



## Safety and Justice

A RAND INFRASTRUCTURE, SAFETY, AND ENVIRONMENT PROGRAM

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# Securing Rights for Victims

A Process Evaluation of the National Crime Victim  
Law Institute's Victims' Rights Clinics

APPENDIXES A, B, AND C

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Sponsored by the National Institute of Justice



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## Site Reports

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### Arizona Crime Victims' Legal Assistance Project

#### Legal Context

Compared to that in other states, support for victims' rights in Arizona is very strong. Arizona has an extensive bill of rights for victims and a separate bill of rights for victims of juvenile offenders. Victim provisions are also incorporated throughout the state code, where relevant. Victims' rights advocates in Arizona also ensured that victims' rights were incorporated into the rules of criminal procedure.

The Arizona victims' rights amendment includes the most-common rights of victims, as well as some unusual constitutional provisions. These include the right "to have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and to have these rules be subject to amendment or repeal by the legislature to ensure the protection of these rights." It also includes the right for the victim to refuse an interview, deposition, or other discovery request by defense counsel; and the right to review the presentence report if it is available to the defendant. The amendment received a relatively low voter approval rating in 1990: 58 percent. According to the clinic founder, who also drafted the amendment, the low approval rating can be attributed to the extensive reach of the amendment, which included many more provisions than other states' amendments.

The implementing legislation was noteworthy because of its enforcement provisions, giving crime victims explicit standing to enforce their rights, the ability to seek injunctive relief, and even the ability to bring a civil action for damages in the case of a willful violation of rights.

Moreover, unlike in most other states, the Arizona courts decided some early pro-victim cases. As far back as 1994, the Arizona Supreme Court granted victim standing in *State ex rel. Hance v. Arizona Bd. of Pardons and Paroles*, 875 P.2d 824 (Ariz. Ct. of App. 1993). In that case, the parole board did not tell the victim about a parole hearing and voted to release the defendant. The victim filed a petition to the Arizona Court of Appeals that ordered a "do-over" of the parole hearing. This case established that victims had appellate standing and that victims' rights were enforceable, long before the clinic was developed.

#### Project History

The Crime Victims' Legal Assistance Project (CVLAP) is a project of the Arizona Voice for Crime Victims (AVCV), a victims' rights organization founded in 1996. AVCV's mission is to "ensure that crime victims receive their rights to justice, due process and dignified treatment throughout the criminal justice process." The organization grew out of the founder's efforts

to advocate for an amendment to the Arizona state constitution by ballot initiative in the late 1980s. The founder is a former 0 of Arizona with a longstanding interest in victims' rights issues. He has worked to promote victims' rights for more than 30 years, providing assistance to Congress, state legislatures, tribal governments, and local organizations in drafting, passing, and implementing victims' rights statutes and amendments. He authored the Arizona constitutional amendment for victims' rights and the Arizona Victims' Rights Implementation Act and has served as an informal advisor on other victims' rights legislation. He was also one of the founders of NCVLI in 2004.

Having been instrumental in enacting both an Arizona constitutional amendment and enabling legislation, the clinic founder initially believed that the clearly enumerated victims' rights would be enforced by prosecutors and judges. By the late 1990s, however, he realized that very little had changed and that victims' rights were going to have to be enforced by attorneys, in the same way that defendants' rights are enforced. The idea of modeling the enforcement of victims' rights on the enforcement of criminal rights for defendants has been an important principle for the clinic.

AVCV's founder started the Crime Victims' Legal Assistance Project at Arizona State University law school in 2001, after receiving a state VOCA grant. The clinic began representing clients in January 2002, operating out of a small space at the law school with initially one paid staff attorney—a former prosecutor—and another attorney assisting in a pro bono capacity. Initially, law students were involved in most aspects of the clinic functioning, but the law students' role has diminished over time, as the clinic staff's specialized expertise has developed.

After the initial VOCA grant, the clinic secured a federal grant as part of the NCVLI demonstration project in 2005 to continue its work enforcing victims' rights in Arizona state courts. Then, in 2006 the clinic secured a separate grant directly from OVC to work on enforcing the Crime Victims' Rights Act in federal court. This grant required the clinic to keep its federal and state court operations completely separate. For one year, the clinic maintained separate staff and offices for its state and federal work.

Since the initial federal enforcement grant concluded, the clinic has been able to use both VOCA and federal (OVC, through NCVLI) grant funds to work on both state and federal cases. In February 2008, clinic staff began outreach to the Apache reservation tribal courts, as well as several other Native communities around the state. Since that time, a majority of the clinic's federal caseload has been from tribal courts.

### **Business Model**

The clinic is under the umbrella of the Arizona Voice for Crime Victims and has no separate legal or organizational identity. The clinic founder is the president of the board and plays an important role in the organization, though he is not a paid staff member.

The clinic has only two employees—the paralegal and the office assistant. Two attorneys and two social workers are independent contractors. The paralegal also handles some of the accounting work, which has allowed the clinic to cut back on outside accounting services. The clinic also occasionally employs an information technology consultant.

The clinic is affiliated with Arizona State University law school, where the founder teaches a class. Most of the students in the class volunteer for the clinic in order to receive extra credit for the class. The class is not qualified as a “true clinic” by the law school because there are many students in it and the students do not directly represent clients. The clinic staff felt that, while having students work directly on cases was sometimes helpful, it also took a great deal

of time to supervise. Working with students is seen as a way of educating future lawyers rather than a viable way to actually represent more clients than would otherwise be possible. The students do contribute to the clinic's work by doing legal research that is relevant to clinic cases.

The clinic emphasizes full representation of its clients with a team of a social worker and an attorney generally present with the victim at every proceeding in the victim's case, from pre-trial status conference to sentencing. Clinic staff teach a "Trial 101" class to victims and their families so that they know exactly what to expect and what not to expect from the process. The staff emphasized that, once they enter into a representation agreement, they "stick" with the client even absent any victims' rights problems.

The clinic does not undertake informal advocacy, such as phone calls, on behalf of victims it does not formally represent. The clinic lawyers believe that this would constitute the improper practice of law under the relevant Arizona rules of professional responsibility. If the clinic is unable to represent a victim, either because of a full caseload or because the victims' needs are outside the usual scope of the clinic's services, the clinic will attempt to refer the victim to another appropriate agency or attorney. The clinic will, however, offer informal technical assistance to prosecutors who contact the clinic about a victims' rights issue.

According to clinic staff, their relationship with prosecutors and law enforcement is excellent and they often receive referrals from prosecutors and victim advocates at prosecutor's offices (see Table A.1). Clinic staff state that victims who work with them create less work and fewer headaches for prosecutors and judges. The clinic welcomes victims that prosecutors see as "difficult." For example, in one case, they represented a victim who had been shot in the head. The brain damage he suffered made him impulsive and very difficult to work with. He was also the only witness to the completed murder of his friend. The clinic represented both him and the family of the deceased victim (assigning a separate attorney to each family) during the trial to make sure there were appropriate accommodations made for his disabilities and to secure his testimony about the murder of his friend, the clinic's other client.

The clinic mentioned only one difference in the way that state and federal cases are handled. In state court, victim's rights "attach" or come into effect only when a defendant is formally charged. As a result, they tend not to take state cases prior to a defendant being charged. According to clinic staff, precharge cases are very resource intensive and there are more resources available from other organizations to aid victims precharge. In contrast, under

**Table A.1**  
**Sources of Referral**

Source of Referral	Percentage
Web site	4
Unknown	4
Prosecutor's office (including victim advocates)	43
NCVLI	11
Police department	0
Friend/acquaintance of victim	4
Parents of Murdered Children	25
Judge or other court official	7

federal law, the victims' rights attach upon the occurrence of the crime. As a result, they sometimes take federal cases prior to any charges being filed.

The clinic receives modest corporate contributions, which has allowed it to occupy an attractive suite in a downtown office building. The clinic's founder indicates that these contributions are not sufficient to allow the clinic to continue functioning absent the state and federal grants.

The founder believes that ultimately any victim who wishes to have counsel should receive it and that victims' rights are best advanced by loosely following the pattern of the expansion of defendants' rights—litigating rights in the courts.

### **Staffing**

The clinic staff includes two attorneys, two social workers, a paralegal, and another assistant, although, as stated above, all but the paralegal and the assistant are contract employees. Each case is generally staffed by an attorney and a social worker. The paralegal provides additional assistance and, with a background in victim advocacy, sometimes attends court to help support victims, particularly in cases with large numbers of victims or on days when several cases are in court at the same time. The social worker and the paralegal also allow the attorney to focus more on the legal aspects of the case and less on the victims' immediate needs.

The clinic has relationships with five or six attorneys that accept victim cases on a pro bono basis. The clinic attorneys know these attorneys and know that they will do a good job. One larger local firm also takes a few cases, particularly cases in which the clinic has a conflict of interest. Originally, the clinic envisioned a large network of pro bono counsel but gradually realized that the necessary knowledge and expertise were very specialized. In particular, the emotional skills necessary to interact sympathetically and professionally with a victim are not possessed by every attorney. The law firm does a good job, but it takes about two weeks for the firm to undertake its conflict-of-interest check, and, for some clients, this delay is problematic.

The clinic also tries to get pro bono attorneys involved in restitution issues as a case is concluding. These are fairly straightforward and require fewer specialized skills.

### **How the Clinic Gets Its Clients**

The clinic advertises its existence through a Web site and ongoing training sessions around the state, litigation, and occasional contacts with local media. Most clients were referred through law enforcement agencies and the victim advocates in the prosecutor's offices. They have also created a brochure. While the previous director engaged in more media contact, the current director has generally avoided press conferences. The clinic also works with advocacy groups like Parents of Murdered Children and other community groups, which are another significant referral source. Most cases now come through word of mouth, as the clinic's reputation has grown.

Geographically, the clinic estimates that approximately 60 percent of their caseload comes from Maricopa County (where Phoenix, and the clinic, are located). This estimation is consistent with the case statistics that were provided for all the cases that were opened in 2007. However, as a result of their recent outreach on an Apache reservation about three hours from Phoenix, many of the newer cases are coming from there.

