



# The Victim's Role in the Justice Process

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This paper is written to address the role of the victim in the criminal justice process. Secondary data analysis is the method used for the research. The data include governmental, law, scholarly, and victim's rights studies. The purpose of this paper is to suggest changes to the victim's role and expectation in the criminal justice process. The reader is taken through the historical approaches to victim involvement in the criminal justice process, to contemporary issues that victims of crime face, the paper goes on to discuss changes that should be made for the justice system to leave victims more satisfied with their involvement. Multiple approaches pertaining to violent and minor crime are taken into consideration. Finally, this paper addresses challenges to implementing legal changes to victim's roles.

Keywords: Victim's rights, roles, advocacy, policy change, victim protection, reporting



## **The Victim's Role in the Justice Process**

### **OVERVIEW**

The role of the crime victim has been a source of controversy for much of recent history. The role of the crime victim in the criminal justice system can be difficult to ascertain based on variations in reporting to the police, variations of victim involvement service and funding programs, and challenges to the Crime Victim's Rights Act (Hart, 2003, OVC, 2002, Sims, Yost, & Abbott, 2005, Cassell & Joffe, 2013, Travis, 2013). Other influences making the role of the victim challenging to define include; individual victim wants and needs, laws varying from state to state, and crime being an action against the state and the individual (Hart, 2003, Schulman et al., 1999, OVC, 2002, Travis, 2013). The crime victim at the onset of the United States was the center of the criminal justice system (Travis, 2013). All criminal proceedings, investigations, and restitutions were done privately (Travis, 2013). As time progressed crimes were no longer transgressions against individuals, but transgressions against the state and the victims fell out of the view of the criminal justice process (Travis, 2013, Cullen & Johnson, 2012). Once the social revolutions of the 1960's came to fruition the victim was brought back into the criminal justice and political limelight (Elias, 1993). The issues raised by the victim's movements still linger on today.

Though certain initiatives have been accomplished such as legislation in many states encouraging victim participation in the criminal justice process, victims counseling agencies, victim restitutions, restorative justice, local community involvement, and victim impact statements many victims still feel left out, unsatisfied, or further victimized by the justice process (OVC, 1998, OVC, 2002, Rodrigues, 2005). The lack of enthusiasm for victim involvement in the justice process can be the result of a lack of agency communication to the victim about their rights and roles (Fritsch et al., 2004). There are current issues with the role of the victim in the criminal justice system. Some opponents to the involvement of victims in the justice process argue that their presence at hearings or impact statements cause the system to sway towards harsher sentences for offenders (Davis & Smith, 1994, Erez & Tontodonato, 1992, OVC 2002). Proponents of victim involvement argue that research shows that victims generally have feelings of dissatisfaction with the criminal justice process, are unhappy with the results of the cases for their perpetrators, and that the justice system is more concerned with the offender than the victim (OVC, 1998, OVC, 2002, Gegan & Rodriguez, 1992). These complex issues all play into what the role of the crime victim in the justice process should be.

Currently the act of balancing state and individual justice has become more difficult. The research shows that victims would enjoy a greater say in the justice process and the sentencing of the offender, however to get adequate victim involvement the lines of communication between state and private agencies and the crime victims need to be more open and clear (Fritsch et al., 2004, Sims et al., 2005). Fully changing the purpose of the justice process to embracing victim

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<sup>1</sup> Submitted as part of a Master's degree, University of Cincinnati, USA

satisfaction or improving state body and victim communication to allow reasonable expectation should be the goal of victim involvement.

This paper will discuss the many interests involved in the criminal justice process and how they relate to the role of the victim. It will further focus on a new role for the crime victim with an emphasis on balancing the competing interests between the state and the individual victim. This paper will go over rights, policies, and service programs and how frequently they are used by victims of crime. The communication between the players in the criminal justice process will be reviewed in relation to how well victims of crime are informed of the rights and services available to them. Finally, suggestions to revise the victim's role in the modern criminal justice process will be presented.

### **WHAT SHOULD THE VICTIM'S ROLE BE?**

The role of the crime victim in the justice process should be viewed as a balancing act. There are many competing interests in determining what the victim's role should be (Travis, 2013). With a new perspective on the role of victims in the justice process laws can be made to balance the issues and interests relating to victim's rights (Worrall, 2008, OVC, 2002). The victim should be more than a witness, but not have total control over the prosecution of the case (Stickels, 2008). The role that the victim plays should be stronger than in the years prior to the victim's movement, with an emphasis in sentencing. The victim and the court should communicate frequently with the courts giving victims specific explanations as to why an offender will be sentenced differently than the victim expects. This can give victims the personal gratification of being heard while balancing the power between the victim and the state (Wemmers & Cyr, 2006). Victims should be heard in sentencing, feel satisfied, and be informed throughout case processing as the victims are the ones who feel the immediate damage caused by the crime (Stickels, 2008). The courts should also seek victim approval of the sentence with the goal of improving victim satisfaction with their involvement in the justice process. Seeking victim approval in sentencing is a way for the system to recognize that beyond the role of the state, which is impersonal, there is an individual who has personal interest in sentencing, was directly affected by the crime, and wants to be heard (New Zealand Ministry of Justice, 2013, Stickels, 2008, Wemmers & Cyr, 2006).

The role of the crime victim in the criminal justice system should be that of an active participant and informant who is well informed on case updates by the criminal justice system and has a satisfying involvement in the case of their offender. The victim should have a voice in the sentencing process similar to their role in parole hearings if they are to be satisfied with the outcome of the justice process (Morgan & Smith, 2005). This is due to the fact that victims have an extensive role in parole hearings whether present in person or sending in a written statement (Morgan & Smith, 2005). This is also supported by Wemmers' and Cyr's (2006) finding that victims have a desire to be heard. According to the USDOJ (no date) parole boards should view victims as consumers of their services and by collecting and using victim statements their roles in the process become validated (Alexander & Lord, 1994). In relation to sentencing this same view may be adopted. Research by MADD (1993) indicates that when given the chance to provide information about the personal impact of a crime the victim's overall opinion of the criminal justice system is improved (USDOJ, no date).

Victim satisfaction with the criminal justice process is based on sentencing (Erez & Tontodonato, 1992). Victim impact statements should be considered when a sentence is handed down by the judge (OVC, 2002). Leaving the victim satisfied with their contribution to the case should be sought after even if the sentence was not exactly what the victim wanted. The courts should communicate to the victim that there are limitations such as sentencing guidelines that need to be taken into consideration when a sentence is decided (Erez & Tontodonato, 1992). As previously stated sentencing decisions should be influenced by the victim similarly to parole hearings with the system seeking to satisfy the victim to the best of its abilities. The state does have the role of maintaining public safety to consider in sentencing (Scott & Steinberg, 2008). This causes a complex issue pertaining to the balance of state and individual interests in cases of victims not wanting to be involved with the case and differing opinions as to what a fair punishment would be.

