional funds available under the federal Victim of Crime Act (VOCA).

The Texas Compensation Act was amended effective September 1, 1985, to include victims of spouse and child abuse who incur medical expenses, psychiatric care and counseling.

Additional information and applications may be obtained by contacting the Crime Victim Compensation Division of the Industrial Accident Board at 1-800-252-7063, 105 West Riverside Drive, Austin, Texas 78704, or the Crime Victim Clearinghouse.

WICHITA COUNTY COURTHOUSE COLORING BOOK

The Wichita County Victim Assistance Program, under the leadership of Barry Macha, District Attorney, has recently developed "The Wichita County Courthouse Coloring Book" for children who are crime victims and witnesses. The booklet is modeled after the Los Angeles publication, "My Day in Court." Cartoon drawings are of local officials and surroundings in Wichita County, presenting the investigative process, criminal justice system, and courthouse activities "through a child's eyes."

According to Kay Guerin, Victim Assistance Coordinator, the coloring book and a box of crayons are given to all children upon their initial visit to the district attorney's office; in addition, coloring books are given to local school children who visit the office during school-sponsored trips and courthouse tours. The use of the coloring book has greatly reduced the apprehension and trauma associated with victimization, including case investigation, courtroom appearance and testimony.

According to Macha, the coloring book serves as a symbol of what local interagency and community cooperation can do. There were no actual costs incurred as a result of the project; it was a product of the donated time and efforts of former Asst. District Attorney Rita Weinstock and local artist David Kulka, and of contributions by local businesses. The coloring book is currently in its second printing. Copies may be obtained by contacting: Barry Macha, District Attorney, Wichita County Courthouse, Wichita Falls, Texas, 76301.

PROGRAM PROFILE:

A Safe Place . . .

For many victims waiting alone in a crowded hallway before or after being called on to testify can be as intimidating as the crime. The El Paso and Tarrant County District Attorneys Offices provide a comfortable area where crime victims and witnesses can safely wait, removed from possible confrontations with the defendant or family. In addition to safety, these areas provide a central place where victims can receive information on compensation, restitution, social services, and court procedure. El Paso has a special area for children with books donated from school libraries, crayons and coloring books, and child size furniture. El Paso is negotiating with the local YWCA to provide day-care. (Other cities have contacted local colleges or churches for this service)

Furnishings for the Tarrant County reception area were donated by the local community. In El Paso, furniture was purchased with funds from the district attorney's budget. For information on how your community can get involved, contact: The Clearinghouse; Doug Gray, Victim Services Coordinator, El Paso, Texas, 79901—(915) 546-2059; or Margaret Ellis, Director, Victim-Witness Program, 200 W. Beklnap, Ft. Worth, Texas, 76196—(817) 334-1400.

child abuse to Texas Department of Human Services and local police personnel, and responding to the individual needs of the child abuse victims and their families.

**"TEXAS,
150 YEARS LATER:
DESIGNING THE FUTURE"**

The Texas Coalition for Juvenile Justice will hold its statewide conference at the Hyatt Regency Hotel in Austin, May 6-8, 1986. The conference will address a variety of issues facing juvenile justice professionals and service-providers in Texas today, as well provide working sessions for shaping the future of delinquent youth and those who become victims of crime. TCJJ is currently seeking agencies and volunteers to assist with conference planning. For further information, please contact Lisa Mead or Kimberly Davis-Sapahi at (214) 871-3001.

**CHILD ABUSE
TRAINING MATERIALS**

The Texas Crime Victim Clearinghouse, in cooperation with the Governor's Juvenile Justice Education Project, is currently developing a training package for police and public school personnel in recognizing child abuse, reporting suspected

Texas Crime Victim Clearinghouse Action Form

I would like to: My organization would like to:

Be placed on the Clearinghouse Mailing List _____

Up-date an address on the mailing list _____

Complete a Clearinghouse resource questionnaire _____

Revise a Clearinghouse resource questionnaire _____

Other: _____

Return: Texas Crime Victim Clearinghouse • P.O. Box 12428 • Austin, Texas 78711



Texas Crime Victim
Clearinghouse
P.O. Box 12428
Austin, Texas 78711

BULK RATE
U.S. Postage
P A I D
Permit No. 906
Austin, Texas

Address Correction Requested.
New Address or Personnel? Please correct this mailing label and return to the Clearinghouse.

HARRIS COUNTY VICTIM IMPACT STATEMENT 1

Victim Impact Information

Page -1-

State of Texas vs. _____
Cause Number: _____ Court Number: _____
Type of Offense: _____ NCIC Code: _____
Date of Offense: _____ Date of Disposition: _____
Information completed by: a) mail b) phone c) in person d) other (specify)

Above information to be completed by the District or County Attorney's Office

CRIME VICTIM'S RIGHTS DOCUMENT

THE PURPOSE OF THIS DOCUMENT IS TO PROVIDE INFORMATION TO YOU, THE VICTIM OF A CRIME, AND TO GET INFORMATION FROM YOU WHICH WILL HELP THE POLICE, PROSECUTORS, COURTS AND CORRECTIONAL AGENCIES TO HANDLE PROPERLY THE PROSECUTION OF ANY PERSON ACCUSED OF COMMITTING A CRIME AGAINST YOU.

These rights pertain to each person who is (1) the victim of a crime involving sexual assault, kidnapping or aggravated robbery, or who has suffered bodily injury or death as the result of a crime, (2) the guardian of a victim, or (3) the close relative (spouse, parent, brother, sister or child) of a deceased victim.

As a victim of a crime, guardian of a victim, or close relative of a deceased victim, you are entitled to the following rights:

1. To receive adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;
2. To have your safety and the safety of your family considered in fixing the amount of bail for the accused;
3. To be informed, if you request it, of relevant court proceedings, including any cancellations or rescheduling;
4. To be informed, at your request, by a peace officer of procedures in criminal investigations, and by the district attorney's office concerning the general procedures in the criminal justice system, including guilty plea negotiations and arrangements;
5. To provide pertinent information to a probation department about the impact of the offense on you and your family;
6. To receive information regarding compensation to victims of crime, payment of medical expenses for a victim of sexual assault, and, at your request, to be referred to available social service agencies that may offer additional assistance;
7. To be notified, if you request it, of parole proceedings concerning any person convicted of the offense against you and to provide information to the Board of Pardons and Paroles to be considered prior to granting parole (if you want to be notified, it is your responsibility to keep the Board of Pardons and Paroles informed of your current address); and
8. To be present at all public court proceedings related to the offense, subject to the approval of the judge in the case.