When the clinic is contacted by a potential client, one of the two social workers conducts a thorough intake. In some cases, the victim is obviously seeking services that the clinic cannot provide. In these instances, the social worker attempts to refer the caller to the appropriate

resource. Originally, students were tasked with doing intakes, but results were more uneven and students were not as aware of available social service agencies.

The staff then reviews the intakes and meets weekly or close to weekly to decide which cases to take. The clinic recently had to institute a waiting list as a result of demand for their services exceeding supply. This makes them somewhat wary of advertising or trying to increase the public profile of the clinic. As they close cases, they are able to take cases from the waiting list, which currently runs about four to six months. Some homicide cases, for example, typically last three to five years. While they look for victims' rights violations, they are not a prerequisite to the clinic accepting the case.

Cases are not necessarily taken from the waiting list in the order they were put on it. Some cases are considered "have-to" cases by the clinic. Clinic staff cited child victims, high-profile media cases, and death penalty cases as "have-to" cases. Also, if a victims' rights violation occurs in a case on the waiting list, it may be bumped into active status so the clinic can help on the immediate issue. The clinic attempts to take as many cases as the staff feel they can responsibly handle, and the staff exercises quite a bit of discretion in determining which cases need immediate attention and which can stay on the wait list a bit longer.

Altogether, clinic staff estimated that the clinic presently represents about 55–60 clients in about 40 cases. The discrepancy between number of cases and number of victims results from cases in which there are multiple victims, often many family members who were affected by the offense.

### **Training Criminal Justice Officials**

Clinic staff members have trained prosecutors, judges, victim advocates and some of the religious community who work with victims. The clinic has also been invited to a national training for state judges. They recently conducted a continuing legal education (CLE) session for lawyers. They would like to be able to conduct more training, but they are limited by their caseload.

In Arizona, for the past three years, they have participated in the two-week orientation program for new judges by leading a two-hour training session on victims' issues. The clinic has also presented at state judicial conferences, where they brought in five victims to speak. The clinic has also trained probation officers.

Victims' rights have powerfully affected the local criminal justice culture. For example, the clinic has been asked to help redesign the courthouse to make it more victim-friendly by, for example, creating separate seating areas for the victims apart from the family members of the accused.

### **How the Clinic Affects the Exercise of Victims' Rights in the State Courts**

By being present at every proceeding, the clinic attorney protects and enforces the victims' rights under Arizona and federal law.

Clinic staff report that, after some initial resistance from some prosecutors and judges, the criminal justice system adapted to victim representation well. In one early isolated case, the Arizona attorney general said that the presence of an attorney for the victim makes the AAGs look like they cannot do their job well. The clinic feels as though they are helping the prosecution stretch their limited victim advocate resources. They are "not bomb-throwers" and emphasize their willingness to cooperate with judges and prosecutors. When they first started, both judges and prosecutors were nervous, but they saw that represented victims were easier

to deal with, particularly victims who had a reputation for being difficult. Judges appreciated an “unfiltered” expression of the victim’s position. The clinic’s policy of representing the client throughout the case (and not just when the prosecutor or judge violates the victim’s rights) probably facilitated acceptance by prosecutors and judges. The victim advocates also appreciate the fact that their workload is lightened by the support the clinic social workers provide to victims on their cases.

According to clinic staff, defense counsel perspectives remain mixed. The more accepting defense attorneys understand that the clinic attorneys are representing their clients’ interests and accept their role. Some defense attorneys have referred cases to the clinic. Others fear that the victims’ active involvement usually means worse outcomes for the defendant. The clinic emphasizes that that is not always the case and that, both in death penalty cases and in others, the victim sometimes prefers something less than the maximum penalty. The clinic is frustrated that victims are not permitted to give their opinion as to the appropriate sentence in death penalty cases. Particularly in cases where surviving victims are against the death penalty, having to restrict their statement to the impact of the crime on their family may leave the impression that they want death for the defendant when in fact they do not.

The clinic staff also emphasized the fact that conversations between victims and the clinic social workers are legally privileged (under an extension of attorney-client privilege) and thus not discoverable by the defense. According to the clinic, it is more uncertain as to whether conversations between victims and victim advocates from prosecutor’s offices were potentially discoverable by the defense.

Right-to-be-heard issues often arise, particularly in homicide cases in which there are multiple survivors who wish to be considered victims for the purposes of the right to be heard (see Table A.2).

Restitution issues often arise. The clinic aggressively pursues restitution in every case, even when the defendant appears indigent. This includes filing liens with the Department of Motor Vehicles, the secretary of state, and the recorder of deeds. In the clinic’s experience, even indigent defendants occasionally attempt to transfer title to a car or boat. The clinic also

**Table A.2**  
**Victims’ Rights Issue in Cases Opened by Clinic**

<b>Reason for Clinic Involvement</b>	<b>Percentage<sup>a</sup></b>
Right to privacy (refusing defense interview)	25
Right to be present/heard	29
Victim sought fairness and respect	11
Right to protection/safety	29
Restitution	7
Right to notification	7
Right to timely disposition	7
Represented victim as guardian ad litem	7
Other victim issue	11

<sup>a</sup> The total is more than 100% because some cases involve more than one issue.

believes that these liens eliminate incentives that defendants might have to profit from their crimes with book deals or sales of items related to the crime. This also makes it unnecessary for victims to hire their own private lawyers to seek restitution.

About 25–30 percent of the clinic’s clients are Spanish-speaking. The attorneys are not fluent in Spanish, but the paralegal does speak Spanish. Clinic attorneys often ask for and receive a dedicated victim interpreter for court proceedings.

### **How the Clinic Affects the Exercise of Victims’ Rights in the Federal Courts**

In federal court, the clinic staff indicates that it is more difficult to represent victims. For example, they have had some difficulty in obtaining the presentence report prior to sentencing. Since the judge relies heavily on the presentence report in deciding the appropriate sentence, an inaccuracy can make a large difference. The clinic attorney reported that the federal courts are about where the state courts were a few years ago. Awareness on the part of judges and U.S. attorneys is still at an early stage compared to Arizona state and county officials.

Clinic staff members were particularly proud of recent outreach that they made to victims at the Apache reservation. According to the clinic staff, there is a very high crime rate and methamphetamine production and consumption are big problems. Law enforcement can be indifferent, and there is frequent prosecutor turnover. By serving as outside observers, clinic staff members feel as though they help prevent corruption. They found that victims and witnesses were often being intimidated by the families of the criminal defendants. By filing for orders of protection, they were able to prevent this from occurring. The clinic staff feels as though positive word of mouth is spreading and that they have helped facilitate a movement toward a culture of safer streets and being willing to testify. The clinic has also met with the prosecutor in the Navajo tribal courts and represented one victim from a Navajo reservation.

The clinic’s familiarity with Phoenix and federal court also helps tribal victims if the cases are pursued in federal court. The staff provides a constant to ease the transition between the tribal prosecutor and the assistant U.S. attorney. There is also substantial turnover in both local prosecutors assigned to tribal court and the assistant U.S. attorneys that prosecute these cases. The clinic staff also felt that there was sometimes a reluctance to prosecute tribal cases in federal court and that some assistant U.S. attorneys see tribal victims as “uncooperative.” Clinic staff can help educate prosecutors about cultural issues that may be at play for tribal victims and advocate for full prosecution of their cases. By being accessible to victims and reaching out to them, the clinic also ameliorates some of the suspicion many tribal victims possess of the federal government.

### **Clinic Work on the Appellate Level in State Court**

The clinic has been very active in developing victims’ rights case law in the state appellate courts, having been involved in more litigation than clinics in most other states.

In *P.M. v. Gould*, 136 P.3d 223 (Ariz. Ct. App. 2006), the clinic represented a victim with cerebral palsy who was retarded and had been molested by her father. The defense subpoenaed the victim’s counseling records, and the trial court had ordered an in camera review of these records. The clinic appealed with a special action to the Arizona Court of Appeals. That court found that the defendant had to prove that the records were essential to the case before permitting the trial court to examine the records.

They are not always successful. For example, the clinic was especially disappointed in *State v. Glassel*, 116 P.3d 1193 (Ariz. 2005), in which the Arizona Supreme Court rejected the

argument that the victim had a right to inform the jury that he would prefer the defendant to be sentenced to life in prison rather than death. In this case, the victim was the widower of a homicide victim—his wife had been shot at a homeowner’s association meeting by a disgruntled resident. The couple was two months short of their 50th wedding anniversary. The surviving victim had been in law enforcement his entire life and was aware that, if the defendant was sentenced to death, the case would not be over in his lifetime. Therefore, he wanted to ask for a sentence of life in prison during his victim impact statement, but he was not allowed by the court to make a specific sentencing recommendation. Nationwide, courts are split on this issue, and the clinic staff is hopeful that the issue will be resolved by the U.S. Supreme Court.

### **Clinic Work on the Appellate Level in Federal Court**

In federal court, the clinic litigated *Kenna v. United States Dist. Court*, 435 F.3d 1011 (9th Cir. 2006). In this case, Moshe and Zvi Leichner, father and son, defrauded numerous victims out of nearly \$100 million. After each defendant pleaded guilty, more than 60 victims submitted written impact statements, and, at Moshe’s sentencing, several victims, including Kenna, delivered an oral impact statement. *Id.* at 1013. At Zvi’s sentencing, which was three months later, Kenna was present again to verbally allocute, but the district court denied him the opportunity, stating that, after reviewing all the victims’ written statements and listening to the victims at the prior sentencing, “I don’t think there’s anything that any victim could say that would have any impact whatsoever.” *Id.* Kenna filed a petition for writ of mandamus with the Ninth Circuit. Noting that the CVRA sought to change the criminal justice system’s assumption “that crime victims should behave like good Victorian children—seen but not heard,” the court framed the issue presented as the proper scope of the right to be reasonably heard. Turning to the legislative history of the CVRA, the court determined that the law disclosed “a clear congressional intent to give crime victims the right to speak at proceedings covered by the CVRA.” *Id.* at 1016. The court then concluded that, under the CVRA, “[v]ictims now have an indefeasible right to speak, similar to that of the defendant,” and found that Kenna’s statutory right was violated when the district court denied him the right to speak at Zvi’s sentencing. *Id.*

The clinic was also involved in a second case involving victim’s rights and Kenna: *Kenna v. United States Dist. Court*, 453 F.3d 1136 (9th Cir. 2006). In that case, the victim also petitioned for a writ of mandamus to order the district court to release the presentence report to the victims. The U.S. Court of Appeals for the Ninth Circuit denied the petition, holding that the U.S. District Court for the Central District of California did not abuse its discretion or commit legal error when it found that the Crime Victims’ Rights Act does not confer a general right for crime victims to obtain disclosure of a defendant’s presentence report.