Victim involvement should seek to balance public safety with prosecutorial and judicial discretion while seeking restitutions for, inputs from, and communicating rights and assistance organizations that are available to the victim to make the victim satisfied with their experience with the justice process (OVC, 2002, Fritsch et al., 2004). Balancing individual concerns with public safety is a way to have the state protect the community through offender sentencing while making the victim happy with the sentence. The communication of rights and assistance programs available is a way to encourage the victim to trust the system and become involved with the case (Fritsch et al., 2004, Hart, 2003). The victim should be informed of developments in the case of their offender, allowed to attend court, and make statements. The victim should be able to request harsher sentences than the state has issued if they are dissatisfied with the case outcome, but harsher sentences should not be a guarantee to the victim as the court system is not based on a vengeance model (OVC, 2002, Cullen & Johnson, 2012). The victim should not feel frustrated or re-victimized by the state or law enforcement agencies (Garvin & LeClaire, 2013). The inclusion of the victim should seek to balance public and private interests while improving communication between state agencies such as the police departments and victim's assistance organizations and individual victims based on their level of need and satisfaction. Even though crime is defined as an illegal action against the state, the actors in the court process should remember that crimes also occur against individuals (Travis, 2013, OVC, 2002, Stickels, 2008). Laws should be written that change the definition of crime to include transgressions against individual citizens and not just against the state or society. The definition of crime should include both societal and individual terms, so that courts when needed can still maintain public safety through sentencing. Research shows that victims are not having their needs met by the justice system for involvement in the justice process (Schulman et al, 1999). The role of the victim needs to be enhanced while not removing too much power from the courts. Currently, it is not the purpose of the criminal justice system to meet victim's needs. The process is geared towards convicting and punishing offenders without seeking victim satisfaction (Stickels, 2008). Integrating victim satisfaction models into the current framework of the justice system is a way to meet the unmet needs of crime victims (Stickels, 2008, IACP, 1999).

Historically, victims of crime have held a secondary position in the criminal justice process (Worrall, 2008) The victim role should be of more participation than previous decades, because the victim's feel largely dissatisfied with the results of the criminal justice system if they are even informed of the rights that they have as the victim (Morgan & Smith, 2005, OVC, 2002, Sims et al., 2005). Many victims are not aware of their rights that are granted by state laws, the

federal CRVA law, and services given by private organizations that offer counseling and shelter to the victim of a crime (Sims, Yost, and Abbott 2005, Cassell & Joffee, 2013). Some victims outright choose not to access the resources due to feelings of distrust and re-victimization of and by the criminal justice system (Sims et al., 2005, OVC, 2002, Garvin & LeClaire, 2013). This is especially true in the cases of repeat sexual and domestic abuse victims (Hotaling & Buzawa, 2003). Some victims seek support from their friends and family, other victims may not be informed of resources for them, some did not find programs very helpful, and still other victims (in the case of some minorities) may not trust the services available to them as victims (Hotaling & Buzawa, 2003, Hart, 2003). Schulman et al. (1999) found that when it comes to victim satisfaction with the criminal justice system 76% of residents in the Northeastern United States would like to see a drastic change in the criminal justice system. Victim satisfaction should be a concern of the criminal justice system. According to the USDOJ national institute of justice (2006) the failing of criminal justice professionals to seek victim satisfaction resulted in not reporting future serious re-victimization in cases of domestic abuse on women. This relates to Hart's (2003) finding that in 2000 only 48% of violent sexual assaults were reported to the police. Improving victim satisfaction with their involvement in justice could help improve the low numbers of reported crime.

Currently victims do not feel overall satisfaction with the criminal justice process when it pertains to those who have offended against the victim (USDOJ, no date). Schulman et al. (1999) notes that the numbers of satisfied victims would be regarded as extremely low in commercial industries. 42% of victims feel that the justice system does not do enough to help victims (Erez & Tontodonato, 1992). In a survey of residents who encountered crime in the northeastern United States it was found that when crime is reported to the police victims get little exposure to the criminal justice process (Schulman et al., 1999). Shulman et al. (1999) also found that only 30% of victims had been notified of arrest in violent crimes and 12 % of victims were notified in nonviolent crime cases. In cases of rape and felonies victims were more satisfied with the police than they were with prosecutors, victim's assistance staff, and the judge (Erez & Tontodonato, 1992). Victims expect a victim impact statement to have an effect on sentencing, when it does not they feel let down and frustrated by the criminal justice process (Erez & Tontodonato, 1992). The literature supports the fact that victim impact statements do not have an effect of the sentencing of offenders (Davis & Smith, 1994). There are also other issues relating to victim happiness with involvement in the process that prevent victims from feeling satisfaction.

Many policy makers do not consider victim satisfaction to be a primary goal of the criminal justice system (Hotaling & Buzawa, 2003). According to the International Association of Police Chiefs (1999) only a fraction of the victims of crime receive the services they are entitled to, and that the job of giving the victims what they want is not nearly complete. The reasons why the courts should seek victim satisfaction are varied and relate to the amount of control that the victim has once the case is picked up by an impersonal bureaucracy such as the criminal justice system (Hotaling & Buzawa, 2003). The Office for Victims of Crime notes that it is a moral obligation of state agencies to respond and ease the suffering of victims (IACP, 1999). Victims believe that their own interests suffered the most damage due to the offense not the state's (Hotaling & Buzawa, 2003). To enhance victim satisfaction with the justice system the IACP (1999) deliberated on a list of victim's needs that should be met that included; safety, access, information, support, Continuity, and voice. Victim satisfaction should also be sought as it relates to future reporting and cooperation by victims of crime. Two consequences of this non-

reporting caused by victim dissatisfaction are that a group of victims at risk will not be served, and non-reporting creates an assumption that the issue was resolved which may be incorrect (Hotaling & Buzawa, 2003). Related to victim non-reporting due to dissatisfaction with the process is the fact that law enforcement agencies are usually “gatekeepers” of access to other victim’s service agencies (Hotaling & Buzawa, 2003). The IACP has now accepted the idea that justice is achieved when all interests are satisfied with the process and the outcome is fair to all participants (IACP, 1999).

In a comparison of weak and strong victim legal protection states it was found that in weak protection states victims were likely to see sentences for their offenders as inadequate (34%), but in strong protection states a large minority felt the same way (25%) (Kilpatrick et al., 1998). There is only a 9% difference in the opinions of sentence adequacy among victims in states with strong legal protections and weak legal protections. Kilpatrick et al. (1998) also found that 25% of victims in weak protection states and 15% of victims on strong protection states felt that the speed of the justice process was subpar.