If you have been threatened or harmed because of your cooperation in this case, or if any of these rights have not been respected, or if you would like more information about your rights or about the criminal justice system, you should contact the Victim Assistance Coordinator or the District Attorney's Office.

You may remove this front page so that you can have a copy of these rights for handy reference. Please fill out the rest of the form and return it to the Victim Assistance Coordinator or the the office of the prosecutor who is prosecuting this crime.

Contact and Address Information
Parole Procedure Explanation

State of Texas vs. _____
Cause Number: _____ Court Number: _____
Type of Offense: _____ NCIC Code: _____
Date of Offense: _____ Date of Disposition: _____
Information completed by: a) mail b) phone c) in person d) other (specify)

Above information to be completed by the District or County Attorney's Office

NOTE: IF THE DEFENDANT IN THIS CASE IS SENTENCED TO THE TEXAS DEPARTMENT OF CORRECTIONS, THE BOARD OF PARDONS AND PAROLES WILL BE PROVIDED WITH A COPY OF THIS STATEMENT AND WILL CONSIDER IT BEFORE MAKING A DECISION TO RECOMMEND PAROLE FOR ANY PERSON CONVICTED OF THIS CRIME.

- 1. DO YOU WISH TO BE NOTIFIED WHEN THE PERSON IS CONSIDERED FOR PAROLE?
A. YES _____ B. NO _____

IF YOU DO WISH 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 PAROLE PROCEDURES AND SEND ANY ADDRESS CHANGES TO:

Texas Board of Pardons and Paroles
P.O. Box 13401
Austin, Texas 78711
(512) 459-2700

- 2. Full name of victim: _____
Date of Birth: _____ Sex: 1. Male 2. Female (circle one)
mo. / day / year

Home address: _____ Phone: _____
street city, state, zip area number
Work address: _____ Phone: _____
street city, state, zip area number

- 3. If victim is deceased, full name of close relative: _____
Home address: _____ Phone: _____
street city, state, zip area number
Work address: _____ Phone: _____
street city, state, zip area number

- 4. If applicable, full name of guardian of victim: _____
Home address: _____ Phone: _____
street city, state, zip area number
Work address: _____ Phone: _____
street city, state, zip area number

- 5. Full name of another person who will be in permanent contact with the victim, guardian, or close relative: _____
Home address: _____ Phone: _____
street city, state, zip area number
Work address: _____ Phone: _____
street city, state, zip area number

NOTE: THE INFORMATION CONTAINED ON THIS PAGE WILL NOT BE DISCLOSED TO THE DEFENDANT OR DEFENSE COUNSEL.

State of Texas vs. _____
 Cause Number: _____ Court Number: _____
 Type of Offense: _____ NCIC Code: _____
 Date of Offense: _____ Date of Disposition: _____
 Information completed by: a) mail b) phone c) in person d) other (specify) _____

Above information to be completed by the District or County Attorney's Office

6. Relationship of victim to offender (circle one):
 a. stranger d. other person living in the same house
 b. spouse e. former spouse
 c. other family member f. acquaintance
 g. other (specify): _____

7. Place where offense occurred (circle one):
 a. residence d. commercial establishment
 b. street e. work
 c. automobile f. other (specify): _____

8. Describe the extent of your physical injuries (circle one):
 a. no treatment necessary
 b. treated at crime scene only
 c. treated at medical center and released
 d. hospitalized for _____ days
 e. other (specify): _____

9. Amount of medical expenses to date: \$ _____
 Estimated future medical expenses: \$ _____

10. Attach copy of itemized medical costs.

11. Describe the extent of your psychological injuries (circle one):
 a. no treatment necessary b. counseling required
 c. other (specify): _____

12. Amount of counseling expenses to date: \$ _____
 Estimated future counseling expenses: \$ _____

13. Attach a copy of itemized counseling costs.

14. Has this experience affected your ability to earn a living (circle one):
 a. yes b. no
 If yes, number of days missed from work since the crime occurred: _____

15. Have you returned to work as of this date? (circle one):
 a. yes b. no
 If no, when do you expect to be able to return to work? (fill in blank):
 a. _____ days b. _____ months c. _____ years d. _____ never
 e. other (specify): _____

16. Does sick leave cover days missed from work? (circle one):
 a. yes b. no
 c. partially: _____ days covered

17. Victim's monthly income: \$ _____

18. Have you suffered any other economic loss as a result of this crime?
 (circle one):
 a. yes b. no
 c. other (specify): _____

19. Did insurance cover any of the expenses you have incurred as a result of
 this crime? (circle one):
 a. yes b. no

HARRIS COUNTY VICTIM IMPACT STATEMENT 2

ATENCION:

Si necesita asistencia en traduciendo esta forma en español por favor llame al 221-6655.

Defendant: _____ Cause No.: _____ Court: _____

CRIME VICTIM'S RIGHTS

THE PURPOSE OF THIS DOCUMENT IS TO PROVIDE INFORMATION TO YOU, THE VICTIM OF A CRIME, AND TO GET INFORMATION FROM YOU WHICH WILL HELP THE POLICE, PROSECUTORS, COURTS AND CORRECTIONAL AGENCIES TO PROSECUTE ANY PERSON ACCUSED OF COMMITTING A CRIME AGAINST YOU.

These rights pertain to each person who is (1) the victim of a crime involving sexual assault, kidnapping or aggravated robbery, or who has suffered bodily injury or death as the result of a crime, (2) the guardian of a victim, or (3) the close relative (spouse, parent, brother, sister or adult child) of a deceased victim.

As a victim of one of these crimes, guardian of a victim, or close relative of a deceased victim, you are entitled to the following rights:

- (1) To receive adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;
- (2) To have the safety of the victim and the victim's family considered as an element in fixing the amount of bail for the accused;
- (3) To be informed, if you request it, of relevant court proceedings, including any cancellations or re-scheduling;
- (4) To be informed, at your request, by a peace officer of procedures in criminal investigations, and by the district attorney's office concerning the general procedures in the criminal justice system, including guilty plea negotiations and arrangements;
- (5) To provide pertinent information to a probation department about the impact of the offense on the victim and the victim's family;
- (6) To receive information regarding compensation to victims of crime, payment of medical expenses for a victim of sexual assault, and, at your request, to be referred to available social service agencies that may offer additional assistance;
- (7) To be notified, if you request it, of parole proceedings concerning any person convicted of the offense against you and to provide information to the Board of Pardons and Paroles to be considered prior to granting parole (if you want to be notified, it is your responsibility to keep the Board of Pardons and Paroles informed of your current address); and
- (8) To be present at all public court proceedings related to the offense, subject to the approval of the judge in the case.