The clinic also received special permission to represent some victims in the Enron-related proceedings. The clinic required special permission because it was in a different federal court. Because the defendant, Ken Lay, died during the pendency of his federal direct appeal, restitution orders were voided. The clinic argued (unsuccessfully) that the victims should receive restitution from his estate, despite his death, in *United States v. Lay*, 456 F. Supp. 2d 869, *mand. denied*, (06-20848) (5th Cir. 2006).

### **Legislative Efforts**

Each year, the the clinic’s founder asks clinic staff whether they encountered particular problems that might be remedied by legislative action. Since the founder receives no money from the grant funds, he is able to lobby the legislature on matters that concern victims that arise

during the clinic's work. Other clinic staff can do so on their own time (for example, if they take a vacation day).

Arizona Voice for Crime Victims has been successful in the legislature, and the clinic founder obviously wields considerable influence in the body. To give one telling example, he hopes to change the scope of the spousal privilege to allow the state to prosecute one particular defendant whose wife initially reported the defendant's confession but then indicated that she would execute the privilege and not testify against him. While this change might affect a small number of other cases that might arise in the future, it would primarily affect one particular case in which the victim is represented by the clinic.

In 2003, AVCV was influential in eliminating the exception to rape that immunized husbands from being prosecuted for the rape of their wives. Prior to this change, spousal rape was a minor felony that did not carry much punishment.

The main victims' rights enforcement statute, Ariz. Rev. §13-4437, was amended in 2005 to provide the following:

On the filing of a notice of appearance and if present, counsel for the victim shall be included in all bench conferences and in chambers meetings and sessions with the trial court that directly involve a victim's right enumerated in article II, section 2.1, Constitution of Arizona.

The 2005 amendment also gave victims standing to file a notice of appearance in an appellate proceeding seeking to enforce any right or challenge an order denying a victim's right. The same changes were made to the juvenile victims' bill of rights, §8-416.

Also in 2005, Arizona expanded the victim's right to be notified and heard regarding any proposed modification of probation. The right used to be limited to modifications that would affect the offender's contact with or safety of the victim, or restitution or incarceration status. Now it includes any modification.

In 2006, the procedures to enforce victims' rights were amended to provide that failure to comply with a victim's constitutional or statutory right is a ground for the victim to request a reexamination proceeding within ten days of the violation—or, with leave of the court, for good cause shown. The court shall reconsider any decision that arises from a proceeding in which the victim's right was not protected (but is not cause to seek to set aside a conviction after trial or provide grounds for a new trial). In some situations, the victim may move to reopen the plea or sentence if the victim was not given the right to be heard and the defendant did not plead to the highest offense charged. The statute states that this statute does not affect the victim's right to restitution, which the victim can enforce at any time.

In 2006, the legislature restricted defense counsel's use of blank subpoenas. According to clinic staff, the clinic was aware of defense counsel using these subpoenas to obtain sensitive information about victims and brought the problem to the attention of the clinic founder for his legislative advocacy agenda.

In 2006, victims received the right to get a copy of the police report at no charge and, in 2007, the right to the "minute entry" or portion of the record of any proceeding in a case that arises out of the offense committed against the victim that is reasonable necessary for the purpose of pursuing a claimed victim's right (§39-127).

In 2007, Arizona expanded the victims' right to speedy trial to include requests for continuances. The amendment states that the prosecutor must notify the victim of any request for

a continuance, or, if the victim is represented by counsel who has filed a notice of appearance, the court must make reasonable efforts to notify counsel of the request for continuance. The court must then consider the victim's views on the request and the victim's right to speedy trial before ruling on the request (§13-4435). Similarly, as of 2005, if a victim files a notice of appearance in an appellate proceeding in a capital case, he or she has the right to respond to a request for an extension of time to file a brief in that case.

In 2007, Arizona amended victims' right to be notified of any postconviction or appellate proceeding and related decisions to require that notice be given "immediately." Also, the court must send the victim a copy of the court's decision or opinion at the same time it is sent to the parties. If the victim is represented by counsel, notice shall be provided to counsel.

In all of these instances, the clinic's identification of a problem that could be cured by legislation was instrumental in the legislation coming to be passed.

The clinic has also had failures. It attempted and failed to get the legislature to require courts to reasonably accommodate victims' schedules when scheduling a hearing to determine whether a capital charged defendant was mentally retarded.

### **Changes to Court Rules**

The clinic founder and staff have also been involved in changing court rules. The Arizona Supreme Court has a victim's committee that advises it on rule changes. According to the clinic founder, one associate justice is currently interested in creating a rule requiring victim representation on every death penalty case.

The Arizona Supreme Court is also considering creating a mitigation special master for death penalty cases. This would be a judge who would supervise the defense's production of mitigation evidence and rule on requests for orders of production of documents in order to speed the capital litigation process. This would ordinarily be an ex parte process so the defense does not have to disclose its specific defense strategy to the prosecution. However, the clinic staff is concerned about possible victims' rights violations if the victim (or counsel) is not present during this process and has been active (on personal time) in opposing the establishment of a separate proceeding for defendants from which victims are excluded.

### **Role of NCVLI in Supporting Clinic Activities**

The clinic founder helped to create NCVLI, although he is not involved in its day-to-day operations. Clinic staff members we interviewed reported that NCVLI support on their cases was very helpful, and they found the annual conference an excellent opportunity to compare notes from a shared perspective and learn about relevant developments in other states. They also find the NCVLI executive director to be extremely accessible and helpful with legal research assistance. In some instances, they have literally called her from the courthouse during a break in proceedings to get advice on how to proceed in a case. They find her expertise invaluable.

The clinic staff report that NCVLI's monthly conference calls and email case rounds are also very helpful and interesting.

### **Opinions of Criminal Justice Officials About the Clinic**

We conducted structured interviews with eight criminal justice professionals about the clinic and its effect on victims' rights in Arizona. These included judges, prosecutors, and victim advocates. All of the people with whom we spoke were suggested by the clinic.

The criminal justice actors were uniformly positive in evaluating the clinic and discussing its effects.

According to prosecutors, a respect for victims' rights was already firmly embedded in Arizona prosecutorial culture, including in the U.S. Attorney's Office, but the clinic has furthered institutionalized it. The prosecutors also found the clinic useful in being able to litigate victim issues that the prosecutor's office is unable to address. In one instance, a prosecutor disagreed with a judge on a victim rights issue but was reluctant to antagonize the judge. The prosecutor was pleased that the clinic was there and available to aggressively litigate the issue without this risk of the prosecutor antagonizing the judge. The U.S. Attorney's Office provides the clinic's information as a referral resource to all its victims and has brought the clinic into some child victim cases to serve as guardian ad litem.

Maricopa County prosecutors and victim advocates discussed a few "intense confrontations" that arose when the clinic was first starting up. A few line prosecutors were defensive and resistant to the idea that victims needed lawyers apart from the prosecutors. Similarly, some victim advocates were initially fearful that the county was going to "outsource" their services. In both instances, increased familiarity with the clinic and meetings between the prosecutor's office and clinic staff alleviated these concerns, and now the general tone is one of cooperation and mutual respect. Some of this comes from the large reservoir of respect that the clinic founder has accumulated by advancing victims' rights for the past 30 years.

Prosecutors noted that the clinic attorneys were more effective and professional than the private attorneys who occasionally represented victims in court. When asked about problems raised by victim representation, their examples came exclusively from cases in which victims were represented by nonclinic attorneys.

The victim advocate with whom we spoke was generally happy with the clinic and said that it was very helpful, especially in cases in which the victims were unhappy with the prosecutor's office. In those instances, sometimes, the clinic staff could spend more time with victims and explain why the prosecutors were doing something with which the victim disagreed. Similarly, the victim advocate indicated that, when there were many victim family members, it was useful to have the clinic to provide extra assistance.

The prosecutors and victim advocates also said that victim representation was instrumental in getting judges to respect victims' rights. Before the clinic, judges would sometimes conduct hearings even if the victim was not present. Once judges realized that they would be required to conduct the hearing again, they stopped doing this.

The judges to whom we spoke were also generally pleased with the clinic. One commented that the victim representation provided them a more accurate view of the victim's perspective in the case than was obtainable from the prosecutors. Particularly in child molestation cases, the prosecutor has a policy of seeking sentences that are often far longer than those desired by the victims.

Restitution issues were another area in which judges thought the clinic was particularly helpful. According to one judge to whom we spoke, many prosecutors lack the civil law background to effectively litigate restitution claims. In contrast, the clinic attorneys consistently did an excellent job on restitution issues.

### **Victim Perspective**

To ascertain victims' perspective of the clinic, we conducted a focus group with five victims represented by the clinic staff.

The first victim was the sister of a man who had been murdered in retaliation for his testimony against a gang member who had robbed and assaulted him. According to this victim, there was no continuity at the prosecutor's office and the murder case had been assigned to three different prosecutors at different times. No one informed her of her rights as a victim. She was frustrated by the fact that a continuance would readily be granted if the defendant was not feeling well but that she had to cancel a prepaid vacation trip to accommodate the defendant's schedule. More generally, she felt that she did not receive respect. The clinic represented her family. According to the victim, when the clinic's founder (who did some litigation in the clinic's first year) stood up to represent her in court, the entire atmosphere of the courtroom changed. "All of a sudden, we counted." That was "the beginning of the end of the horrible-ness." That day, the defendant did not get the requested continuance because the clinic attorney was at the hearing. The clinic helped seek restitution from the defendant. To this day, the victim receives \$12 every few months from the defendant that he earns at his prison job. Even though the amount is very small, this is deeply satisfying to the victim.