Statutes that gave the victims more rights, impact statements, restitution, funding, and counseling may not have been enough to ensure the victims were satisfied with their involvement in the criminal justice process (Fritsch et al., 2004, OVC, 1998, OVC, 2002). The role of the victim in the criminal justice system should be one of voluntary involvement where the victim feels that their contribution and restitution was enough to make them feel comfortable with their involvement, but allows the criminal justice system to seek the sanctions that are offense appropriate in combination with the victim’s need for satisfying sentencing and being heard. There should be an involvement where all parties are satisfied with the results reached by the state excluding the offender that has been found guilty. The interests of the offender need to be considered however they should not carry more weight than the concerns of the victim. Research supports the notion that victims feel that by making statements they have an expectation to be a key decision maker (Erez & Tontodonato, 1992). Research beyond 1990 shows that victims are not happy merely participating in proceedings, but wanted to actively be involved with the sentencing of their offenders (Morgan & Smith, 2005). Should the victim feel the desire to be deeply involved then the state should acquiesce and include the victim’s voice in the sentencing process if we are to change the public’s and victim’s opinions of the criminal justice process (Sherman, 2002, Schulman et al., 1999) If the system can seek to find a fair sentence for an offender while seeking victim satisfaction victims may be more likely to again find trust with criminal justice professionals and not feel re-victimized by the process (Hart, 2003, Langton et al., 2003).

A phenomenon known as secondary victimization has been used to describe the victim’s feeling of alienation and frustration with the criminal justice system leading to distrust in the process (Garvin & LeClaire, 2013, Erez & Tontodonato, 1992). Cullen and Johnson (2012) note that victim’s often feel ignored and twice victimized by the criminal justice system. Feelings of secondary victimization have been linked to 2 main factors. Those are manner in which the victims are treated and level of control and extent of participation in the criminal justice process that the victim has (Garvin & LeClaire, 2013, Hotaling & Buzawa, 2003). Victims who feel dissatisfied and re-victimized with the criminal justice process are less likely to cooperate with authorities in the future (Worrall, 2008, Garvin & LeClaire, 2013). The justice system needs to consider the victim’s needs more as opposed to treating victims as 3<sup>rd</sup> parties to the crime.



## HISTORY

The role of the victim in the criminal justice system has changed since its inception. Previously the victim was the entire system (Travis, 2013). The crime victim was the one who brought investigations and prosecutions against the offender in search of resolving the crime (Travis, 2013). Crime was largely a private matter between 2 parties (Travis, 2013). The victim was later forgotten when the state with newly centralized government became the one who perpetrators offended against (Travis, 2013). Later, the social and political movements of the 1960's brought action to allow the victim to be more deeply involved with the criminal process (Elias, 1993). These movements brought the victim back into the process at both a national and state level, and later lead to the 1982 victim's bill of rights (Elias, 1993, Morgan & Smith, 2005).

Since the victim's bill of rights creation 44 states followed with statutes that gave victim's rights along with victim's funds, acts mandating restitution, protection, case information, the right to attend trial, victims impact statements, and allocution (Elias, 1992, OVC, 2002, Schmalleger & Smykla, 2011). Some state statutes have led to tougher offender sanctions and special funds for specific victims such as child abuse victims (Elias, 1992). The enactment of laws at the state level coupled with partnerships with private victim's service organizations may be pushing for that balance between state and victim interests that seek to make the victim involved and satisfied with their contribution by having them take the stand, attend court proceedings, and using victim impact statements in pretrial/presentence hearings (Travis, 2013, Elias, 1992, Stickels, 2008, OVC, 2002).

Extensive victim involvement after the victim's movement was influenced by a string of civil cases pertaining to a lack of police involvement in domestic violence cases that resulted in the mutilation and death of victims (Blackwell & Vaughn, 2003). According to Feder (1999) and Miller (2000) female victims of domestic violence often went months consistently asking for police assistance without a law enforcement response (Blackwell & Vaughn, 2003). In the case of Thurman v. The City of Torrington (1984) The U.S. District Court of Connecticut found the city of Torrington liable for 1.9 million dollars due to the police department failing to provide protection to Tracy Thurman after months of calls for assistance for domestic violence issues (Blackwell & Vaughn, 2003). The court stated that the Torrington police department failed to conduct their duty and did not justify its disparate treatment of women (Blackwell & Vaughn, 2003). However, in other cases such as the Shipp case victims were stalked and killed with no redress from the courts (Blackwell & Vaughn, 2003). There has been a mixed bag of results for cases against police departments in matters of domestic violence intervention. These instances led to mandatory arrest laws that are largely unenforced.

The culture has shifted to recognize the equality of all citizens since the victim's rights social movements (Sherman, 2002). The citizenry expects a certain level of respect, recognition, and status from the criminal justice system which has been traditionally hierarchial leading to public distrust with the justice process (Sherman, 2002). The equality that citizens have become accustomed to may not be recognized by the justice system. If victims begin to feel that their voices have an equal measure as other actors in the process then victim satisfaction rates may begin to rise. The exclusion of the victim and the victim's needs pushed victim's advocates to demand more victim rights and assistance programs leading to many of the policies and procedures we see today.

## **POLICIES AND PROCEDURES IN PLACE FOR VICTIMS**

If the victims of crime are to have adequately satisfying roles in the criminal justice process there needs to be policy and procedural statutes put into place at the state and federal levels. After policies are in order there needs to be proper action to follow and enforce these laws if victims are to feel vindicated. State programs need to be set up if the victim is to be an active participant who is kept informed of the developments in the case. A review of state victim assistance programs shows that even though they exist they are not being enforced properly, encounter issues from defendants, and are not well known (Sims, Yost, & Abbott, 2005, OVC, 2002). A stronger education and information campaign may help to disseminate information on the assistance programs available to victims.

Since the victim's movement of the 1960's and subsequent victim's rights bill of the 1980's numerous federal and state legislations established policies designed to benefit the victims of crime. Private organizations have also been formed to assist victims with psychological and shelter needs (Blackwell & Vaughn, 2003). Policies such as mandatory arrest in domestic violence situations, the establishment of victim's funds, the collection of victim impact statements, victim impact panels for drunk driving cases, victim restitution, the victim's right to be present, allocution, and the expansion of enforcement of protective orders beyond the county of issuance have been enacted throughout the country (Blackwell & Vaughn, 2003, Eigenberg et al., 2003, OVC, 1998, OVC, 2002, Rojek et al., 2003, Schmallegger & Smykla, 2011). These policies give the victims of crime more involvement in the justice process however they are not doing enough to leave the victim satisfied or are not enforced as they should be (Hotaling & Buzawa, 2003).