If you have been threatened or harmed because of your cooperation in this case, or if any of these rights have not been respected, or if you would like more information about your rights or about the criminal justice system, you should contact the Victim Assistance Coordinator or the District Attorney's Office.

You may remove this front page so that you will have a copy of these rights for handy reference. Please fill out the rest of the form and return it to the Victim Assistance Coordinator or to the office of the prosecutor who is prosecuting this crime. You do not have to answer any question that you do not wish to answer. Under some circumstances the information in this form may be made public, or may be revealed to the defendant and his or her lawyer.

RELEASE INFORMATION

This information applies if a person is found guilty of committing a felony offense against you, and is sentenced to prison in the Texas Department of Corrections.

The Texas Board of Pardons and Paroles determines which prisoners who are sentenced to prison for felonies are to be paroled from the Texas Department of Corrections. To grant or deny parole to an inmate is a discretionary decision. However, no one may be released on parole until he is legally eligible under the law passed by the Texas legislature.

Inmates whose offenses were committed on or after August 29, 1977, and who have not been paroled, are released to mandatory supervision when their actual time served and their earned "good time" equal the maximum term of their sentences. An inmate may be released to mandatory supervision up to 180 days earlier at the discretion of the Board.

Persons released on parole or mandatory supervision are supervised by Texas parole officers throughout the state, and by parole officers of other states for Texas releases living in those states.

For additional information concerning the release of an inmate from the Texas Department of Corrections, you may write the Board of Pardons and Paroles, P.O. Box 13401, Capitol Station, Austin, Texas 78711, or call the Director of Board and Commissioner Services, telephone number (512) 459-2700. If you want to be notified of parole proceedings, it is your responsibility to notify the Board of Pardons and Paroles of any change of your address.

Defendant: _____ Cause No. _____ Court: _____

VICTIM INFORMATION

The information on this page is important to the court and to the prosecuting attorney to allow them to be able to get in touch with you whenever it is 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 of this crime is a minor or is incompetent, this form should be filled out by his or her parent or guardian. If the victim is deceased, it should be filled out by a close relative (husband or wife, mother or father, brother or sister, or adult child).

- (1) (a) Victim's full name: _____
(b) Victim's address: _____

(c) Victim's phone: _____

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

- (a) Your full name: _____
(b) Your address: _____

(c) Your phone: _____
(d) Relationship to victim: _____

(3) Please give the address and phone number of a relative or other permanent contact through whom you may be reached:

- (a) His/her name: _____
(b) His/her address: _____
(c) His/her phone: _____
(d) Relationship to victim: _____

(4) If you can be reached at work, please give your work phone: _____

(5) Victim's date of birth: _____

(6) Victim's Social Security number: _____

(7) Victim's sex: M _____ F _____

(This page is reserved for the use of the prosecuting attorney or victim assistance coordinator.)

Defendant: _____ Cause No.: _____ Court: _____

Received by: _____ on _____ By: _____
(agency) (date) (signature of prosecutor or designee)

VICTIM IMPACT STATEMENT

The information requested below is important to help the prosecutor, the judge and the correctional personnel who will be dealing with this case to evaluate properly the effect this crime has had on you. This form will be considered by the judge before he or she sets the defendant's punishment and, if the defendant is sent to prison, it will also be considered by the Board of Pardons and Paroles before he or she is paroled. Please answer the questions completely and accurately. If there is not enough space on this form, you may use additional pages.

- (1) (a) Have you had any **economic loss** as the result of this crime? This includes property lost or damaged, lost wages due to missing work, bills for doctors, hospitals, psychiatric counselling, etc.

Yes: _____ No: _____

- (b) If the answer to (1)(a) is "Yes", give the amount of economic loss you have suffered. Itemize the losses, and attach copies of bills and receipts if possible.

- (c) What is the total amount of your economic losses? \$ _____

- (2) (a) If you are the guardian or relative of a victim, has the victim suffered **economic loss**?

Yes: _____ No: _____

- (b) If the answer to (2)(a) is "Yes", please give that amount as well. Itemize the losses and attach copies of bills and receipts if possible.

- (c) What is the total amount of the victim's losses? \$ _____

- (3) (a) Is any part of these losses covered by insurance?

Yes: _____ No: _____

- (b) If the answer to (3)(a) is "Yes", please give the following information:

- (c) How much money have you been paid for the loss up to today? \$ _____

- (d) How much do you expect to be paid in the future? \$ _____

(e) Name of insurance company: _____

(f) Company's address: _____

(g) Company's phone: _____

(4) (a) Do you feel that, as a result of this crime, your ability to earn a living in the future has been harmed?

Yes: _____ No: _____

(b) If the answer to (4)(a) is "Yes", please state how your earning ability has been damaged. You may include statements from doctors, employers and counsellors as well as your own statements.

(5) (a) Have you had any physical injury as the result of this crime?

Yes: _____ No: _____

(b) If the answer to (5)(a) is "Yes", circle one of the following which best describes the extent of your physical injuries:

(aa) treated at crime scene only

(bb) treated at medical center and released

(cc) hospitalized for _____ days

(dd) other (specify): _____

(c) If the answer to (5)(a) is "Yes", briefly describe, in your own words, the physical injuries you have suffered. You may include statements from medical personnel as well.

(6) (a) If you are the guardian or relative of a victim, has the victim had physical injuries?

Yes: _____ No: _____

(b) If the answer to (6)(a) is "Yes", circle one of the following which best describes the extent of the physical injuries:

(aa) treated at crime scene only

(bb) treated at medical center and released

(cc) hospitalized for _____ days

(dd) other (specify): _____

(c) If the answer to (6)(a) is "Yes", briefly describe the victim's physical injuries. You may include statements from medical personnel as well as the victim's statements and your own statements.

(7) (a) Have you had any psychological injury as the result of this crime? (Psychological injury can include any emotional disturbance, change in attitude or feelings, etc.)

Yes: _____ No: _____

(b) If the answer to (7)(a) is "Yes", circle one of the following which best describes the extent of your psychological injuries:

(aa) counseling required

(bb) other (specify): _____

(c) If the answer to (7)(a) is "Yes", briefly describe, in your own words, the psychological injuries you have suffered. You may include statements from doctors and counsellors as well.