The second victim was the widow of a murder victim. When she initially reported her husband missing, the police were dismissive—they suggested that her husband had another family somewhere and refused to investigate the disappearance. Eventually, after media pressure, it was discovered that her husband had been murdered on his way to work. She reports having an overly rosy view of how the criminal justice system would work and being extremely upset to learn how poorly it treated victims. She indicated that having the clinic lawyer made an enormous difference and that the "fact that they care" is the most important thing about the clinic. She emphasized how overwhelming it is for a victim to go into court. At trial, the defense was very aggressive and moved for a mistrial whenever she sniffled. She felt like she was being revictimized by the defense. It was very helpful and comforting to have someone from the clinic there. When things became too overwhelming, she would leave the courtroom and the clinic staff would relay to her what was happening in as much or as little detail as she wished. Eventually, clinic staff also helped her obtain the largest restitution order in Arizona history.

The third victim was the father of a young woman who was murdered. She was at a friend's home and her friend was also shot, but he survived. The victim's father was familiar with the clinic and had actually done some technical consulting for the organization in the past. After the murder, he was very concerned for his and his son's safety in case the killing was gang related. It was later discovered that the two young people had been shot by the former roommate of the male (surviving) victim, whose father had accompanied him to the apartment to settle a score over a pet iguana. Both the father and son were named as defendants however, the surviving victim was only able to testify about the son shooting him, and he did not know which of the men had shot his friend (the daughter of our focus group participant). The victim's father reported being frustrated by the fact that the defendant has all the rights in the court system and the victims just have to sit there and "take it." When the clinic attorney introduced herself to the judge as the attorney for the victims, it provided a very strong sense of security for him and his family. The clinic would also correct misstatements made during the trial by the defense that were not picked up on by the prosecution. The clinic was very supportive and instrumental in helping the surviving victim testify against his former roommate. The victim's father thinks that, but for the clinic's involvement in helping to prepare the surviving victim—who was brain-injured—for court, the prosecution would not have called him as a witness and would have settled for a very light sentence. Instead, the defendant was

sentenced to natural life after being convicted of attempted murder. The wife and mother of the defendants had made a statement to the police that her husband had told her he was the one to shoot the female (deceased) victim; however, she later changed her mind about testifying against her husband, and, without her testimony there was not enough evidence to convict the second defendant (father of the first defendant) in the woman's murder. Arizona Voice for Crime Victims is working on legislation that would disallow the marital privilege in such a case and would compel the woman to repeat her earlier statement on the witness stand, allowing for prosecution of the person believed to be the shooter of our focus group participants' daughter.

The fourth victim was the former wife of the third victim and the mother of the murdered woman. She echoed her former husband's comments and commented that the clinic helped her go to the prosecutor's office to look at the crime scene and autopsy photos privately prior to trial. She said that this viewing, though distressing, was "key" for her and helped her not to break down when the photos were shown in the courtroom during the trial. She also mentioned that the judge apologized to the victims whenever there was a continuance and checked with the victims when scheduling future court dates. She attributes this respect for the victims to the work of the clinic attorneys.

The fifth victim lives on the Navajo reservation and was in a relationship with a man who was very controlling. At one point, he began violently assaulting her and kicked her in the head and ribs with steel-toed boots while she was on the ground and her two young children were nearby. After the assault, she escaped the house and went to her neighbor's and called the police. She also implored her neighbor to go and get her children out of the house, which the neighbor did. The police took several hours to arrive. According to the victim, local tribal prosecutors are extremely reluctant to prosecute domestic violence cases. The victim had a friend in the FBI who referred the case to the federal prosecutor, who filed a case in federal court. The clinic helped her understand how federal court operates and what to expect. The clinic was also very helpful in investigating treatment facilities for the defendant because the victim knew that the defendant would be on the street again at some point and she wanted him to receive counseling. Because she knew the defendant, she also knew that a nonsecure treatment facility would be unlikely to hold him. The clinic was able to successfully argue for GPS monitoring of the defendant for the victim's safety. Soon enough, the defendant proved the need for it by walking away from the treatment facility to which he had been ordered. Fortunately, he was quickly picked up and returned to the facility. The clinic also got the victim's address redacted from PACER (the federal court's online court files system). The clinic was also helpful in getting restitution for her to cover the expenses of a Navajo cleansing ceremony that she undertook to aid her healing from the experience.

The focus group participants were all very enthusiastic about the clinic's representation of them and attribute the respect they received during the process to being represented by the clinic attorney, contrasting that respect with the poor treatment they received prior to the clinic's involvement.

### **Data Availability and Possible Impact Measures**

According to the clinic's founder, there are not much data collected statewide on the percentage of victims who are informed of their rights. He did indicate that the attorney general's office collected some data on victims' rights issues, but he was skeptical of the utility of these data in gauging a true picture of victims' rights in a particular state. He thinks that changes in

cultural attitudes are the most important sign of change but did not have specific suggestions as to how best to measure those attitudinal shifts.

## **Colorado Crime Victims Legal Clinic**

### **Legal Context**

Colorado has a history of broad support for crime victims' rights, passing its first victims' rights laws in 1984. However, victim advocates later realized the need for an amendment to better protect those rights. The state created a broad network of criminal justice and nonprofit supporters who were active in every judicial district. Legislators, with input from criminal justice and victim services professionals, crafted the amendment, implementing legislation, and enforcement mechanism simultaneously. The victims' rights amendment was passed by the legislature with nearly unanimous support and adopted with approval of 84 percent of the voters in 1992. Following adoption of that amendment, the Colorado Organization for Victim Assistance was funded to provide statewide training on victims' rights for law enforcement officers, victim advocates, nonprofit organizations, and district attorneys, which continues through this day (except for district attorneys, who are now trained by the state's Division of Criminal Justice).

Colorado's victims' rights compliance process reflects the same collaborative approach. A subcommittee of the Governor's Victims' Compensation and Assistance Coordinating Committee, the Victims' Rights Subcommittee, is designated to receive and investigate victims' complaints that their rights have been violated. A range of criminal justice and victim service professionals serve on that seven-member committee.

This broad support for victims' rights may be threatened by recently realized effects of a 1994 voter referendum limiting all local elected officials, including district attorneys, to two consecutive terms in office. The results of these term limits began to be seen in 2004. Victim advocates in Colorado see this forced turnover of district attorneys to be extremely disruptive to the victims' rights movement. Many career prosecutors were early and strong advocates for the Victims' Rights Amendment and other legislative and policy changes that were favorable to victims. The field now perceives a need to constantly educate new prosecutors on victims' issues and perceives a different class of prosecutors coming into office, more politicians than law enforcement officers at heart. The lack of career prosecutors is seen as particularly troublesome in light of the fact that there are many career defense attorneys, and there will no longer be a steady voice for victims on the other side of the courtroom.

### **Clinic History**

The victims' rights community in Colorado has been interested in starting a legal clinic for years, according to the executive director of the Colorado Organization for Victim Assistance (COVA). When OVC issued its solicitation for victims' rights legal clinics in 2007, NCVLI applied for continuation funds for its existing legal clinics as well as funding to start one new clinic. At the same time, several organizations applied directly to OVC for clinic funding, and COVA was among those. COVA was not funded directly by OVC, but two other new clinics were (one in Ohio and one in Oklahoma). After NCVLI received its clinic funding and assessed its budget to determine what it had available for the start-up clinic, OVC provided NCVLI with the top nonfunded applications of those organizations that had applied directly

to OVC for clinic funding. Colorado was then chosen to be the start-up clinic under NCVLI's umbrella.

COVA received its first NCVLI grant of \$40,000 for assessment and planning in February 2008. This grant was due to expire in October 2008 but was extended through January 2009. At that time, NCVLI and COVA expect the second-year funds (\$130,000) to become available, which will allow for full clinic implementation.

The clinic hired a director in February 2008, but there was not a good fit between the director and COVA, and she left after six months. COVA is now in the process of recruiting a new director. According to the clinic's advisory board, in the six months that the first director was there, she did complete much of the planning work for the clinic and laid the foundation for the clinic to be able to start representing clients, which is scheduled to happen in February 2009.

### **Business Model**

The CCVLC will be housed within COVA, a statewide network of victim service providers. Three of the clinics share this business model (Maryland, South Carolina, and Colorado). Because COVA is well-established and well-regarded in the state's criminal justice and victim services community, the clinic will begin with "instant credibility," according to COVA board members. COVA's extensive contacts are expected to provide the clinic with a good number of referrals from the outset. Perhaps the most important benefit will be COVA's extensive victim services referral network, which will allow the clinic attorney to ensure that clients' nonlegal needs are also met. The clinic director will be supervised by the president of the COVA board, who is an attorney, and will be able to make use of COVA's office resources.

### **Staffing**

The clinic will open with a director (attorney) and a part-time paralegal. The clinic's advisory committee would like to hire a victim advocate as well, but the current grant is not sufficient to fund that position. It is hoping to raise additional funds from the state and from local judicial districts that will enable it to hire an advocate to ensure that the clinic's clients are connected to nonlegal services as needed.

The clinic also plans to recruit and train a network of pro bono attorneys to handle cases in more remote areas of the state (the clinic is in Denver). The clinic has developed a training outline for pro bono attorneys that covers the history of victims' rights, victims' rights laws and cases, an overview of the criminal justice system, working with trauma survivors, and secondary trauma. The clinic plans to hold regional trainings for the pro bono attorneys, or even go to them individually to train them if necessary.

The current plan is for the part-time paralegal, when hired, to be trained as a victim advocate, so that victims calling the clinic can be properly screened for both legal and nonlegal needs by a competent victim service professional. The paralegal will also provide administrative support to both the clinic attorney and pro bono attorneys.