The policy of mandatory arrest in the case of domestic violence resulted from law suits brought against police agencies for not upholding the 14<sup>th</sup> amendment clause of equal protection under the law and unresponsive services for victims of domestic violence (Blackwell & Vaughn, 2003). Due to evidence of inadequate police practice combined with pressure from domestic violence victim's advocates mandatory arrest become the preferred method of response to misdemeanor battery in many states (Eigenberg et al., 2003). These policies resulted in arrest rates that ranged from 11% to 22% (Blackwell & Vaughn, 2003, Eigenberg et al., 2003). Half of the states enacted laws to make it a crime with mandatory arrest when protective orders were violated (Eigenberg et al., 2003). Mandatory arrest laws also lead to mandatory jail time for offenders who violate protective orders repeatedly (Eigenberg et al., 2003). Even with mandatory arrest laws enforcement remains low. The victim's interest and safety need to be represented more by state law enforcement agencies through the enforcement of policies such as mandatory arrest if the victim is to begin to feel satisfied with their interests in the criminal justice system.

Other policies such as the victim's right to attend criminal justice proceedings are enacted in 39 states, and is considered to be a fundamental victim's right (OVC, 2002). These rights have been limited in what victim's rights advocates argue is the system favoring the offender with the victim having the right to be present only as long they don't interfere with the rights of the accused (OVC, 2002). These are conflicting issues as a victim should be allowed to exercise their right to attend proceedings, and findings show that victim presence does not interfere with the defendant's right to a fair trial (OVC, 2002). Currently states such as Florida and Wisconsin are writing laws that require the exclusion of a victim from attendance of a trial to be based on more than the fact that the victim will hear others testimonies and requires the defense to show



that victim attendance would be prejudicial to the offender (OVC, 2002). The victim's right to attend proceedings should not be curtailed in an effort to appease the accused offender. If the defense can present a valid argument that the presence of the victim causes prejudice such as allowing the victim to sit at the prosecution table in Alabama (OVC, 2002) then the right to attend proceedings may be curtailed and the victim sequestered. However, for the victim to be satisfied with their role in the criminal justice process they need to be informed and updated on developments in the case. Allowing the victim to attend hearings is one way to do just that.

Victim's restitution policies have been established in many states. Victim restitution is a policy where the court orders a convicted offender to pay monies to their victim for their losses and suffering based on medical expenses, lost earnings, and victim assistance needs (OVC, 2002). The ordering of restitution to crime victims is a way for the courts to acknowledge that harm was done to the victim even if only on an economic level (OVC, 2002). This acknowledgement can help in easing the victim's frustration with the criminal justice system, and move towards restoring the victim as the goal was prior to the rise of centralized governments (Travis, 2013). Restitution is considered a fundamental victim's right as all states allow the judge to order restitution with some states requiring restitution to be ordered in all cases (OVC, 2002). Even though there are statutes in certain states requiring restitution to be ordered in all criminal cases it is not always the case that restitution is ordered (OVC, 2002). In many cases restitution was not ordered due to the victim failing to demonstrate their loss, the victim failing to request restitution, and an inability to calculate the victim's loss (OVC, 2002). If the offender is capable and fully pays the ordered restitution to the victim and the victim feels satisfied with the amount paid, then the seriousness of the criminal sanction should be reduced in cases where the victim was not physically harmed. In property damage cases where the victim is not forced to miss work or have an extensive recovery time the criminal sanction can be reduced if restitution is paid in full since property damage is mostly measured in the monetary amount done. In cases where the victim is violently harmed restitution should be used to compound the criminal sanction. The courts cannot measure psychological damage that a victim may incur. The non-monetary sanction should be reduced in severity as the state's and victim's needs are balanced.

States throughout the union have established victim's funds for victims of crimes such as domestic violence and child abuse. A victim's fund is used to help victims recover financial losses caused by crime (Fritsch et al., 2004). Offenders were infrequently apprehended or convicted (Fritsch et al., 2004). It was found that about 19% of Schulman et al.'s (1999) survey respondents said an arrest was made for the crime they reported. Offenders were often incapable of paying ordered restitution, so the government becomes the "payor of last resort" in starting victim's funding programs (Fritsch et al., 2004). Many victim funds get their revenues from fees that are issued by the states (OVC, 2003). Indiana for example keeps its general witness victim fund coffers full through imposing fees on marriage licenses (OVC, 2003). States such as Ohio and Utah fund their children's defense fund through imposing a fee on filing for a divorce (OVC, 2003) Other funding options come from special items such as license plates, bonds, and taxes (OVC, 2003). Victim funds are used to assist the victim of crime in the event that their perpetrator is not found, not convicted, or is unable to pay their restitution orders.

Many of the state laws and policies that are believed to benefit and satisfy the victim appear to be based in monetary harm to the victim. If the victim is to experience satisfaction with

their part in the criminal justice process then other matters are going to need to be attended to. Such matters include the physical and psychological well-being of the victim, up to date and accurate information being given by the courts, and some victims wish to personally address their assailant to inform them how the crime had affected the victim's life similar to victim impact panels and restorative justice (Hotaling & Buzawa, 2003, Cassell & Joffee, 2013).

Restorative Justice seeks to reverse the harm that has been done to the victim by a criminal act in a community setting mediating between the victim and members of their family and the offender and members of their family (Cullen & Johnson, 2012, Bazemore, 2005, Rodrigues, 2005). In the restorative justice system the victim becomes central in the criminal sentencing process again, not the courts (Cullen & Johnson, 2012). This model may give victims the ability to be heard as they desire (Wemmers & Cyr, 2006). In the restorative justice framework the state acts as an arbiter giving the victim a chance to be heard (Cullen & Johnson, 2012). Restorative justice is used in a community setting and has many applications including neighborhood accountability boards where many members of the community volunteer to be involved with the process and juvenile conference committees focusing on reversing harm done by juvenile offenders (Hasset-Walker, 2002, Bazemore, 2005). McCold (2008) sums up the central plan of restorative justice as a victim/offender in person meeting where they decide how to address the sanctions to the crime (Cullen & Johnson, 2012). Restorative justice would satisfy the needs of the victim to have a deep involvement with offenders and the outcome out the case. Restorative justice could be used with the traditional criminal justice system to allow victim and offender mediation throughout the criminal justice process (Wemmers, 2008).

### **DO VICTIM'S RIGHTS POLICIES WORK, ARE THEY EFFECTIVE?**

Victim's rights and funding policies are developed to aid the victim and allow more victim involvement in the justice process, but they are not utilized to their full extent by the state agency or the victims of crime. Some legislative measures have been more successful than others, but all of them have had their own barriers. For example as previously noted Blackwell and Vaughn (2003) and Eigenberg et al. (2003) found that mandatory arrest policies are not highly effective. These practices can be ineffective for a number of reasons such as police agencies being hesitant to remove discretion or racial issues such as effecting communities of color more frequently (Eigenberg et al., 2003). Under mandatory arrest laws arrest rates are still very low ranging from 11% to 22% (Blackwell & Vaughn, 2003, Eigenberg, 2003). Many of the issues complicating policies that enhance the role of the victim in the justice system stem from poor communication amongst state agencies, private organizations, and individual citizens. Other issues to procedures that aid the victim in feeling more personal satisfaction with the results of the criminal justice process can actually cause further victim assistance programs to be initiated. For example, in the case of all states allowing the judge to order restitution, issues caused states to further aid victims with victim's funds to make up the shortfall when offenders did not have the ability to pay their ordered restitution (OVC, 2003, Fritsch et al., 2004).