(8) (a) If you are the guardian or relative of a victim, has the victim suffered psychological injury?

Yes: _____ No: _____

(b) If the answer to (8)(a) is "Yes", circle one of the following which best describes the extent of the victim's psychological injuries:

(aa) counseling required

(bb) other (specify): _____

(c) If the answer to (8)(a) is "Yes", briefly describe the victim's psychological injuries. You may include statements from doctors and counsellors as well as the victim's statements and your own statements.

(9) (a) Have you requested any psychological services as the result of this crime?

Yes: _____ No: _____

- (b) If the answer to (9)(a) is "Yes", please give any information about the psychological services that you would like the judge and the Board of Pardons and Paroles to consider.

- (10) State any effect this crime has had on your personal welfare or your relationship with your family. If you are the guardian or relative, you may include information about yourself as well as the victim.

- (11) The Board of Pardons and Paroles will be provided with a copy of this statement, and will consider it before making a decision to recommend parole for any person convicted of this crime. Do you want to be notified when the person is considered for parole?

Yes: _____ No: _____

If you do want to be notified, it is your responsibility to inform the Board of Pardons and Paroles of any change in your address. You may get information about the release of the person from the Texas Department of Corrections by writing to the Texas Board of Pardons and Paroles, P.O. Box 13401, Capitol Station, Austin, Texas 78711, or by calling the Director of Board and Commissioner Services at (512) 459-2700.

- (12) Please give any other information that you feel is important about the impact of this crime. Please DO NOT relate any facts about the commission of the offense. 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 or relative

VICTIM IMPACT STATEMENT

1. Victim's:
 - a. Date of Birth _____
Month/Day/Year
 - b. Sex (circle one)
 1. Male
 2. Female
2. Relationship of Victim to Offender (circle one)
 1. Stranger
 2. Spouse
 3. Family Member
 4. Acquaintance
 5. Co-worker
 6. Other (Specify): _____
3. Describe the extent of your physical injuries (circle one):
 1. No treatment necessary
 2. Treated at crime scene only
 3. Treated at medical center and released
 4. Hospitalized for _____ days
 5. Other (specify): _____Additional information about extent of physical injuries:

4. Medical expense
 - a. Amount of medical expenses to date: \$ _____
 - b. Estimated future medical expenses: \$ _____
5. Describe the extent of your psychological injuries (circle one):
 1. No treatment necessary
 2. Counseling required
6. Counseling expense
 - a. Amount of counseling expense to date: \$ _____
 - b. Estimated future counseling expense: \$ _____
7. Employment
 - a. Has this experience affected your ability to earn a living (circle one)?
 1. Yes
 2. No

If YES, _____ days missed from work since the crime occurred.
 - b. Have you returned to work as of this date (circle one)?
 1. Yes
 2. No

If NO, when do you expect to be able to return to work?
_____ days _____ weeks _____ months _____ years
 - c. Are days missed from work covered by paid sick leave (circle one)?
 1. Yes
 2. No
 - d. Victim's monthly income: \$ _____

(OVER)

8. Have you incurred any property loss as a result of this crime (circle one)?

1. Yes 2. No

If YES, estimated amount of loss: \$ _____

(If amount shown is greater than \$100.00, attach an inventory of the property and its current value)

9. Did insurance cover any of the expenses you have incurred as a result of this crime (circle one)?

1. Yes 2. No

If YES, percent of expenses covered: _____ %

If YES, name and address of Insurance Company

10. Has this crime affected the lifestyle of you or your family (circle one)?

1. Yes 2. No

If YES, have you (circle ones that apply):

1. Moved to a different location
2. Changed jobs or occupations
3. Requested a household member to leave
4. Been permanently disabled
5. Other (specify): _____

11. Do you wish to be notified of the date scheduled for relevant court proceedings (circle one)?

1. Yes 2. No

12. Do you feel that the opportunity to provide this information has been helpful (circle one)?

1. Yes 2. No

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SIGNATURE

DATE

LIMESTONE COUNTY VICTIM IMPACT STATEMENT

VICTIM IMPACT STATEMENT NUMBER TWO

DEFENDANT: _____
Cause No. _____ Court _____ Received by LIMESTONE COUNTY
ATTORNEY: _____

On This _____ Day of _____
Victim Impact Statement No. Two
Name of person making report: _____
Address and phone: _____
Relationship to deceased: _____

The information requested below is important to help the prosecutor, the judge and the correctional personnel who will be dealing with this case to evaluate properly the effect this crime has had on you. This form will be considered by the judge before he or she sets the defendant's punishment and, if the defendant is sent to prison, it will also be considered by the Board of Pardons and Paroles before he or she is paroled. Please answer the questions completely and accurately. If there is not enough space on this form, you may use additional pages.

What is the economical loss you have suffered since this crime?
(Work wages, funeral expenses...)

Was deceased covered by insurance?
If so what insurance company, please give address, phone, and the insurance policies numbers.

Specific coverage: medical, burial, life _____

Attach funeral bill if not covered by a policy.
Did the deceased have hospital expenses prior to death? _____

If so state name of hospital, address, phone and doctor. _____

Attach medical bills if the above question is yes.
List the dependants of deceased and birthdates _____

Is the spouse or guardian of the dependants employed?
If so please give name, address, and phone of the employer. _____

Salary: _____
Victim's Spouse or Guardian Signature: _____

This must be signed and notarized. Date: _____

Sworn to and subscribed before me, the undersigned authority, on this the _____ day of _____, 1986.

Notary Public in and for _____ County
_____ State

THIS PAGE IS FOR YOU TO EXPLAIN YOUR FEELINGS, CONCERNS, AND DIFFICULTIES
IN YOUR LIFE AND THE LIVES OF YOUR FAMILY AFTER THIS
VIOLENT CRIME OCCURRED IN YOUR FAMILY. ADDITIONAL
PAGES MAY BE USED IF NEEDED.