### **How the Clinic Will Get Its Clients**

COVA staff and board members feel confident that they will have no trouble acquiring cases. COVA has been including information about the legal clinic in all of its presentations and trainings for the past year and has already started receiving referrals for the clinic (though it has not yet started serving clients). COVA will use its established communications with its

network (regular emails, meetings with regional representatives, training events) to announce the clinic's opening and start recruiting clients. Additionally, the district attorney of Denver is on the clinic's advisory board and has agreed to have Denver serve as a pilot site for the clinic attorney to work with his prosecutors on behalf of victims. One of the clinic's advisory board members is a public relations officer for another district attorney, and she will take charge of putting out a news release and getting media coverage of the clinic once its doors are opened.

The first clinic director and COVA's executive director have met with or plan to meet with various stakeholders from around the state about the clinic, including the statewide sexual assault and domestic violence coalitions, the Colorado District Attorneys Council, and the statewide groups of victim advocates from law enforcement departments, district attorneys' offices, and probation. COVA's executive director reports that the clinic's long start-up trajectory has afforded her the opportunity to listen to people's concerns and fears about the legal clinic and respond to them, and she reports successfully converting some initial resisters into supporters of the clinic through these dialogues.

COVA reports having very good relationships with several underserved communities as well, including people with disabilities, victims of juvenile crime, and minority groups to whom they have reached out through ethnic churches. COVA will use these relationships to recruit clinic clients from among these populations of underserved victims. Additionally, one of the clinic's advisory board members is an attorney in private practice who specializes in representing crime victims. The clinic also expects him to refer cases that he cannot take for one reason or another.

### **Training**

The clinic has plans to conduct training not only for pro bono attorneys but also for judges, prosecutors, and others around the state. A member of the clinic's advisory board reports that the aim is to train people not only about the clinic and what it does but also about the importance of victims' rights, the victims' rights laws in Colorado, and how to comply with them.

### **Affecting the Exercise of Victims' Rights in Trial Court**

COVA staff expects that the clinic will serve primarily sexual assault victims, child victims, and families of homicide victims. There is a series of specific victims' rights issues that COVA expects to arise and would like to see addressed in the courts once the clinic opens. These priority issues include the right of victims and their families to be present in the courtroom (and putting the burden on the defense attorney to justify their exclusion); the right to be heard (and clarifying whether that right applies to oral or written statements or both, and when it is triggered); the right to be free from harassment, intimidation, and harm (including clarifying the connection between the victims' rights amendment and witness protection efforts); victims' right to privacy (including quashing defense subpoenas for victim records and maintaining the confidentiality of victims' address information); and the right to restitution (and ending a defense practice of using challenges to restitution orders as a back-door way of getting access to victims' confidential records).

Clinic advisory board members also expect the issue of speedy trials to come up. Although the defendant also has a right to a speedy trial, if the defendant waives that right, it becomes very difficult to get a trial expedited. Advisory board members said that, when the defense asks for a continuance, it is generally granted, even over the objections of the victim. However, if judges are convinced that the defense is stalling, they may deny the continuance. This also

helps the judges show efficiency in their courtrooms. Having a victim's attorney also remind the judge of the victim's right to a swift and fair resolution of the case may help combat some of the stalling tactics used by defense attorneys.

Geographically, the clinic's plan is to represent victims statewide through the network of pro bono attorneys, though most cases initially will probably come from Denver, given the district attorney's participation in the advisory board and his open invitation to the clinic attorney. A COVA board member described the Denver collaboration as "potentially prophylactic" and anticipated that the more challenging cases of victims being denied their rights would emerge in more-rural areas of the state.

This same board member thought that, given the efforts of the state's compliance program over the past ten years, more problems were likely to come from judges than from prosecutors. As he described it, Colorado's Victims' Rights Amendment contains few specific prescriptions on judges and therefore the compliance process touches them less frequently. They are "independent operators," and some are not yet aboard the victims' rights train. He also felt that, despite the fact that the Denver chief of police is a "full-blown victim advocate," many line officers are not, and there may be some victims' rights violations by law enforcement that come to the attention of the clinic.

Denver's district attorney felt that the main objection from judges to the clinic's participation in trials would be their concern about time and trying to keep their dockets moving efficiently. He said that one way to get judges on board would be through the clinic submitting briefs on the victims' rights legal issues. If the briefs are well-written, this could eliminate the need for judges to hear oral argument on those issues, which would expedite the process and earn favor for the clinic in the eyes of the judge.

One advisory board member said that, in some smaller jurisdictions, the elected DA is the only one trying cases. Because they do not have any help, they may accept inappropriate pleas to avoid going to trial. The clinic could be of good use to victims in those situations.

In terms of the clinic's approach to the criminal justice system, a COVA board member said that COVA's extensive relationships in the criminal justice system should make for more of a problem-solving and less of a litigious approach, although the clinic will retain the option of litigating when necessary.

### **Appellate Work**

The issue of victim standing to enforce their rights in court through an attorney is not clear in Colorado law. Victims' rights attorneys known to COVA have never been denied standing, but COVA would eventually like to see victim standing clarified, perhaps through a state supreme court case. If challenged on standing, this is something the clinic would consider taking up on appeal to establish victim standing through precedential law.

Despite not being officially open for business, the clinic has drafted and submitted one amicus brief—with assistance from NCVLI—on behalf of a dating violence victim who was being asked to provide proof that the relationship was "intimate" or sexual in nature in order to invoke a domestic violence sentencing enhancer. As of the date of our site visit, there had been no action on the issue yet.

**Legislative Efforts**

As the clinic has not yet taken any cases, it has not had a chance to affect victims' rights legislation through its casework. COVA, as an organization, has been deeply involved in victim-related legislative issues in Colorado for many years.

**The Role of NCVLI**

The COVA executive director reports that COVA and NCVLI have had a good working relationship that predates the clinic grant. As they have undertaken the planning stage of the clinic, NCVLI has helped by connecting them with other clinics whose model is similar to Colorado's and providing them with model policies (such as a privacy policy) from other NCVLI clinics. The clinic has also begun to participate in NCVLI's regular technical assistance conference calls with the other clinics. The COVA executive director reports taking the idea of establishing an advisory board from one of the other NCVLI clinics, and that is something that is working very well.

**Other Criminal Justice Professionals**

COVA has strong relationships with criminal justice professionals throughout the state, including both system-based and nonprofit victim advocates, prosecutors, and police. COVA operates a statewide network of law enforcement advocates and attends the quarterly meetings of the state's association of prosecutor-based victim-witness coordinators. These two groups, along with nonprofit community-based victim advocates, make up COVA's core constituency. COVA holds an annual conference that attracts 1,100 participants from around the state.

Additionally, COVA's executive director serves on the statewide committee responsible for responding to complaints of rights violations from victims. The committee has the authority to compel agencies of the criminal justice system to take corrective action when it finds them out of compliance with Colorado's Victims Rights Amendment. The head of the state Office for Victim Programs, which oversees the committee, is on the advisory board for the clinic. Therefore, Colorado appears poised to strike an excellent partnership between the state's official victims' rights compliance process and the legal clinic for enforcing victims' rights. As explained by members of the clinic's advisory board, the state's compliance efforts are geared toward system change and generally come after the fact: They usually involve such remedies as apologies to victims, additional training for prosecutors or judges, or the implementation of new procedures to ensure that victims' rights are upheld in the future. These board members see the clinic as playing a different and complementary role: intervening in cases that are still going on, where a more immediate remedy to the rights violation may be available to the specific victim of that violation. The clinic expects to make and receive reciprocal referrals with the compliance committee.

**Data Availability and Possible Impact Measures**

According to the COVA executive director, victim satisfaction will be an important measure of the clinic's success, in addition to the clinic's ability to win in court. Because the Colorado clinic is brand new, it presents the best possible scenario for data collection and outcome evaluation. The clinic will be using an online legal file system developed in Denver through the Victim Services 2000 project. It has developed a standard intake form to be used with all clients and is open to collecting certain demographic data on those forms that would help with outcome evaluation. Additionally, Colorado district attorneys' offices have computerized case

systems that record such things as notices provided to victims. Most of the state uses a program called ACTION that was developed by the Colorado District Attorneys Council, with Denver and Boulder using a different system (Justware). Evaluators will need to examine both systems to see what types of data related to victims' rights are collected, but the possibilities are promising.

## **University of Idaho College of Law Victims' Rights Clinic**

### **Legal Context**

In Idaho, the rights of crime victims are largely contained within the state's constitutional amendment and a single implementing statute. The amendment was adopted in 1994 with the support of 79 percent of the state's voters. The rights apply to victims of any felony or a misdemeanor involving physical injury, or the threat of physical injury, or a sexual offense, or to any victim of a juvenile offender who commits an offense equivalent to a felony. Victims must have suffered direct or threatened physical, emotional, or financial harm.

Unlike most states with victims' rights constitutional amendments, however, the rights have not been widely incorporated throughout the criminal and juvenile justice codes or reflected in the court rules. There are no statutory provisions for enforcement of victims' rights, and no state entity has been created to receive and investigate victim complaints.

### **Clinic History**

The Victims' Rights Clinic was founded with a grant from NCVLI in 2005. Two attorneys active in victims' rights in Idaho originally applied for a grant from NCVLI in 2003 but did not receive funding. One of these attorneys then reached out to a friend who was a former judge and a visiting professor at the University of Idaho College of Law, and they worked together to revise and resubmit the proposal for a clinic based at the law school. This proposal was accepted for funding in 2005. The clinic began under the supervision of the visiting professor, who also supervises the law school's general services clinic. The other attorney served in an advisory role, referring clients from the Boise area and doing some training around the state. The second attorney involved in the original application is now the prosecuting attorney for the city of Lewiston and has taught classes at the law school and supervised students when they had cases in Lewiston. Currently, both of the attorneys who originally applied for the Idaho clinic grant have only peripheral involvement in the clinic.

Near the end of the demonstration period, in May 2007, the clinic hired a new supervising attorney who had experience in defense work and was active in the Idaho chapter of the American Civil Liberties Union. The law professor remained involved to help supervise the students and train the new attorney in victims' rights law. As an attorney with less than five years of practice experience, the new hire, by law, could not serve as the supervising attorney of law students appearing in court, so the law professor continued to take this role until the supervising attorney reached the five-year mark in September 2008.