Sims, Yost, and Abbott (2005) found that only about 3% of victims have reported ever using victim services programs. They also found that only about 43% of victims had been notified of victim service programs to begin with (Sims, Yost, & Abbott, 2005). According to Sims, Yost, and Abbott (2005) 40% of victims do not know what types of services are available. The lack of information provided to the victims of crime may be a reason why states like Texas have a surplus in their victim funding accounts (Fritsch et al., 2004). Langton et al. (2011) found

that victims who received direct assistance from an agency were more likely to receive a follow up action from the criminal justice system. A greater percentage of victims decide to call the police after they have received services from a victim service agency (Langton et al., 2011). Langton (2011) also found that rape and sexual assault victims receive the most direct assistance and that females sought assistance far more often than males did. It was also noted that household, ethnic, and individual characteristics affected using victim assistance (Langton et al., 2011). This may be related to Hotaling and Buzawa's (2003) finding that many minorities distrust the justice system than do non-minorities. The need for victim services despite the low usage numbers still exists. Males and minorities are driving the usage statistics down as are repeat domestic violence sufferers (Langton et al., 2011, Hotaling & Buzawa, 2003). Getting the information in clear, concise, and user friendly formats will help get more victims involved and use the service programs that have been built for them (IACP, 1999).

It would appear that even though state statutes strive to provide for the victim in their time of need they are not operating properly as planned. The Office for Victims of Crime (2002), Sims, Yost, and Abbott (2005), and Fritsch et al. (2004) have demonstrated that even when laws are made in favor of the victim there are many barriers to their effective use. Some of these barriers include ineffective communication to the victim that programs exist, confusion on the part of law enforcement officers, and offender inability to pay restitutions to victims (Fritsch et al., 2004, Sims, Yost, & Abbott, 2005, OVC, 2002). The groundwork has been laid, but enforcement needs to be strengthened in order for victim policies to have an effect of victim satisfaction with their role in the criminal justice process.

### **SHOULD THE VICTIM HAVE A VOICE IN THE JUSTICE PROCESS?**

Victims of crime should have a voice at trials and sentencing. According to Wemmers and Cyr (2006) victims do not just want to make demands, but they want their voices to be heard regardless of the outcome. Victims want to express their desires and have their point taken into consideration (Wemmers & Cyr, 2006). Even though the state is the official administrator and sanctioning body, the state is not the only one who the perpetrator has offended against. There is a separate civil court for the resolution of individual disputes however the civil courts do not hear criminal cases and victims may not be able to directly state how their interests were impacted by the crime (US Courts, 2012). Balancing the competing interests in the criminal justice system requires sanctioning of the offender who caused harm to a victim. This especially applies to cases where the crime committed was violent such as rapes, domestic violence, armed burglary, and assault/battery. The state often plea bargains with offenders, treats the victim as a 3<sup>rd</sup> party, gives the victim no say in the process, and does little to help the victim (Cullen & Johnson, 2012). There is also an individual victim who needs to be actively involved in the process to feel satisfied, not re-victimized, and comfortable cooperating in the future. The victim needs to have their story heard to play their active participant role in the criminal justice process. Civil courts do not allow this and have similar outcomes as restitution orders (US Courts, 2012). That is civil courts are based on monetary retribution lacking the psychological gratification that victims seek. Victims want their impact known and accounted for.

Courts throughout the country have utilized the collection of victim impact statements (Davis & Smith, 1994). According to Professor Mary Gianni (no date) the victim gains access to a forum that directly and individually acknowledges their suffering through impact statements (Cassell & Joffe, 2013). Opponents to the use of victim impact statements in the

pretrial/presentence proceedings claim that victim impact statements sway the courts towards harsher disproportionate sentences for the offender (Davis & Smith, 1994). This concept, however, is not supported by research. Davis and Smith (1994) found that in Bronx County New York courts that the presence of a victim impact statement in the case file did not significantly affect the sentence of an offender. There was also no finding that victim impact statements caused special sanctions, and that victim impact statements had no relationship with offender sentencing (Davis & Smith, 1994). According to Erez and Tontodonato (1992) many victims were unaware as to what a victim impact statement was. In 37% of case files victim impact statements were missing, and in files that contained a victim impact statement 53% had remained unopened (Davis & Smith, 1994). Davis & Smith (1994) note that victim impact statements may not be the way for victim participation in the court process, and that statements may not have given victims a meaningful voice. The goal is psychological gratification of being heard, let it be done in a ceremonial way where justice is seen and done (Erez & Tontodonato, 1992). When filling out a victim impact statement, victims come to expect to be influential in sentencing, when this does not occur their feelings of victimization become compounded thus feeling as though they were the victims of crime and of the criminal justice system (Erez & Tontodonato, 1992). Erez and Tontodonato (1992) found that victim's feel dissatisfied with the justice system which reflects on the system's ability to resolve the victim's conflict with their offender and give the feeling that justice has been served. 42% of victims feel that the justice system does not do enough to help victims (Erez & Tontodonato, 1992). Cassell and Joffe (2013) note why the criminal justice system should be concerned with victim satisfaction according to a federal judge "victims voices are important, because even if a victim has nothing to say that would directly alter the court's sentence, a chance to speak still serves important purposes."

Another mechanism that is used to give victims voices in the criminal justice process is the victim impact panel. In 1982 Mothers Against Drunk Driving introduced victim impact panels as a restorative justice approach to victim involvement (Rojek et al., 2003). A victim impact panel is a forum for victims of drunk driving incidents to share their experiences with convicted DUI offenders under the order of a judge (Rojek et al., 2003). Each victim in a victim impact panel gets 10-15 minutes to present their experiences followed by a question and answer session (Rojek et al., 2003). Victim impact panels give the local community a say as to how victims were affected directly to the offender as opposed to going through the centralized state in hopes that a victim's voice will be heard (Rojek et al., 2003). Though, the victim impact panel does not allow for the victim to have a say in the sentencing of an offender they do give victims direct communication with offenders, and an opportunity to have an impact on the offender's future behavior.