WICHITA COUNTY VICTIM IMPACT STATEMENT

The State Of Texas v.:
Date Of Offense:
Offense:
Cause Number

VICTIM IMPACT INFORMATION

*VICTIM

NAME: first middle last
HOME ADDRESS: street city zip PHONE: ac number
WORK ADDRESS: street city zip PHONE: ac number

*IF VICTIM IS DECEASED OR IF VICTIM IS A MINOR - GIVE FULL NAME OF NEXT OF KIN OR GUARDIAN

NAME: first middle last
HOME ADDRESS: street city zip PHONE: ac number
WORK ADDRESS: street city zip PHONE: ac number

*GIVE FULL NAME OF ANOTHER PERSON YOU WILL BE IN PERMANENT CONTACT WITH

NAME: first middle last
HOME ADDRESS: street city zip PHONE: ac number
WORK ADDRESS: street city zip PHONE: ac number

=====

IF THE DEFENDANT IN THIS CASE IS SENTENCED TO THE TEXAS DEPARTMENT OF CORRECTIONS, THE BOARD OF PARDONS AND PAROLES WILL BE PROVIDED WITH A COPY OF THIS STATEMENT AND WILL CONSIDER IT BEFORE MAKING A DECISION TO RECOMMEND PAROLE FOR ANY PERSON CONVICTED OF THIS CRIME.

Do you wish to be notified when the person is considered for parole? (circle one)
a. yes b. no

IF YOU DO WISH 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 PAROLE PROCEDURES AND SEND ANY ADDRESS CHANGES TO: Board of Pardons and Paroles, Room 711, Stephen F. Austin Building, Austin, Texas 78701. PLEASE MAKE NOTE OF THIS ADDRESS FOR FUTURE USE.

=====

The information below and on the reverse side will be used by the prosecutor in helping to gain restitution.

- 1. Relationship of victim to offender (circle one):
a. stranger d. other person living in same house
b. spouse e. former spouse
c. other family member f. acquaintance
2. Place where the offense occurred (circle one):
a. residence d. commercial establishment
b. street e. work
c. automobile f. other (specify):
3. Has the crime affected the way you or your family lives? (circle one):
a. yes b. no
If yes, have you...:
a. Increased residential security?
b. Increased personal security?
c. Become hesitant to go to certain areas?
d. Become hesitant to go out at certain times?
e. Considered moving or have moved to a safer area?
f. Other? (specify):

4. WHAT LOSSES HAVE YOU HAD AS A RESULT OF THIS CRIME?

A. DESCRIBE YOUR PHYSICAL INJURIES (circle one)

- a. no treatment necessary
- b. treated at crime scene only
- c. treated at medical center and released
- d. hospitalized for _____ days
- e. other (specify): _____

Amount of medical expense to date: \$ _____
 Estimated future medical expenses: \$ _____

Attach copy of itemized medical costs.

B. DESCRIBE YOUR PSYCHOLOGICAL INJURIES (circle one)

- a. no treatment necessary
- b. counseling required
- c. other (specify): _____

Amount of counseling expenses to date: \$ _____
 Estimated future counseling expenses: \$ _____

Attach copy of itemized counseling costs.

C. DESCRIBE PROPERTY LOSS OR DAMAGE:

Amount of property loss or repair: \$ _____
 Attach itemized list of property loss or repair.

D. HOW MANY DAYS WORK HAVE YOU MISSED AS A RESULT OF THIS CRIME?

_____ days

- Does sick leave cover days missed? (circle one)
- a. yes
 - b. no
 - c. partially

State amount of actual lost wages. \$ _____

E. HAVE YOU SUFFERED ANY OTHER ECONOMIC LOSS AS A RESULT OF THIS CRIME? DESCRIBE.

5. DID INSURANCE COVER ANY OF THE EXPENSES YOU HAVE INCURRED AS A RESULT OF THIS CRIME? (circle one)

- a. yes, insurance paid \$ _____
- b. my insurance paid, but I had a deductible of \$ _____
- c. no

A. Your insurance company:

Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone Number: _____ / _____
 a/c number

B. Other person's insurance company:

Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone Number: _____ / _____
 a/c number

6. IF YOU FEEL ADDITIONAL INFORMATION WOULD HELP US UNDERSTAND THE IMPACT THIS CRIME HAS HAD ON YOU, PLEASE ATTACH A SEPARATE PAGE EXPLAINING.

=====

I certify that the above statements are true and complete to the best of my knowledge.

 Signature / Date

4. WHAT LOSSES HAVE YOU HAD AS A RESULT OF THIS CRIME?

A. DESCRIBE YOUR PHYSICAL INJURIES (circle one)

- a. no treatment necessary
- b. treated at crime scene only
- c. treated at medical center and released
- d. hospitalized for _____ days
- e. other (specify): _____

Amount of medical expense to date: \$ _____
 Estimated future medical expenses: \$ _____

Attach copy of itemized medical costs.

B. DESCRIBE YOUR PSYCHOLOGICAL INJURIES (circle one)

- a. no treatment necessary
- b. counseling required
- c. other (specify): _____

Amount of counseling expenses to date: \$ _____
 Estimated future counseling expenses: \$ _____

Attach copy of itemized counseling costs.

C. DESCRIBE PROPERTY LOSS OR DAMAGE:

Amount of property loss or repair: \$ _____
 Attach itemized list of property loss or repair.

D. HOW MANY DAYS WORK HAVE YOU MISSED AS A RESULT OF THIS CRIME?

_____ days

- Does sick leave cover days missed? (circle one)
- a. yes
 - b. no
 - c. partially

State amount of actual lost wages. \$ _____

E. HAVE YOU SUFFERED ANY OTHER ECONOMIC LOSS AS A RESULT OF THIS CRIME? DESCRIBE.

5. DID INSURANCE COVER ANY OF THE EXPENSES YOU HAVE INCURRED AS A RESULT OF THIS CRIME? (circle one)

- a. yes, insurance paid \$ _____
- b. my insurance paid, but I had a deductible of \$ _____
- c. no

A. Your insurance company:

Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone Number: _____ / _____
 a/c number

B. Other person's insurance company:

Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone Number: _____ / _____
 a/c number

6. IF YOU FEEL ADDITIONAL INFORMATION WOULD HELP US UNDERSTAND THE IMPACT THIS CRIME HAS HAD ON YOU, PLEASE ATTACH A SEPARATE PAGE EXPLAINING.

=====

I certify that the above statements are true and complete to the best of my knowledge.

 Signature / Date

4. WHAT LOSSES HAVE YOU HAD AS A RESULT OF THIS CRIME?

A. DESCRIBE YOUR PHYSICAL INJURIES (circle one)

- a. no treatment necessary
- b. treated at crime scene only
- c. treated at medical center and released
- d. hospitalized for _____ days
- e. other (specify): _____

Amount of medical expense to date: \$ _____
 Estimated future medical expenses: \$ _____

Attach copy of itemized medical costs.