### **Business Model**

The clinic is one of eight clinical programs at the University of Idaho College of Law and enjoys considerable benefits from the law school, including office and classroom space, use of

the office manager and financial manager for the general clinic program, travel support, and supplemental funding.

Third-year law students can register for the clinic class, which is a three-credit course. Students are required to put in 180 hours over the semester, between office hours, one-on-one supervision, and class time. Although it is not required, students are encouraged to remain with the clinic for two semesters, one of which may be the summer semester. The clinic can support up to seven students, each with two cases. The students conduct the intake, and the students and supervising attorney jointly prepare cases and talk with clients. Since the students leave after a semester or an academic year at best, the supervising attorney's involvement is essential to continuity with the cases and clients.

As a component of the law school, the clinic's first mission is to educate the students. Its second mission is to ensure access to justice. (This is true for all eight of the law school's clinical programs.) The clinic's first supervising attorney feels that, for the legal interns to get the most educational value out of the experience, the clinic needs to do more litigating and less "social work/legal work." This presents an important difference with the other clinics, whose first mission is to help victims. Clinic staff report that they have been clear about their educational mission throughout their relationship with NCVLI and note that access to justice issues are, in fact, a large part of the teaching in the clinical programs.

The connection with the university provides some stature to the program that it might not have if it were an independent program. The director of Clinical Programs at the law school pointed out that it is helpful for the clinic's supervising attorney to have the backing of a law school when she challenges prosecutors or judges on victims' rights. Because it is a new and controversial area of the law, practicing in the victims' rights field is not without risks to the attorney's reputation and referral sources, which could potentially affect the livelihood of an attorney in private practice. In this context, the director of Clinical Programs commented that students just graduating from law school are not likely to take on victims' rights work as their primary job; however, if they take the knowledge of victims' rights and use it in their jobs in prosecutor's offices, public defender's offices, and law firms, then that will be a success of the educational mission of the clinic. To date, the clinic has not made a systematic effort to recruit graduates of the clinic into a pro bono network of victims' rights attorneys. They say that, with the full-time supervising attorney, they have not had much need for pro bono help.

### **Staffing**

The clinic has one full-time attorney who supervises seven to ten law students each semester. The supervising attorney receives advice and consultation from the director of Clinical Programs as well as the original supervising attorney of the victims' rights clinic, who now oversees another of the law school's clinics. All eight legal clinics share a clinical services coordinator and an administrator. The coordinator does case management, answers the phone, does initial client screening, and refers potential clients to the legal interns to complete the intake process. She is also responsible for making the office as "paperless" as possible and trains students on the electronic legal file system. The administrator is responsible for the financial management, grant reporting, and data collection for all the clinical programs.

The support of the administrative staff is a clear benefit of the clinic's being situated in a law school. Record-keeping appears to be efficient, and the senior faculty running the clinical programs have decades of legal experience. The supervising attorney, however, is quite new to both the legal profession (five years) and victims' rights work (one year). By her own admission,

the learning curve for her has been steep, and, after 16 months on the job, she is still learning about the application of victims' rights in criminal court.

### **How the Clinic Gets Its Clients**

The supervising attorney noted that it has taken time to build a client base. Early numbers of victims served were low, and they have improved only gradually as a result of more aggressive outreach efforts. Since the current supervising attorney came on board, she has met with local health officials, nearby victim advocates, and representatives of the Coeur D'Alene Indian tribe.

The clinic's outreach efforts consist mainly of placing brochures in various courthouses around the state, talking about the work of the clinic with local service providers, and generating occasional press releases and coverage in the university and local newspapers. There is also a general Web site for all the law school clinics and a newsletter put out annually by the law school describing the work of all eight clinical programs. This newsletter goes to deans and directors of law schools, as well as to the entire state bar of Idaho. According to clinic staff, Idaho's state bar and judiciary are very small, and news spreads quickly by word of mouth. According to staff, the clinic is beginning to have a reputation in legal circles around the state for its work on behalf of victims.

According to clinic staff, nearly half of its current cases come from nearby jurisdictions, many referred by victim advocates and the prosecutor's office. The victims' rights clinic also gets some cases as referrals from other law school clinics, particularly the clinic for violence against women. Accordingly, the supervising attorney estimates that half the clinic's caseload consists of cases involving violence against women. The supervising attorney has built relationships with victim advocates and prosecutors in a few other jurisdictions around the state, and these have started referring victims to the clinic. Additionally, the supervising attorney takes an "entrepreneurial" approach, seeking out victims whose cases appear in the media and offering them assistance. She commented, "In a rural area like this, you have to have that mentality. If we just sat back and waited for victims to come to our doorstep, we wouldn't get very many."

Based on an analysis of the 29 most recent clinic cases (those opened between January 1, 2007, and September 30, 2008), the most common referral source was prosecutor's offices (seven), followed by community-based programs or counselors (six) and cold calls to the clinic (also six). Table A.3 details the referral sources of the most recent clinic cases.

The geographic focus of the clinic is primarily in northern Idaho, with some cases from other areas of the state. Ten of the clinic's 29 recent cases (34 percent) came from Latah County, where the clinic is located, and another nine (31 percent) are from Kootenai County, which is 90 minutes to the north of the clinic. Other counties represented in the past year's caseload included Ada, where Boise is located (three cases), Canyon (two cases), and one case each from Lewis, Payette, Bonner, Bingham, and Jerome counties.

### **Training**

Early on in the clinic's existence, the attorney who spearheaded the first and second applications for clinic funding did some training around the state on victims' rights on behalf of the clinic. Since the new supervising attorney was hired a year ago, the only formal training she has done was for victim advocates at a local antiviolence program. She reports not feeling prepared yet to train judges or prosecutors. She felt that perhaps she and the senior clinical faculty could

**Table A.3**  
**Referral Sources**

Referral Source	Percentage of Clinic Cases
Prosecutor's office	24
Community program or counselor	21
Cold call to clinic	21
Prosecutor-based victim advocate	10
Solicited by clinic	7
University of Idaho	3
Individual connected to the clinic	3
Other U of I legal clinic	3
Victim compensation	3

put together a continuing legal education (CLE) class for prosecutors and other attorneys, but this has not been done yet.

#### **Affecting the Exercise of Victims' Rights in Trial Court**

Many of the clinic's early cases in 2005 and 2006 were victims complaining of prosecutors declining to prosecute, or investigations going nowhere. The clinic got the students involved in requesting evidence catalogs and working with the prosecutors to try to move cases into prosecution. In some cases in which prosecutors would not budge, the supervising attorney appealed to the state attorney general. The clinic was never successful in overturning a prosecutor's decision not to prosecute (and, in most of these cases, agreed with the prosecutors that evidence was insufficient); however, it did have success in getting some cases that were still under investigation moved into prosecution. According to the law professor who was the first supervising attorney, this work was not terribly fruitful from an educational perspective, but it did get the students interacting with victims and prosecutors.

The clinic's first win in trial court came in a rape case in which the victim was denied the right to be present at trial. The clinic filed a writ with the state supreme court and got her admitted into the courtroom. Other early cases included privacy rights for sexual assault victims, restitution, notification, and the right to confer with prosecutors before plea agreements were made.

In the past year, the clinic's caseload has increased and diversified. According to the supervising attorney, more-recent work has centered on victims' rights to be consulted on plea agreements, their right to read the presentence investigative report, their right to information on the outcome of hearings, and helping victims collect restitution.

Table A.4 details the victims' rights issues at stake in the clinic's most recent 29 cases. The percentages total more than 100 percent because some cases involved more than one rights issue.

The majority of these cases involved crimes of sexual assault (28 percent) or domestic violence (24 percent), followed by battery or aggravated battery (17 percent). The caseload also included cases of stalking or harassment (7 percent), child sexual abuse (7 percent), and single

**Table A.4**  
**Victims' Rights Issue in Cases Opened by Clinic**

Reason for Clinic Involvement	Percentage of Cases
Confer with prosecutor on charges	24
Restitution	21
Plea agreement	17
Protection/no-contact order	17
Notice	10
Respectful treatment	7
Privacy	3
Victim status	3
Be heard	3
Victim education	3

cases of murder, attempted strangulation, leaving the scene of an accident, kidnapping, and child abuse.

In the murder case, the prosecutor and defense attorney wanted to make a deal for manslaughter that did not involve incarceration. The victim's family strongly objected. The clinic's supervising attorney presented the prosecutor with new facts she learned from the victim's family, which led the prosecutor to dismiss the manslaughter charges and refile the case as a second-degree murder.

In a case that was referred from a local domestic violence program, an offender was arrested on a Sunday night for domestic violence, appeared in court Monday morning, pled guilty, paid a fine, and was back at the victim's house on Monday afternoon. The victim was not notified of the proceeding or the release of the abuser. The clinic is having students research the law with regard to the victim's right to notification in such a case and determine whether there is a gap in the law that needs to be addressed.

In a stalking case that had been dismissed on motion of the assistant district attorney, the clinic was alerted by the local victim coordinator that the victim was upset about the disposition. The supervising attorney convinced the prosecutor to refile the case, and the defendant pled guilty to an unamended charge.

One case that occurred in May 2008 has seriously limited the scope of what clinic staff and students are able to do, in at least two jurisdictions. While neither victims nor their attorneys have had explicit standing under Idaho law, judges for the most part had been accepting notices of appearance by clinic attorneys. That changed when a local judge who had been allowing the clinic to appear in court suddenly questioned the legal justification for its appearances. The judge wrote the supervising attorney a letter asking her to justify her right to file a notice of appearance. The director responded after consultation with NCVLI and the director of the clinical programs at the university, but the judge rebutted the clinic's argument in a "memorandum decision," saying that he had come to the conclusion that there was no basis in Idaho law for the clinic attorney to have standing to represent victims in criminal court.

Since that time, the judge has given orders to the court clerk not to accept any filings from victims' attorneys on his cases. A judge in a nearby county also expressed concern about standing after defense counsel in one case strenuously objected to the presence of a victim's attorney. Clinic staff report that this denial of victim standing is beginning to spread to other jurisdictions through the judicial grapevine, and they are concerned that they may be "banned" in other courts as well. Seeking a resolution to this state of affairs through an appellate case or change to court rules is now the top priority of the clinic.