### **WHY CRIME MAY NOT BE REPORTED**

If crime victims are to have a strengthened role in the criminal justice process then the victims themselves need to report their victimizations in higher numbers. Researchers have been studying the reasons why victims report crimes in such low numbers. As of 2000 only 49% of violent crime was reported to the police (Hart, 2003). According to Baumer et al. (2003) in the redesigned NCVS sample from 1992 to 2000 31.2% of rape victims sampled said they reported crimes to the police. This number is an improvement compared to rapes reported to the police prior to the 1970's, but it has remained stable since, and is still relatively low (Hart, 2003). The reasons for non-reporting are varied however multiple researchers tend to find the same

conclusions in different studies. There are 3 key reasons that victims chose not to report their victimizations to the police. First, victims dealt with their offenses in a private manner (Hart, 2003, Langton et al., 2012). Second, victims believed that their victimizations were not important enough to warrant police action (Hart, 2003, Langton et al., 2012). Third, victims have a growing concern that the police could not or would not help with their cases (Langton et al., 2012). Langton et al.'s (2012) research found that among the violent crime not reported to the police 34% was not reported because the victim dealt with the crime in a private manner. Hart (2003) backs up this finding by highlighting the use of personal resolutions by victims. As for victim's growing concerns about police ability to help it was found that from 1994 to 2010 the amount of victims believing the police could not help doubled from 10% to 20% (Langton et al., 2012). If this is part of a measure of victim satisfaction then it should be a point of concern. As previously stated victim satisfaction is important when it comes to reporting future crimes. If this doubling of victims who believe the police could not help is an indication on future crime reporting then we can expect the number of unreported crimes to continue to rise.

### **CHANGES THAT SHOULD BE MADE TO IMPROVE THE JUSTICE PROCESS AND VICTIM'S STATUS**

Changes need to be implemented to address victim dissatisfaction with the criminal justice process. Research confirms that victims are largely uninformed of or dissatisfied with the criminal justice procedures (Fritsch et al., 2004, OVC, 2002, Erez & Tontodonato, 1992, Langton, 2011). Changes that should be implemented include police agencies informing victims of their rights at the location of the crime, courts maintaining communication with victims to inform the victim of updates in the case, stronger enforcement of current policies, encouragement to be involved with victim's assistance organizations, allowing the victim a voice in the sentencing process by making victim's voice laws that give victims a right to make a statement at sentencing hearings (Worrall, 2008), extend federal allocation for violent and sex crimes to the states making allocation a policy for all violent and sex crimes (Schmallegger & Smykla, 2011) and using restorative justice methods for minor non-violent crime. Making these changes would go a long way in the lines of victim satisfaction with the criminal justice system and leaving the victim satisfied with their enhanced role in the process. A key issue for victim satisfaction as found by Hotaling and Buzawa (2003) is the amount of control that victims feel that they have in the justice process. Even if the sentence for an offender is not exact to the victim's recommendations the psychological gratification (Erez & Tontodonato, 1992) of inclusion and voicing in sentencing may return that feeling of control to victims when measures enhance and allow victims to become active participants in the process (Hotaling & Buzawa, 2003, IACP, 1999).

Communication has been a key issue when discussing victim's rights, victim's access to assistance, and notification from the courts on trial updates. Many times the victim is unaware as to what their rights are. The information provided to the victim from the police has been noted as the most important method to supply the victim with information (Parent et al., 1992, Fritsch et al., 2004). Fritsch et al. (2004) found that in Texas only 35% of law enforcement officers carry literature on victim's funds in their duty cruisers. Sims, Yost, and Abbott (2005) found that 40% of victims did not know what services were available to them. Fritsch et al. (2004) suggests simple solutions to the police for dispersing information on the victim's rights issue. Keep it simple, do not extensively educate as this can lead officers to be confused, and supply and direct



meaning give officers a supply of information brochures on victim services and direct them to hand brochures out at all crimes where an injury occurred (Fritsch et al., 2004). Another form of communication between public agencies and victims concerns the filing of a victim impact statement. Erez and Tontodonato (1992) state victims would believe that their statements are strongly considered during sentencing. Davis & Smith (1994) found that what victims expect concerning their impact statements was not a factor in the court use of impact statements. A suggestion of communicating realistic sentences that are allowed in the state sentencing guidelines, considerations in the justice process, and blockings of maximum sentences could avoid added frustration to the victim by the criminal justice system pertaining to their expectations of victim impact statements (Erez & Tontodonato, 1992).

The victim's Satisfaction model developed by John Stickels (2008) should be implemented into the modern criminal justice philosophy. This model seeks to recognize that victims are the ones who are primarily harmed by crime and that the criminal justice system should be responsive to the victim's needs (Stickels, 2008). The victim satisfaction model differs from traditional criminal justice philosophies in that it focuses on the victims of crime and not the defendants (Stickels, 2008). There are 3 main tenets to the victim satisfaction model. They are; 1.) The crime victim becomes a de facto party to the prosecution with an active role in the criminal case moving the criminal system in the civil system direction. This is important as it allows victims to participate meaningfully in the justice process (Stickels, 2008). 2.) The prosecutor takes the role of representing the victim and makes decisions in favor of what the victim desires. This creates an attorney client relationship with the goal of satisfying victims (Stickels, 2008). 3.) Victim satisfaction becomes a primary goal of the criminal justice system (Stickels, 2008). No model can achieve full victim satisfaction with the sentencing outcomes of all criminal cases. The victim satisfaction model however adds to the psychological gratification of the victim and higher satisfaction rates by making victim satisfaction the primary determinant of the prosecution (Erez & Tontodonato, 1992, Stickels, 2008). State's should change the definition of crime from solely violating against the state or society and include in the definition transgression against an individual making justice for individuals the new objective of the criminal justice system (Stickels, 2008).

Communication between the courts and the victims also needs to be improved. Victims believe notification and involvement with the trial and sentencing are very important (Schulman et al., 1999). According to Davis and Smith (1994) many times the victim impact statements are not considered important. In a study conducted by Davis and Smith (1994) only 3 out of 22 prosecutors thought that judges used victim impact statements in sentencing, 37% of case files contained victim impact statements, and of that 37% that contained victim impact statements 53% remained unopened. Erez and Tontodonato (1992) found that victims were frustrated with the lack of involvement in the decision making process. Rape victims who were more involved in the process linked satisfaction with feeling understood and being informed throughout the case (Erez & Tontodonato, 1992). In their study Erez and Tontodonato (1992) found that 62% of victims said that they had filled out a victim impact statement while 32% said they did not. Given the previous numbers of 37% of case files containing victim impact statements and 53% being unread coupled with only a 62% collection rate demonstrates that the victim does not have a voice in the criminal proceedings (Davis & Smith, 1994, Erez & Tontodonato, 1992). Of the 32% who said they did not file a victim impact statement half did without knowing it (Erez & Tontodonato, 1992). Due to these findings public agencies such as the police and courts should

seek to increase open communications with the victims of crime. Communication should be enhanced throughout the process by both the victim of the crime and the state agency. Enhancing communication between state bodies and individual victims is a way for victims to be heard by the justice system which is something that victims want (Wemmers and Cyr, 2006).