B. DESCRIBE YOUR PSYCHOLOGICAL INJURIES (circle one)

- a. no treatment necessary
- b. counseling required
- c. other (specify): _____

Amount of counseling expenses to date: \$ _____
 Estimated future counseling expenses: \$ _____

Attach copy of itemized counseling costs.

C. DESCRIBE PROPERTY LOSS OR DAMAGE:

Amount of property loss or repair: \$ _____
 Attach itemized list of property loss or repair.

D. HOW MANY DAYS WORK HAVE YOU MISSED AS A RESULT OF THIS CRIME?

_____ days

- Does sick leave cover days missed? (circle one)
- a. yes
 - b. no
 - c. partially

State amount of actual lost wages. \$ _____

E. HAVE YOU SUFFERED ANY OTHER ECONOMIC LOSS AS A RESULT OF THIS CRIME? DESCRIBE.

5. DID INSURANCE COVER ANY OF THE EXPENSES YOU HAVE INCURRED AS A RESULT OF THIS CRIME? (circle one)

- a. yes, insurance paid \$ _____
- b. my insurance paid, but I had a deductible of \$ _____
- c. no

A. Your insurance company:

Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone Number: _____ / _____
a/c number

B. Other person's insurance company:

Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone Number: _____ / _____
a/c number

6. IF YOU FEEL ADDITIONAL INFORMATION WOULD HELP US UNDERSTAND THE IMPACT THIS CRIME HAS HAD ON YOU, PLEASE ATTACH A SEPARATE PAGE EXPLAINING.

=====

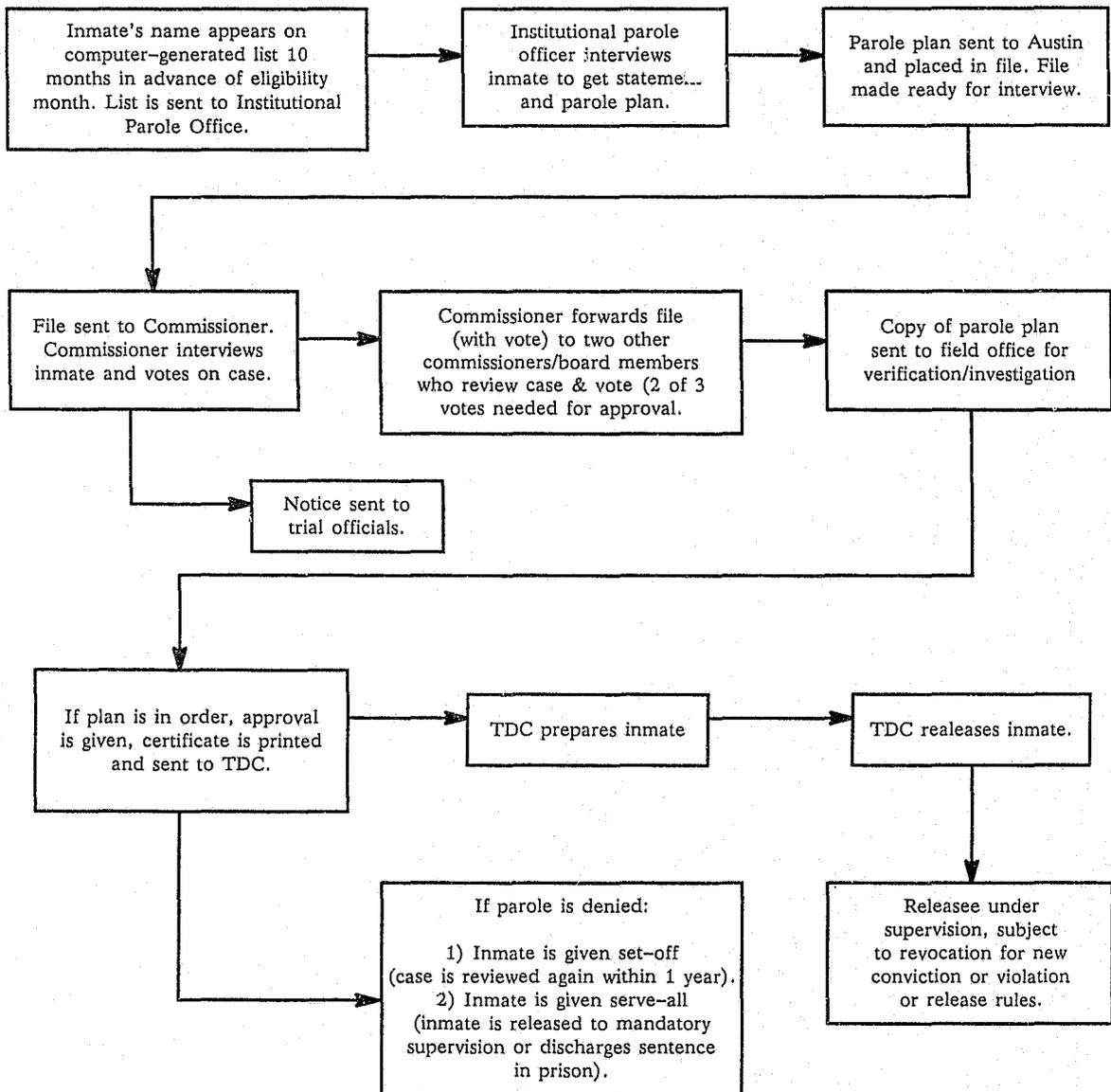
I certify that the above statements are true and complete to the best of my knowledge.

 Signature / Date

APPENDIX F
BOARD OF PARDONS AND PAROLES

- Victim Notice
- Outline of Parole Procedures

OUTLINE OF PAROLE PROCEDURES



SOURCE: BOARD OF PARDONS AND PAROLES

Board of Pardons and Paroles

Notice to Victims

Date:

In compliance with Article 56.02, (7), Texas Code of Criminal Procedures, you are hereby notified that the above inmate is being considered for parole.

If released on parole, this inmate will not be released prior to legal eligibility.

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

If you wish to provide information on this case to be considered by the board 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

APPENDIX G
MICHIGAN CRIME VICTIM BILL OF RIGHTS

Act No. 87
Public Acts of 1985
Approved by the Governor
July 10, 1985
Filed with the Secretary of State
July 10, 1985

**STATE OF MICHIGAN
83RD LEGISLATURE
REGULAR SESSION OF 1985**

Introduced by Reps. Van Regenmorter, Stabenow, Nash, Mathieu, Bartnik, Sparks, Hickner, Hoekman, Willis Bullard, Ouwinga and Honigman

ENROLLED HOUSE BILL No. 4009

AN ACT to establish the rights of victims of crime; to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers' agents toward victims; and to provide for penalties and remedies.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "crime victim's rights act".

