

FACT SHEET 5

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PROMISING VICTIM RELATED PRACTICES IN PROBATION AND PAROLE



SEEKING VICTIM INPUT

For many victims, the effects of crime are not short-term; the ramifications of the crime can be far-reaching, extending well beyond the trial phase of a criminal case. Yet less attention often is paid to the victim's perspective, in contrast to the many details of the defendant's or offender's version of the crime that are heard by judges, juries, and paroling authorities when they make sentencing and release decisions. By soliciting victim input and assessing victim impact, probation and parole agencies can "pick up the ball" and help ensure that victims' needs and concerns are heard and addressed.

Victims' unique, personal perspectives about the crime and its impact are highly useful to agencies as they develop effective offender management and rehabilitation strategies. The opportunity to share these perspectives also validates the victim's feelings that he or she is someone who has been detrimentally affected by crime.

The most widely used form of victim input is the victim impact statement (VIS). The VIS was first introduced in Fresno County, California, in 1976 by then-Chief Probation Officer James Rowland. At his initiation, victim impact statements became part of all presentence investigations reports conducted by his office. Today, all states, U.S. Territories, the District of Columbia, and the federal government have laws that provide for victim impact statements at sentencing and/or parole hearings. Victim impact statements allow victims to describe the impact of the crime on them, their family, and their loved ones—including the physical, psychological/emotional, financial, social, and spiritual effects.

KEY ELEMENTS FOR SEEKING VICTIM INPUT

Probation and parole agencies should be familiar with the specific junctures at which victims have the right to provide input about their cases. The specific rights of victims to provide input vary by jurisdiction. Times when victim input is sought generally include:

- In the development of the presentence investigation (PSI) or pre-parole investigation (PPI) reports that are developed by probation and parole officers;
- Prior to or at sentencing or parole hearings; and
- In some states, prior to or at probation or parole revocation hearings.
- At any point in the community corrections process, there are several strategies agencies can utilize to facilitate the effective collection of victim input.

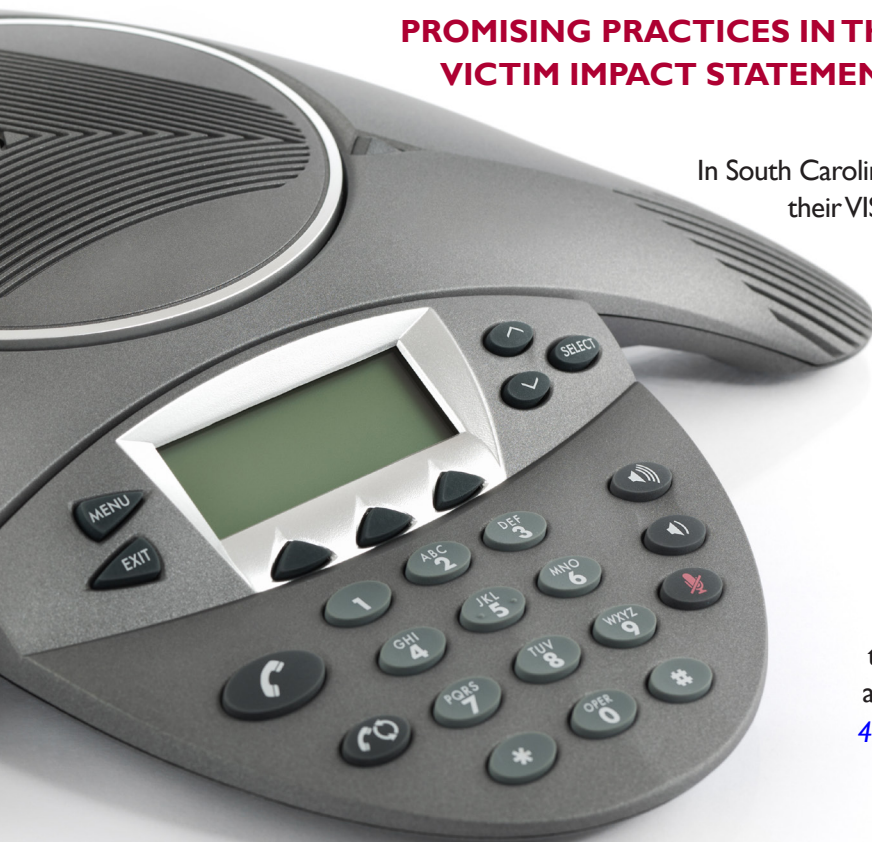
FIGURE I

PROMISING PRACTICES IN THE SOLICITATION AND DELIVERY OF VICTIM IMPACT STATEMENTS

In South Carolina among other states, victims are allowed to deliver their VIS via teleconference from sites around the state that are separate—by sight and sound—from the actual parole hearing and the offender.