The policies that exist for the victims of crime should sufficiently add to the satisfaction of victim needs. The public and private funding and assistance organizations available cover a wide range of victim needs such as funding, counseling, shelters, and protection for victims of crime. These programs and policies should be more consistently enforced and applied and not left by the wayside for victims to not take advantage of. For example, one policy that is not effectively enforced is the mandatory arrest policy for domestic violence events. This is a victim protection policy that requires law enforcement officers to make an arrest in the event of a domestic violence incident (Blackwell & Vaughn, 2003). This has not been consistently enforced and still keeps arrest rates low (Eigenberg, 2003, Blackwell & Vaughn, 2003). There should be campaigns to educate the public, staff the victim service programs, and broaden the types of programs for victims (Sims, Yost, & Abbott, 2005). The victims of crime, after learning of the rights and policies that benefit them could gain access to programs and become more satisfied with the criminal justice system in the future. Should the victim not want an arrest the state should take a victim statement outlining why the victim does not want an arrest then consider the victim's and the public's safety when deciding to make an arrest. In the case of property crimes the state should be willing to grant the victim's wishes as long as there was no injury to any persons in the commission of the crime. If the crime is violent in nature, then the state should work with the victim to seek a sentence that maintains public safety, if the victim still wishes not to go forward then the state should sentence based on public safety concerns.

Giving the victim more influence in sentencing similar to what victims get in parole hearings may lead to more victim satisfaction in the criminal justice process. Pasronage et al (1994) found that victim participation is the strongest indicator of whether parole was granted or denied (Morgan & Smith, 2005). Offenders may not agree with this process. Offenders should also be offered the chance to speak with victims and at the parole hearing to come up with a compromise pertaining to the victim statements and offender rehabilitation. According to the OVC (2002) the right for the victim to attend the court proceedings has been restricted. However, the right to attend parole hearings has not. Crime victim's research demonstrates that victims feel dissatisfied with criminal justice proceedings, but when they are actively present in parole proceedings have a strong effect on the outcome (Erez & Tontodonato, 1992, Morgan & Smith, 2005). A strong effect on court decisions can add to the victim's overall satisfaction. If they had the same strong effect on sentencing as parole the victim may get their needs met without interfering with inmate release or rehabilitation at the time of parole. Worrall (2008) notes that victim's voice laws give the victim the right to be present and make a statement at the sentencing hearing. Victim's voice laws should be written in states that currently do not have one on the books. They may not be uniform, but voicing at sentencing aids in satisfaction, and being heard is something victims want. Victims may feel satisfied with their involvement in the process as opposed to frustration with the criminal justice system should changes be enacted that give the victim the same voice in sentencing as they receive in parole.

The Office for Victims of Crime makes several recommendations in their 1998 bulletin that could help improve the satisfaction of the victims of crime. Victims should be included in

the development and implementation of all programs provided to victims (OVC, 1998). This inclusion of the victim can help balance the public, state, and individual competing interests involved in the justice process by having victim input help develop programs that assist the victim in recovering from crime. A second suggestion from the Office for Victims of Crime (2002) is to have victim service providers work with their community to ensure that there is adequate support for victims. Victims need adequate support and control in their time of great need (Hotaling & Buzawa, 2003, IACP, 1999). Giving victims a feeling of control and adding support mechanisms can help in improving their satisfaction in the justice process. This can be used in combination with neighborhood accountability boards to have the victim restored to their original state in their community with members of the victim's family, the victim, and the offender (Bazemore, 2005). The Office for Victims of Crime recommendations are similar to restorative justice principles in that they focus on a community centered approach that is highly inclusive of the victim. These suggestions require a strengthening of role of the victim in the justice process.

Kilpatrick et al (1998) also suggests implementing changes to benefit the victims of crime. Victim's advocates were asked how to improve victim services and they responded with 3 main categories; increasing education of funding sources, increasing training, and increasing enforcement of existing policies (Kilpatrick et al., 1998). The study also suggests further changes. The first is to keep the victim informed and provide them the opportunity for input (Kilpatrick et al., 1998). The second contrary to Fritsch et al.'s (2004) finding is to have an aggressive education program for criminal justice professionals and victims alike (Kilpatrick et al., 1998). Finally, create ways to ensure that criminal justice officials are informing victims of their rights and to provide a way for victims to enforce their rights (Kilpatrick et al., 1998).

To implement these changes will take a substantial amount of time. Changing the operations of the current system is not an easy task. Victim role changes in the criminal justice system will require testing to see if they are effective and evidence based (Cullen & Johnson, 2012). Even though these recommendations may be good at strengthening the victim's role they may be harmful in other aspects of the criminal justice system. Having gains for victims in sentencing comes with a cost for defendants (Travis, 2013). When victim roles are broadened offender roles become secondary. These suggestions focus on changing the victim's role to be similar to what it was at the onset of the criminal justice system, and having sentencing statements become similar to parole voicing while seeking victim satisfaction. However, given the power of central governments and the quantity of cases that the courts have experience in dealing with these suggestions should not restrict their power entirely. As previously noted according to Scott and Steinberg (2008) the state has the duty of keeping public safety. The state may need to intervene for cases of individual safety for victims in certain situations such as violent domestic abuse (Hotaling & Buzawa, 2003). The state needs to make sure offenders are not too severely sanctioned for lower level crimes. If the state's power were to be too severely restricted in some cases a violent offender may go free upon being forgiven by a victim while in other cases the victim may seek to sanction an offender too harshly for the crime committed. These suggestions seek to find a balance between the competing interests at play between the victim, the state, and the offender in the criminal justice process with an emphasis on giving more power to the victim than in recent decades.

## **FURTHER ISSUES**

Strengthening the voice, the taxing of resources available to the criminal justice system, and deciding which offenders and victims should go through the restorative justice process cannot be implemented simply. There are further considerations that need to be addressed. To give the victim the same role in initial sentencing as they have in the parole process would be challenging legislatively (Morgan & Smith, 2005). Currently, the justice system allows the courts the final say in what punishment an offender receives (Travis, 2013). Laws would need to be changed and the status quo would need to be challenged (Davis & Smith, 1994), neither of these would be a quick or easy process. They would involve a great many players in the criminal justice and legal systems. Nonetheless, changes should be made to change the victim's role and have one of the goals of the justice system be to seek victim satisfaction.

Strengthening the victim's role in the justice system to include a say in sentencing, being an active informer, and being adequately informed of process developments would be a big demand on professionals of the criminal justice system and victim's rights advocates. Baumer et al. (2003) found that police notification for rape increased by both victims and third parties during the 1970's and 1980's leveling out in the 1990's. These increased reporting could cause more calls for service and an increased case load on law enforcement officers and prosecutors. Kilpatrick et al. (1998) found that according to victim service officials, resource limitation was the main reason that they were not able to conduct their duties. Local program operators even in strong victim protection states felt that their funding for programs was not enough (Kilpatrick et al., 1998). Victim service providers stated that funding for more staff was needed more than any other need (Kilpatrick et al., 1998). In both weak and strong victim protection states service providers claimed to need funding for more staff resources to reduce delivery issues (Kilpatrick et al., 1998). To further the goals of victim's advocates the criminal justice system may become overtaxed in its use and allocation of resources.