The judge who is refusing to accept filings from the clinic is the same judge, who was reversed by the state supreme court on the rape victim's right to be present at the trial of her offender. Clinic staff speculate that this reversal embarrassed and upset the judge, and prompted him to more scrupulously seek the legal authority for the victims' attorneys to be in the courtroom. Not finding specific authority in the statutes and not wanting to be reversed again, he stopped accepting their appearances on behalf of victims. Clinic staff felt that the judge was not being vindictive but rather wanted to ensure that he was properly following the law. They felt that a clear court rule giving victims and their attorneys standing in the courtroom would satisfy this judge and that he would not oppose such a rule.

### **Appellate Work**

To date, this clinic has not taken any cases up on appeal. Clinic staff say that they are waiting for the right case to take up: one that has characteristics that give them the best chance of winning and establishing good precedential law in favor of victims.

### **Legislative Efforts**

The clinic and its staff have not undertaken any efforts to change legislation. In addition, there are no indications that recent legislative changes affecting victims' rights were influenced by the work of the clinic. In fact, clinic staff stated that crime victim legislation in Idaho is fairly robust and that there is probably not much legislative change needed for victims. However, as noted above, the clinic did report that, after representing a domestic violence victim who was not notified of her abuser's release after pleading guilty and paying a fine, the students were examining the statutes to see whether a change was needed. It also reports a need to clarify the issue of crime victim standing to assert the victims' rights in court through an attorney.

### **Changes to Court Rules**

The clinic and its work have not had an impact on court rules to date. However, clinic staff members feel that the issue of standing in the courtroom for victims and their attorneys could best be clarified through a change to court rules. They are looking at legal ways they can go about educating the rule committee on the need for such a rule. They feel that the judge who has barred them from representing victims in his courtroom would relent if a clear rule were in place and that this would alleviate the problem in other jurisdictions as well.

### **The Role of NCVLI**

When the supervising attorney first joined the clinic, she was required to participate in monthly conference calls with NCVLI to check in on progress. She terms it being "on probation." She reports that, after six or seven months, NCVLI told her she was no longer required to have the monthly calls; she'd "graduated." In those early months, she reports being unsure of herself and

reluctant to call NCVLI for help. Now she is much more forward with NCVLI about asking for help and informing them of obstacles to the work.

NCVLI helps with legal research, especially during the summer, when fewer students are available to do the research. Clinic staff said that when, they request help from NCVLI, they are careful to review what is sent to them to be sure it is a good fit for Idaho. As discussed above, NCVLI helped fashion a response to the judge who denied the clinic attorney standing in his court last spring.

### **Opinions of Criminal Justice Officials About the Clinic**

We spoke with 11 members of the Idaho criminal justice system to gather outside opinions about the clinic and its work. Those completing interviews included two county prosecutors, two assistant county prosecutors, one city prosecutor, two victim advocates, one defense attorney, and three judges. The persons with whom we spoke were all nominated by the staff of the clinic in response to our request to interview people in the criminal justice system familiar with the clinic's work, both those who were supportive and those who were critical of the clinic. Interviewees represented three counties and one city, all in northern Idaho.

The professionals interviewed had mixed opinions of the clinic and its work on behalf of victims. Three of the five prosecutors interviewed, as well as one of the victim advocates, expressed some frustration with the clinic's intervention in their cases, saying that the clinic seemed to create friction and interfere with the prosecutor's relationship with the victim. One of the prosecutors described the dynamic as he saw it:

Their heart is probably in the right place. But they come in as party opponents to us, and we take victims' rights very seriously here. Our victim advocate has won awards. . . . The fact that they come in and treat us as opponents makes things very difficult.

These interviewees also expressed concern about the supervising attorney's relative lack of experience, as well as the law students' limited knowledge of criminal procedure and the potential for them to give victims misinformation.

All of these professionals (three prosecutors and one victim advocate) also saw possibilities for a positive impact of the clinic's work, particularly in domestic violence cases and related civil matters or postsentencing, issues such as collection of restitution and notification of offender status. There was agreement among these four interviewees (who came from two counties) that some clarification of the clinic's role was needed to improve the relationship between the clinic and their office. One prosecutor summed it up this way: "We're fans of the program to the extent that they're an asset for some of our victims that need a heightened level of attention and support beyond what we're able to accomplish."

The other two prosecutors interviewed had both been involved with the clinic, one as a law student and the other as an attorney who had helped train and supervise the students in the past. Both of these felt that the clinic was helping to raise awareness of victims' rights in the state. They acknowledged that, at times, the clinic can work at cross purposes with the prosecutor's office but said that this may be necessary to adequately represent the interests of the victim.

The second victim advocate we interviewed felt strongly that the clinic served an important purpose in ensuring that victims' rights are respected. Although some of the prosecutors we interviewed saw conflict and overlap between the roles of the clinic attorney and the

prosecutor-based victim advocate, this advocate saw no such problem. She felt that there are times when an attorney is needed to stand up to the judges or the prosecutors in ways that a victim advocate cannot due to the constraints of that position. She described the clinic this way: “I don’t see problems. I think we both have the same kind of focus: to make sure the victims’ rights are maintained. Sometimes that means being at odds with the prosecutor.”

The defense attorney interviewed had some problems with victims’ rights in general, particularly the victim’s right to have no contact with the defense (which makes his job more difficult) and the victim’s right to be present in the courtroom regardless of whether it is testifying in the case (he felt that witness sequestration was based on sound evidentiary principles and it was a mistake to overlay victims’ rights on well-founded legal theories). Interestingly, this defense attorney had recently been retained by a victim’s family to represent them in a juvenile delinquency matter. He felt that there was an important role for victims’ attorneys in working with the prosecutor, but he did not feel that they should have standing in court to argue before the judge. The most significant problem he saw with victim standing in court was the potential for a plea agreement to be overturned because of a victim’s argument against it to the judge. Overall, he thought that the clinic was generally a good idea and that it provided the opportunity for more people to have their interests represented in court.

The three judges interviewed expressed ambivalence about the clinic. Two of the judges were unwilling to grant that victims have standing under current Idaho statutes and court rules, and they therefore questioned the right of clinic attorneys to file a notice of appearance. Neither judge was opposed to victims having standing, but each felt that an appeals court decision or supreme court rule change was necessary to provide the proper legal foundation. Even though the two judges had posed problems for clinic attorneys, they agreed that it was a “healthy development” that the clinic had raised the issue of victim standing. The third judge did not have the same opposition to clinic attorneys filing notices of appearance but felt that there was no basis for sharing presentence investigative reports with victim attorneys. He was less positive in his assessment of the clinic’s impact on the observance of victims’ rights, arguing that his county prosecutor’s victim advocates already did an adequate job of looking after victims’ interests.

### **Victims’ Perspectives**

Because of the rural location of the clinic and the fact that its cases are spread throughout the state, it was not possible to hold a focus group of victims. Instead, we interviewed one victim couple at their home during the site visit and called two others for phone interviews after the visit.

An elderly couple, while on vacation in Mexico, had had their home burglarized. They lost many valuable possessions and have been fighting for restitution for four years. Apparently, the offender was caught in two different jurisdictions for writing bad checks and selling stolen property. In one of the cases, the couple was listed as the crime victim, but, in the other, they were not. The victims report that they were not notified of their rights until late in the criminal justice process. They were surprised to learn that a plea deal had been made, with the defendant getting only probation. Restitution was ordered, but the defendant has paid only irregularly. When the victims make phone calls to try to find out how to get the money that is owed them, they cannot get answers to their questions. They say that the clinic attorney has fought for them and is helping them try to get the offender’s wages garnished so that more of their restitution will be paid. Although the couple was concerned about the turnover of students on

their case (“People changed often—they would get involved in the case, then leave, and someone else would get assigned”), they nonetheless credit the current supervising attorney with standing up for them, and the clinic as having been “superbly helpful.”

A victim of battery and sexual assault at the hands of her then-boyfriend contacted the clinic for support at his early release and hearing to have his parole supervision transferred to his home state of Washington. On the occasion of the assault, the perpetrator became jealous of friends the victim had made and engaged in a lengthy argument with her, which ended with him physically and sexually attacking her and threatening to take her car and leave her stranded in Idaho. The victim called the police, and, when they arrived, the offender basically admitted to everything he had done but blamed it on the victim.

The offender pled guilty to felony battery in exchange for the felony sexual assault charge being dropped, and he was sentenced to some jail time. While he was in jail, he made attempts to locate the victim and contact her. The offender had applied for early release and a transfer of his parole from Idaho to Washington. An attorney friend of the victim encouraged her to not to attend the hearing alone. The friend found the clinic’s information online and urged the victim to call. The victim reports that the clinic attorney was able to offer important support to her in the process of testifying at the hearing. The clinic attorney helped her think through and write down her victim impact statement the night before the hearing and made sure that her plane ticket to attend the hearing was paid for. The victim said that it had not occurred to her to write down her statement for previous hearings and that she had fallen apart on the stand. She said that several people who knew the offender flew from Washington to Idaho to support him, including some who had previously been her friends. The outcome of the hearing was positive: The offender was ordered to remain jailed until the victim finished her schooling (two months after the hearing) and was denied a transfer of parole for one year, to give her time to find employment. Of the clinic attorney, she said, “[She] was awesome. . . . The little bit of support she was able to offer me made a pretty big impact.”

A third victim had been stalked and threatened by her husband as she was in the process of separating from and divorcing him. She reports that she obtained a restraining order against him in July 2007 and, by the end of August, had recorded more than 50 telephone messages from him. One weekend when she was away, he was seen on the property of her home, and her house sitter told her she was sure he had been in the home while she was out, because the toilet seat had been left up. He had also called the house, and the house sitter’s husband arrived to find the man on the front lawn speaking from his cell phone to the house sitter inside the house. On another occasion, the stalker had called the victim, and, when she refused to have contact with him, he told her to go look at their car parked outside the house. She went and looked and found two bullets on the ground and a third further away. The stalker told her that one bullet had her name on it and the other had his name on it. The two have a daughter in common, and a police-based victim advocate on the case suspected that the third bullet may have represented a threat to the daughter as well.