In Wisconsin, members of the Parole Board will meet individually with victims prior to the parole hearing to seek their input and obtain VIS information.

In many states, justice agencies have developed forms for children's victim impact statements that are adjusted for their age and cognitive development. For example, a Child's Victim Impact Statement from the Kentucky Office of the Attorney General can be accessed at http://ag.ky.gov/NR/rdonlyres/063BC4FC-B1AE-4C58-82E0-A232B1429D85/0/impact_statement_child.pdf.



EXTENDING THE OPPORTUNITY TO ALL VICTIMS

All victims, including children, should be offered the opportunity to submit or update victim impact information during the presentence investigation to communicate the emotional, financial, physical, and psychological effects that the crime has had on them, their family members, and/or their friends. Probation and parole agencies should establish policies and procedures that clearly delineate the agency's responsibility for the implementation, distribution, and collection of victim impact statements. Policies and procedures also should provide for interagency cooperation with all key criminal justice agencies to coordinate assistance for victims in preparing and submitting victim impact statements.

Inherent in this element is the need for probation and parole agencies to use due diligence in locating victims and informing them of their right to provide input to the justice system on the impacts of the crime committed against them. Outside sources that may assist in locating victims include the U.S. Postal Service, the local driver's license bureau or voter registration bureau, the U.S. Social Security Administration, utility companies, and Internet search engines.

TODAY, ALL STATES, U.S. TERRITORIES, THE DISTRICT OF COLUMBIA, AND THE FEDERAL GOVERNMENT HAVE LAWS THAT PROVIDE FOR VICTIM IMPACT STATEMENTS AT SENTENCING AND/OR PAROLE HEARINGS.

Contacts from probation and parole agencies should inform victims of crime about their right to submit a VIS, how to submit a VIS, and resources available to assist them in completing and submitting a VIS.

In most jurisdictions, system- and community-based victim service providers are available to help victims with their VIS. In addition, Justice Solutions developed a Victim Impact Statement Resource Package that is easily adaptable for use in any court or probation or parole agency. It provides guidance about the purpose of the VIS, a model VIS form, and guidelines for completing a VIS. The VIS Resource Package can be accessed at www.justicesolutions.org/art_pub_victim_impact_resource.htm.

PROVIDE A VARIETY OF METHODS FOR THE DELIVERY OF VICTIM IMPACT STATEMENTS AND VICTIM INPUT

To address the varying and special needs of crime victims, probation and parole agencies should allow victim impact information to be collected through a variety of means, including written, audio, video, allocution, telephone, and electronic delivery methods.

Nine types of victim impact statements are currently being utilized by courts and correctional agencies in the United States.

1. Written victim impact statements are accepted either in a written statement/letter from the victim or submitted using a designated VIS form.
2. Oral VIS (also known as "allocution") involves the victim personally addressing the sentencing court or paroling, commutation, or clemency authority.

3. Audiotaped victim impact statements are utilized when the victim is unable to attend a hearing involving VIS or is fearful of directly facing the perpetrator.
4. Videotaped statements are used for the same purposes as an audiotaped VIS.
5. Closed-circuit television VIS provides victims who want to testify at the offender's parole or other release hearing an increased measure of personal safety by allowing them to deliver testimony from a location outside the courtroom. The use of closed-circuit television can be particularly beneficial in cases involving gang violence, witness intimidation, sexual assault, or child victims.
6. Child VIS formats are designed especially for children and allow them to provide impact information in a manner they can easily understand and control, such as drawing a picture, telling a story, or writing a poem.
7. Teleconferenced VIS allows victims to deliver their VIS from a secure, remote site. This is especially effective for out-of-town victims and victims with disabilities.
8. Community impact statements are utilized in federal cases involving drugs and/or gang activities; representatives from affected neighborhoods are invited to submit written VIS or oral testimony at community meetings to share how crime, drugs, and gangs have affected the quality of life in their homes and neighborhoods.
9. Personal meetings with parole board member(s) allow officials to directly interview the victim and/or obtain a written VIS in person.