Sec. 2. (1) As used in this act:

(a) "Crime" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year, or an offense expressly designated by law to be a felony.

(b) "Defendant" means a person charged with or convicted of having committed a crime against a victim.

(c) "Final disposition" means the ultimate termination of the criminal prosecution of a defendant including, but not limited to, dismissal, acquittal, or imposition of sentence by the court.

(d) "Prisoner" means a person who has been convicted and sentenced to imprisonment for having committed a crime against a victim.

(e) "Victim", except for purposes of section 16, means any of the following:

(i) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime, except as provided in subparagraph (ii) or (iii).

(ii) The following relations of a deceased victim if the relation is not the defendant:

(A) The spouse.

(B) An adult child if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

(iii) A parent, guardian, or custodian of a victim who is a minor or legally incapacitated person.

(2) If a victim as defined in subsection (1)(e)(i) is physically unable to exercise the privileges and rights under this act, the victim may designate by written instrument his or her spouse or an adult child, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical disability. During the physical disability, notices to be provided under this act to the victim shall continue to be sent only to the victim.

Sec. 3. Within 24 hours after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency shall give to the victim the following information:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and phone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statement:

"If within 6 months, you are not notified of an arrest in your case, you may call [the law enforcement agency's telephone number] for the status of the case."

Sec. 4. (1) The law enforcement agency having responsibility for investigating a reported crime shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the crime and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

Sec. 5. (1) Not later than 24 hours after the arraignment of the defendant for a crime, the law enforcement agency having responsibility for investigating the crime shall give to the victim the phone number of the sheriff and notice that the victim may contact the sheriff to determine whether the defendant has been released from custody.

(2) Based upon the victim's affidavit asserting acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.

Sec. 6. (1) Not later than 7 days after the arraignment of the defendant for a crime, but not less than 24 hours before a preliminary examination, the prosecuting attorney shall give to each victim a written notice of each of the following:

(a) A brief statement in plain English of the procedural steps in the processing of a criminal case.

(b) The rights and procedures under this act.

(c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.

(d) Suggested procedures if the victim is subjected to threats or intimidation.

(e) The person to contact for further information.

(2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) The prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of a crime, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

(4) A victim who receives a notice under subsection (1) and who chooses to receive any other notice or notices under this act shall keep the following persons informed of the victim's current address and phone number:

(a) The prosecuting attorney, until sentence has been imposed or the case is disposed of, whichever occurs earlier.

(b) The department of corrections or the sheriff as directed by the prosecuting attorney if the defendant is imprisoned.

Sec. 7. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.

Sec. 8. (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family,

the prosecutor may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.

(2) The address of the victim shall not be in the court file or ordinary court documents unless contained in a transcript of the trial or it is used to identify the place of the crime. The phone number of the victim shall not be in the court file or ordinary court documents except as contained in a transcript of the trial.

Sec. 9. (1) As provided in subsection (2), a speedy trial may be scheduled for any case in which the victim is averred by the prosecuting attorney to be either of the following:

(a) A victim of child abuse, including sexual abuse or any other assaultive crime.

(b) A victim of criminal sexual conduct in the first, second, or third degree or of an assault with intent to commit criminal sexual conduct involving penetration or to commit criminal sexual conduct in the second degree.

(2) The chief judge, upon motion of the prosecuting attorney for a speedy trial for a case described in subsection (1), shall set a hearing date within 10 days of the date of the motion. Notice shall be made pursuant to the Michigan court rules. If the motion is granted, the trial shall not be scheduled earlier than 20 days from the date of the hearing.

Sec. 10. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the selection of the jury and prior to the trial of the defendant.

Sec. 11. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies.

Sec. 12. An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor, and may be punished for contempt of court.

Sec. 13. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

(a) The defendant's conviction.

(b) The crimes for which the defendant was convicted.

(c) The victim's right to make a written or oral impact statement for use in the preparation of a presentence investigation report concerning the defendant.

(d) The address and telephone number of the probation office which is to prepare the presentence investigation report.

(e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.

(f) The victim's right to make an impact statement at sentencing.

(g) The time and place of the sentencing proceeding.

(2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.

(3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to the following:

(a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.

(b) An explanation of the extent of any economic loss or property damage suffered by the victim.

(c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.

(d) The victim's recommendation for an appropriate sentence.

Sec. 14. The victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing a presentence investigation report concerning the defendant pursuant to section 14 of chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 771.14 of the Michigan Compiled Laws. A victim's written statement shall, upon the victim's request, be included in the presentence investigation report.

Sec. 15. The victim shall have the right to appear and make an oral impact statement at the sentencing of the defendant.

Sec. 16. (1) For purposes of this section only, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime.

(2) The court, when sentencing a defendant convicted of a crime, may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim or victim's estate of the defendant's course of conduct which gives rise to the conviction.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a crime results in damage to or loss or destruction of property of a victim of the offense, the order of restitution may require that the defendant do either of the following:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraphs (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of sentencing.

(5) If a crime results in physical or psychological injury to a victim, the order of restitution may require that the defendant do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.

(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family which has been incurred as a result of the offense.

(6) If a crime resulting in bodily injury also results in the death of a victim, the order of restitution may require that the defendant pay an amount equal to the cost of actual funeral and related services.

(7) Instead of restitution under subsections (4) to (6), if the victim or victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the crime.

(8) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(9) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the sentencing process.

(10) The court shall not order restitution with respect to a loss for which the victim or victim's estate has received or is to receive compensation, including insurance, except that the court may, in the interest of justice, order restitution to the crime victims compensation board or to any person who has compensated the victim or victim's estate for such a loss to the extent that the crime victims compensation board or the person paid the compensation. An order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person under that order is made.

(11) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.

(12) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments. The end of the period or the last installment shall not be later than the following:

(a) The end of the period of probation, if probation is ordered.

(b) Two years after the end of imprisonment or discharge from parole, whichever occurs later, if the court does not order probation.

(c) Three years after the date of sentencing in any other case.

(13) If the defendant is placed on probation or paroled, any restitution ordered under this section shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if

the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the defendant's employment status, earning ability, financial resources, and the wilfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(14) A defendant who is required to pay restitution and who is not in wilful default of the payment of the restitution, at any time, may petition the sentencing judge or his or her successor for a cancellation of any unpaid portion of restitution. If it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the defendant or his or her immediate family, the court may cancel all or part of the amount due in restitution or modify the method of payment.