Restorative/community justice programs require volunteers to operate them at the neighborhood levels. Getting enough volunteers and community participation to make neighborhood accountability boards and juvenile conference committees an effective method for victim inclusion will be difficult. In a cliché argument the economy is not roaring, and people have families to take care of. The basic work/living system that is currently in effect may inhibit the time that community members have to dedicate to being involved in a community/restorative justice program. Restorative justice has also been shown only to be effective in cases for low level offenders. It does not do enough to change the behavior of serious offenders and extensive rehabilitation is needed for severe offenders (Cullen & Johnson, 2012). Restorative justice models may not work in violent crime cases such as rape and repeated domestic abuse. Bazemore (2005) notes that community justice concepts are incomplete and need emphasis on victim, offender, family, and neighborhood participation.

What is the criminal justice system to do with juvenile offenders who do not have the same culpability or cognitive abilities as adults (Scott & Steinberg, 2008) There are options such as mitigation for immature juveniles who meet the requirements for criminal responsibility, but do not deserve the same punishment that adult offenders get (Scott & Steinberg, 2008). In the case of changing the victim's role to be actively involved in sentencing what if the victim is a juvenile? If the crime involves a juvenile offending against another juvenile and research shows that juveniles are not fully cognitively developed it would be difficult to ascertain what the victim's role should be in this case. What if the crime involves a juvenile offending against an

adult? A deeply involved victim who has the right to a say at sentencing may cause excessive harm to a juvenile. This issue will require vast research to balance the competing interests of the victim, offender, courts, parents of the victim/offender, and juvenile justice departments.

In unique cases such as when a victim is willing to forgive their offender and wishes to have no part in the criminal justice process then it is the state's job to prosecute the offender in the interest of public and individual safety. In some cases it is the responsibility of the state to protect victims who may be in danger if they do not move forward with prosecuting an offender (Hotaling & Buzawa, 2003). If the crime is a non-violent property crime with minimal property damage then in the interest of victim satisfaction the state should be willing to negotiate with the victim to find a compromise for what the case outcome should be. The case should not be dropped if it is a violent crime and the victim wishes not to move forward. The state needs to ensure that violent criminals are not free to roam the street and should be incapacitated for their crime. The incapacitation effect will reduce any immediate crimes a forgiven violent offender would commit (Cullen & Johnson, 2012) if the state were not to act in the interest of public safety. In this unique case the state should no longer act as an arbiter and use its power to sentence the offender as it sees fit. The victim who forgives their offender and expresses no desire for participation in the sentencing process should still be informed of outcomes in sentencing. This issue presents no discernible way to balance the state's power with that of the victim. In this issue the state would end up with full power in the criminal proceedings for violent offenders.

The criminal justice system should not abandon its current practices entirely. The criminal justice system should place more concern on the level of satisfaction that victims experience when working with the system. The justice system can combine current practices with key points from models such as restorative justice and victim satisfaction. The courts could use more victim impact statements when deciding on the sentence an offender will be given. Courts and prosecutors could also focus less on the rights of the offender and more on the rights of the crime victim. The justice system could use restorative justice models for low level offenders allowing victims to be involved with the case without having to go through the difficult task of getting the information from the state about advancements in their case. Using the principles from the victim satisfaction model developed by Stickels (2008) making the prosecution work in the interests of the victim during the trial will further the victims goals and satisfaction with the justice process.

It is recognized that policies and initiatives have been established to improve victim satisfaction with their role in the criminal justice process. There has even been a model made to change the purpose of the criminal justice system to be primarily based on victim satisfaction. Strengthening the victim's role and increasing satisfaction will come with costs to defendants. Ideally, defendants would get a say in the sentencing process, but not as strong as the victim of the crime. Victim/offender face to face mediation could help reach a sentencing compromise that both the victim and offender can accept. Even with the research presented policies and programs are not well known. Before selecting a singular method to change the role of the victim in the justice process the ones that have been in existence should be utilized more. Ultimately, more research needs to be conducted before the system can be changed to favor the victims of crime.



## SUMMARY

If the needs of the crime victim are to be fulfilled changes need to be made to their role in the criminal justice process. Over the past 5 decades the victim's rights movement has influenced changing the system to seek a greater balance between the interests of the state and the interests of the victim. The victim during that time went from an ignored technicality to someone who was semi-involved with the process (Cullen & Johnson, 2012, Travis, 2013). Still, with that change in involvement victims often feel neglected and dissatisfied with the decisions that are reached in cases involving them and their ability to be heard during the process (Erez & Tontodonato, 1992, Davis & Smith, 1994, Morgan & Smith, 2005). Changes have been enacted at both the federal and state level with policies favoring the safety and rights of the victim without much success in providing either (OVC, 2002, Fritsch et al., 2004, Eigenberg et al., 2003). Victim assistance funds have been implemented but in states such as Texas there remains a surplus as very little communication goes on between police and victims that encourage victims to seek access to these funds (Fritsch et al., 2004). Victim satisfaction will require greater communication in sentencing and better treatment by agencies of the state to avoid having the victim feel as though they have been victimized again by the system (Garvin & LeClaire, 2013).

Using a community board combined with the sentence as they do in New Zealand for low level offenses in a restorative justice platform helps keep the victim informed and involved in the process with members of their community that they already know (Cullen & Johnson, 2012, Bazemore, 2005). Restorative justice allows communication and mediation between the victim and offender through community volunteers. Restorative justice may be considered more satisfying to the victim as the victim participates in a plan of action for the offender (NZMJ, 2013). Overall victims who participated (82%) in restorative justice reported being satisfied with the conference and 77% being satisfied overall with the whole process (NZMJ, 2013). This balances all of the interests in the case with 3<sup>rd</sup> party mediators giving input and helping to facilitate positive outcomes for all involved (Cullen & Johnson, 2012).

Changing the definition of what a crime is to include the harm done to an individual will move the criminal justice system towards greater victim satisfaction. Making victim's voice laws as suggested by Worrall (2008) aid victims in getting the satisfaction from being heard in the court process (Wemmers & Cyr, 2006). Moving the justice system to applying the victim satisfaction model suggested by Stickels (2008) is another step toward leaving victims happy with their role in the criminal justice process. These suggestions will allow the victim to become a more central actor in the justice system with the intent of achieving satisfaction for as many victims as possible.

The victim needs a new role similar to their previous role in the criminal justice process. Steps need to be taken to allow this shift to occur. Victims need to feel satisfied with their involvement in the case (OVC, 2002, Morgan & Smith, 2005, Erez & Tontodonato, 1992). Victims need to have a voice in sentencing, not have their statements left unread (Davis & Smith, 1994). The new role should seek to balance the state power with the victim's power, so that no party is left uninformed and disappointed in the outcome of the case.

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