Victim input also can be documented through presentence investigation or pre-parole investigation interviews conducted by probation and parole officers.

FORMAT OF VICTIM INPUT

Regardless of the types of victim input an agency may use, the questions it asks should generate the information that is most helpful to the courts and correctional agencies in making decisions about the status of a convicted offender. In 1999, Justice Solutions developed a model VIS format that has been updated and adapted by many jurisdictions. It includes both open-ended and closed-ended questions that allow the victim to describe the impact of the offense, identify any concerns about safety, and provide input about victim/offender programming and community service. It also includes information on additional victims' rights and how victims can connect with services. Figure 2 presents questions recommended by Justice Solutions to include in victim impact statements.

POLICIES AND PROCEDURES

Probation and parole agencies should develop policies and procedures that detail their role and responsibilities in soliciting victim input. Doing so will help to ensure enforcement of victims' constitutional and statutory rights to provide victim input, and it will promote consistency in how victim input is obtained and shared across the criminal and juvenile justice systems. Policies and procedures should address:

- Who is eligible to submit VIS information or other victim input;
- The specific format(s) in which victim impact statements are accepted;

FIGURE 2

SAMPLE VICTIM IMPACT QUESTIONS

Justice Solutions has developed the following set of sample prompts for victim impact statements that agencies can adapt.

- Please describe the offense and how it affected you and your family.
- What was the emotional impact of this crime on you and your family?
- What was the physical impact of this crime on you and your family? (This question should be utilized for personal crimes.)
- What was the financial impact of this crime on you and your family? (Agencies should provide guidelines for documenting losses for as the basis for awards of restitution and other financial/legal obligations imposed on the offender.)
- Do you have any concerns about your safety and security? If “yes,” please describe your concerns.
- Would you like any protective measures to be taken by the court/parole authority to promote your safety and security?
- What do you want to happen now?
- Would you like an opportunity to participate in victim/offender programming (such as mediation/dialogue or victim impact panels) that can help hold the offender accountable for his/her actions? (Agencies should utilize this question only if such programs are in place, and they should ensure that the victim receives written resources that fully describe such programs.)
- If community service is recommended as part of the disposition/sentence/parole supervision, do you have a favorite charity or cause you’d like to recommend as a work placement? (Or, “Would you like to make a recommendation for community service from our agency’s list of possible placements?”)
- Is there any other information you would like to share with the court regarding the offense and how it affected you and your family?

_____ Please check here if you would like to be notified about the status and outcome of this case. (This approach links the core victims’ rights of submitting an impact statement and notification and makes the process of enrolling in victim notification programs simpler for victims. Similarly, agencies also can add a “check box” for victims to request additional information about victim compensation in violent crime cases, and/or additional victim assistance services.)

More information and tips for developing and collecting victim impact statements with crime victims are provided in the Victim Impact Statement Resource Package developed by Justice Solutions, available at http://www.justicesolutions.org/art_pub_victim_impact_resource.htm.

- At what points in the community supervision process victim input should be solicited and/or updated;
- The staff position(s) responsible for soliciting victim input during the community supervision period of the justice system;
- Processes for obtaining victim information and previous victim impact statements (if available) from other justice agencies (law enforcement, prosecutors, paroling authorities, etc.);
- Timelines for soliciting and securing VIS or other victim input;
- Whether or not VIS information is confidential and/or will be maintained in a separate place within a case file;
- How victim information is entered and maintained in automated systems (if applicable);
- If and how victim information is utilized for offender case management to promote offender accountability to his/her victim; and
- The type of training community supervision personnel should receive on topics related to soliciting and collecting victim impact statements and other means of victim input to the justice system.