(15) An order of restitution may be enforced by the prosecuting attorney or a victim or victim's estate named in the order to receive the restitution in the same manner as a judgment in a civil action.

(16) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of parole or probation, or otherwise, for failure to pay restitution as ordered under this section unless the court determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

Sec. 17. (1) The court, in determining whether to order restitution under section 16 and the amount of that restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources and earning ability of the defendant, the financial needs of the defendant and the defendant's dependents, and such other factors as the court considers appropriate.

(2) The court may order the probation officer to obtain information pertaining to the factors set forth in subsection (1). The probation officer shall include the information collected in the presentence investigation report or in a separate report, as the court directs.

(3) The court shall disclose to both the defendant and the prosecuting attorney all portions of the presentence or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the earning ability of the defendant and the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and the defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

Sec. 18. (1) A person convicted of a crime shall not derive any profit from the sale of his or her recollections, thoughts, and feelings with regard to the offense committed by that person until the victim receives any restitution or compensation ordered for him or her against the defendant and expenses of incarceration are recovered as provided in subsection (3) and until the escrow account created under subsection (2) is terminated under subsection (4).

(2) Upon the conviction of a defendant for a crime involving a victim, and after notice to any interested party, an attorney for the county in which the conviction occurred or the attorney general may petition the court in which the conviction occurred to order that defendant forfeit all or any part of proceeds received or to be received by the defendant, or the defendant's representatives or assignees, from contracts relating to the depiction of the crime or the defendant's recollections, thoughts, or feelings about the crime, in books, magazines, media entertainment, or live entertainment. The proceeds shall be held in escrow for a period of not more than 5 years.

(3) During the existence of the escrow account, proceeds in the account shall be distributed in the following priority for the following purposes:

(a) To satisfy an order of restitution entered under sections 16 and 17.

(b) To satisfy any civil judgment in favor of the victim against that defendant.

(c) To satisfy any reimbursement ordered under the prisoner reimbursement to the county act, Act No. 118 of the Public Acts of 1984, being sections 801.81 to 801.93 of the Michigan Compiled Laws, or ordered under the state correctional facility reimbursement act, Act No. 253 of the Public Acts of 1985, being sections 800.401 to 800.406 of the Michigan Compiled Laws.

(4) Fifty percent of the balance remaining in the escrow account at the end of the escrow period shall be payable to the defendant and the remaining 50% of the balance shall be payable to the state general fund for use of the crime victims compensation board to pay compensation claims.

Sec. 19. (1) Upon the written request of a victim of a crime, the sheriff or the department of corrections shall mail to the victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff or the department for commission of that crime:

(a) Within 30 days after the request, notice of the sheriff's calculation of the earliest release date of the prisoner, or the department's calculation of the earliest parole eligibility date of the prisoner, with all potential good time or disciplinary credits considered if the sentence of imprisonment exceeds 90 days. The victim may request 1-time only notice of the calculation described in this subdivision.

(b) Notice of the transfer or pending transfer of the prisoner to a minimum security facility and the address of that facility.

(c) Notice of the release or pending release of the prisoner in a community residential program, under extended furlough, or any other transfer of a prisoner to community status.

(d) Notice of any reduction in the minimum sentence resulting under the prison overcrowding emergency powers act, Act No. 519 of the Public Acts of 1980, being sections 800.71 to 800.79 of the Michigan Compiled Laws.

(e) Notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim, as provided in section 20.

(f) Notice of the victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole, as provided in section 21.

(g) Notice of the decision of the parole board, or any other panel having authority over the prisoner's release on parole, after a parole review, as provided in section 21(3).

(h) Notice of the release of a prisoner 90 days before the date of the prisoner's discharge from prison where practical, unless the notice has been otherwise provided under this act.

(i) Notice of a public hearing pursuant to section 44 of Act No. 232 of the Public Acts of 1953, being sections 791.244 of the Michigan Compiled Laws, regarding a reprieve, commutation, or pardon of the prisoner's sentence by the governor.

(2) A victim's address and telephone number maintained by a sheriff or the department of corrections pursuant to a request for notice under subsection (1) shall be exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 20. (1) As provided in subsection (2) or (3), a victim who requests notice of the escape and the prosecuting attorney who is prosecuting or has prosecuted the crime for which the person is detained or under sentence shall be given immediate notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(2) If the escape occurs before the sentence is executed or before the defendant is delivered to the department of corrections, the chief law enforcement officer of the agency in charge of the person's detention shall give notice of the escape to the prosecuting attorney, who shall then give notice of the escape to a victim who requested notice.

(3) If the defendant is confined pursuant to a sentence, the notice shall be given by the chief administrator of the place in which the prisoner is confined.

Sec. 21. (1) A victim shall have the right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole.

(2) Not less than 30 days before a review of the prisoner's release, a victim who has requested notice under section 19(1)(f) shall be given written notice by the department of corrections informing the victim of the pending review and of victims' rights under this section. The victim, at his or her own expense, may be represented by counsel at the review.

(3) A victim shall receive notice of the decision of the board or panel and, if applicable, notice of the date of the prisoner's release on parole. Notice shall be mailed within a reasonable time after the board or panel reaches its decision but not later than 14 days after the board or panel has reached its decision.

Sec. 22. Upon the request of a victim, the prosecuting attorney shall, within 30 days of the final disposition of the case, notify the victim in writing of the final disposition of the case.

Sec. 23. Nothing in this act shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, or instrumentalities, or employees.

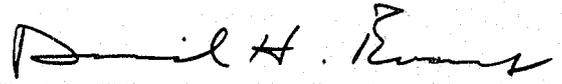
Sec. 24. The failure to provide a right, privilege, or notice to a victim under this act shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

Sec. 25. (1) This act shall not take effect until the expiration of 90 days from its enactment into law.

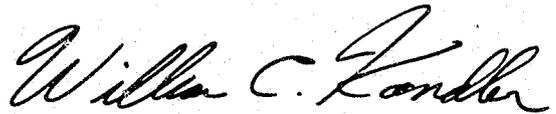
(2) This act shall apply only to crimes committed on or after the effective date of this act.

Section 2. This act shall not take effect unless House Bill No. 4370 of the 83rd Legislature is enacted into law.

This act is ordered to take immediate effect.



.....
Clerk of the House of Representatives.



.....
Secretary of the Senate.

Approved

.....
Governor.