INCORPORATING AND SECURING VICTIM INFORMATION IN MANAGEMENT INFORMATION SYSTEMS

Increasingly, probation and parole departments are incorporating detailed victim information into their offender case management information systems. Instead of having multiple and separate

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databases that relate to an offender's case and, hence, to the victim's case, many jurisdictions have centralized their databases so that victim information is tied to offender information throughout the justice process and across justice agencies. It is critical, however, that security measures are put into effect with any such databases to safeguard victim information and confidentiality.

According to the American Probation and Parole Association's publication, *Community Corrections' Response to Domestic Violence: Guidelines for*

Practice, "information about the [domestic violence] victim must be kept separate from offender information in community supervision files, and only staff with designated clearance should be able to access the information. Automated case management systems must be constructed to offer this security and separation of offender and victim records," (Crowe et al., 2009, p. 164).

The importance of protecting victim information and confidentiality cannot be overstated. If it is not properly protected, victim information available in a database that is accessible via a supervising officer's computer may put a victim at risk of harm. For example, an individual on community

FIGURE 3

APAI 2010 NATIONAL SURVEY OF PAROLE BOARD MEMBERS

The Association of Paroling Authorities International (APAI) conducted a survey in 2010 of parole board members across the U.S., who identified the following specific types of VIS information as being most helpful at parole board hearings.

Impacts of the crime on the emotional, financial, physical, social, and spiritual levels, including both short- and long-term effects, such as:

- Need for counseling;
- Any psychological intervention/therapy required;
- Inability to relate to others;
- Impact on day-to-day functioning;
- Changes in marital or family status;
- Inability to work, or loss of work;
- Changes in employment;
- Loss of property;
- Costs incurred for medical/psychological treatment;
- Injuries sustained and/or medical needs following the crime, e.g., hospitalization, surgery, or ongoing medical treatment;
- Any physical limitations that have occurred as a result of the crime;
- Any medication or ongoing treatment needed to help deal with the effects of the crime;
- Impact on family members and friends;
- How or whether the victim is healing today;
- Any other changes the victim has made to cope with the issues of being a victim; and
- Any other residual harm of the crime.

Other Types of “Most Helpful” Information:

1. The relationship between the victim and the inmate.
2. Details about the crime. (“The victim should describe the crime himself/herself.”)
3. The way(s) the crime has changed the victim’s life, providing insights into the victim’s life now:
 - “How has the victim recovered?” or, “Has the victim recovered?”
 - “Has the crime caused great pain and suffering over a long period of time?”
4. Input into any special conditions of release.

Source: Association of Paroling Authorities International (2011). Unpublished paper.

supervision for a domestic violence crime could potentially locate his estranged partner/victim by using his supervising officer's computer while the officer briefly leaves his or her office during an office visit.

VICTIM INPUT AT PAROLE HEARINGS

It is essential that paroling authorities provide victims with information about the parole process as well as offering them opportunities throughout the process to provide victim input. For many victims, providing input at parole hearings can be very intimidating. In 49 states and at the federal level, corrections-based victim advocates help prepare victims for parole hearings. In some states, the advocates even accompany victims to the hearing.

In 2010, the Association of Paroling Authorities International, conducted a nationwide survey of parole board members about victims' rights and services. Among the survey findings were suggestions about the specific types of victim input that are most helpful to parole board members in their decision-making process. These recommendations are highlighted in Figure 3.

CONCLUSION

The "voice of the victim" has become an important and integral part of criminal and juvenile justice processes in the United States. Victim input is beneficial for victims who want to share viewpoints that will shape decisions affecting their offender's sentencing, status, and release. It is also an asset for the courts and for probation and parole agencies that use victim input to enhance their decision-making processes and to hold offenders accountable for their actions.

FIGURE 4

APPA POSITION STATEMENT ON VICTIMS

"Every effort should be made for Victim Impact Statements to be included in Presentence Reports for adult as well as juvenile offenders when the victim does not choose to directly allocute in court or in addition to allocution. Victim Impact Statements should be forwarded to correctional authorities in order to assist them in making appropriate classification, programming, and release decisions including restitution and 'no contact' orders as conditions of release upon request from the victim."

Source: APPA Position Statement on Victims, 1994.