The victim reports that the prosecuting attorney’s office dropped the ball on the case several times right from the beginning. At the very first hearing, the prosecuting attorney neglected to bring a copy of the restraining order and therefore could not prove that the offender had violated it, so the charges were dropped. At the next hearing, after charges had been refiled, the defense attorney stated that she had not been served with the papers from the prosecuting attorney’s office. The judge ordered the defense to accept the filing on the spot but then again dropped the charges, since the defense had not had time to read the paperwork. The victim

reports that it was about this time that the clinic became involved, at the suggestion of one of the victim advocates with whom she had been working—she could not remember whether it was the prosecutor’s advocate or the police-based advocate.

As soon as the clinic attorney became involved, the prosecuting attorney’s office began to “dot the i’s and cross the t’s,” according to the victim. Suddenly, copies of the restraining order were in the file, and there was no more going to court and the defense attorney claiming she had not received the papers. The case is currently on its third prosecuting attorney and headed for a jury trial in November 2008. The victim reports that the clinic attorney had requested a change of prosecuting attorney early in the case, but the request was denied. However, the victim suspects that, when the office did eventually change prosecuting attorneys, it may have had something to do with the clinic’s involvement. She reports that the clinic attorney’s involvement has mainly been in interacting directly with the prosecuting attorney rather than arguing before the judge. When the offender was released from jail without notification to the victim, the clinic attorney let the victim know that that should not have happened and made a phone call to ensure that it would not happen again. The victim reports that the clinic attorney has been helpful and that, when there have been things about the case she did not understand, the clinic attorney either explained it to her or made calls to find out what was going on. The clinic attorney also helped her look into compensation for lost wages, as she was forced to close a home daycare business because of the stalking. Compensation denied that claim, so the victim plans to pursue restitution for the expense, with the clinic’s help.

## **Maryland’s Crime Victim Legal Advocacy Project**

### **Legal Context**

Maryland has a solid foundation of constitutional amendments and statutes to support crime victims’ rights. The citizens of the state adopted their victims’ rights constitutional amendment in 1994 with a voter-approval level of 92 percent. Since passage of the amendment, Maryland has made steady progress in expanding and strengthening victims’ rights. The state is fortunate to have strong voices for victims among prosecutors, judges, law enforcement, and corrections, all of whom have been instrumental in furthering the passage of victims’ rights laws. Maryland was one of the first states to adopt any form of victims’ rights enforcement, allowing victims to file a petition for leave to appeal a denial of certain rights. The state has also attempted to develop internal mechanisms to promote compliance with victims’ rights laws. For example, prosecutors are required to certify that they have provided crime victims with information concerning their rights. Despite this progress, however, victims’ rights enforcement remains a struggle. For the past few years, Maryland courts have wrestled with the question of the proper remedy when victims’ rights have been violated.

### **Project History**

Maryland’s Crime Victim Legal Advocacy Project (CVLA) is based within MCVRC (Maryland Crime Victims’ Resource Center), an organization providing comprehensive services to victims statewide. MCVRC’s roots go back to 1982, when Roberta and Vince Roper’s daughter, Stephanie, was brutally murdered. In their daughter’s memory, the Ropers founded the Stephanie Roper Committee to advocate for more victims’ rights in the criminal justice system

and the Stephanie Roper Foundation to provide information and support to victims. In 2002, the committee and the foundation merged to form MCVRC.

Initially, MCVRC tried to empower victims to assert their own rights in court. It developed sample “certificates of service” or letters that victims could, for example, write to judges requesting restitution. It encouraged prosecutors to raise victims’ rights issues with the court and filed a few amicus briefs. MCVRC also had some success in getting laws passed but, even with the passage of a state constitutional amendment, victims’ rights were still not being consistently observed by criminal justice officials. None of its efforts were enough to encourage consistent observance of victims’ rights by court officials. There were no fines or other penalties nor any type of redress if victims were not allowed to exercise their rights. Victims had standing but needed attorneys to pursue remedies.

In 1998, the foundation, with support from the Maryland Legal Services Corporation, created a program to link victims to attorneys who could help them with issues relating to their rights. However, administrators soon learned that pro bono attorneys required training in the field of victims’ rights and, often, in basic criminal procedure as well. They also proved difficult to recruit. With funding first from the state and almost immediately thereafter from NCVLI, MCVRC expanded its existing crime victim advocacy program by hiring a staff attorney.

### **Business Model**

MCVRC and CVLA staff members collaborate to offer direct social and legal services to victims and to refer victims to outside agencies when appropriate. The legal clinic resides within an organization that takes a “full-service” approach to victim assistance and serves victims of all types of crime. The clinic shares general staff and overhead costs with the center as a whole, including rent, utilities, equipment, and supplies.

MCVRC oversees all client intakes, ensuring that each client receives the unique set of services he or she needs. Intake phone calls are completed by victim advocates on staff, supervised by the director of services. Staff members who conduct client intake refer clients to caseworkers within MCVRC or to social service agencies throughout the state that can address their specific needs. In addition, social workers and staff attorneys help clients to understand their legal rights and educate clients on what they can expect during each stage of the legal process. While assessing victims’ needs, intake staff note whether there are restitution or other potential victims’ rights issues.

The director of services meets with the victim advocates and CVLA’s legal staff weekly and as needed to discuss the client intakes and to determine the appropriate services to be provided to each client. After a service plan has been established for a client, social workers and therapists on staff provide social services to the client, and the executive director (an attorney) and the staff attorneys provide legal services. The work done by MCVRC staff in screening, processing, and sorting intakes enables CVLA staff to focus on identifying clients and cases that are suitable for representation and/or litigation.

Even more significant than the operational advantages, this relationship enables the clinic to capitalize on the large body of victims’ rights legislation, extensive networking with criminal justice and service personnel, and substantial public awareness of victims’ rights that MCVRC has developed since 1982. The center’s founders have more than 20 years of experience providing victim services and advocating for victims’ rights in Maryland. MCVRC previously received OVC funds to implement a compliance initiative in which it worked to improve an administrative system to respond to violations of crime victims’ rights. Through these efforts,

MCVRC has established and maintained contacts throughout the state and helped to shape the landscape of victims' rights legislation in Maryland. According to the MCVRC Web site, the center has played a role in the passage of more than 70 pieces of legislation in the state since 1982. All of this makes for a better victims' rights legal climate for the clinic attorneys.

### **Staffing**

The clinic staff includes MCVRC's executive director, who works for the clinic part time, and a staff of four attorneys. The clinic's use of free help has evolved in ways that best serve the victims and efficiency of the MCVRC. For example, the work of the clinic is aided by a small panel of pro bono attorneys. The pro bono attorneys for CVLA now handle mostly collateral civil cases (e.g., estate, housing, or creditor issues), which fall outside the scope of clinic funding. The clinic also uses pro bono attorneys to help to collect restitution and to aid in writing amicus briefs for appellate cases. The executive director has found that using pro bono attorneys in this way is effective in meeting the needs of clients and helps to avoid some of the problems associated with using pro bono attorneys in criminal court (i.e., insufficient knowledge of victims' rights issues, extensive need for training, and schedules that did not permit them to make necessary court appearances in clinic cases on short notice).

In addition, the executive director of MCVRC teaches a course in victims' rights at the University of Baltimore School of Law to promote awareness of victims' rights issues in future practitioners and to support changing the climate of the courtroom to benefit all victims of crime. The class also helps with outreach efforts to law student interns who help clinic attorneys with case research and assist other clinic staff with intake and administrative tasks. Law students are brought on as interns for the summer to help with client intakes, legal research, and writing tasks, and then kept on in part-time roles during the academic year.

### **How the Clinic Gets Its Clients**

The clinic makes its presence known by speaking at events, distributing brochures and posters, hosting a Web site and a toll-free phone number (through MCVRC), and maintaining relationships with law enforcement agencies, prosecutors, and victim advocates. According to clinic staff, clients come from a variety of sources, including referral of victims from MCVRC advocates helping victims with nonrights issues and from MCVRC intake workers who make note of potential rights issues during intakes for victim services. The clinic also noted that about one-quarter of its cases come from the clinic's Web site. Other referrals come from the state victims' rights compliance officer, domestic violence or other victim service programs across the state, prosecutors, and judges. The clinic has bilingual staff to work with Spanish speakers and a language line to accommodate victims who speak other languages.

A breakdown of referral sources based on 2007 case files indicated that a surprising 37 percent came from the clinic Web site. Another 22 percent came from victim advocates and 14 percent from state or U.S. prosecutors. The remainder came from a variety of sources including board members and friends of the victim.

One frustrating area for MCVRC and clinic staff is cases in which victims have been denied opportunities to exercise their rights and the case has already been disposed. (Often, these cases involve issues of restitution.) Under Maryland law, motions may be filed to set aside trial court rulings but only up to 30 days following the disposition. One of the advantages of receiving most of its referrals from MCVRC intake workers is that it provides a large source of

referrals of cases that are ongoing, in which clinic attorneys have the most chance of being able to open a case and accompany victims to court appearances under a representation agreement.

In part because the clinic is directly linked with a more comprehensive victim assistance effort, it takes cases based on victim needs without regard to whether the case would have a broader impact on victims' rights within the state. This approach is beneficial to victims because they receive legal help if they need it in a prophylactic manner.

The clinic emphasizes direct representation of victims. The practice is to ask victims to sign a retainer agreement and for the attorneys to enter an appearance on behalf of victims. The clinic director believes that it is often productive to work with prosecutors to encourage them to accommodate the rights of victims. But he finds negotiating with prosecutors most successful when his attorneys have the leverage of independent action by reserving the ability to request further review in trial and appellate courts.

The clinic opened 43 cases in 2007 in which it provided formal representation to victims. Cases were fairly evenly distributed between homicide and manslaughter (26 percent), domestic violence and stalking (19 percent), assault (16 percent), sexual abuse (14 percent), and compensation claims (14 percent). Clinic staff stated that, while their reach was statewide, most of their cases came from the Baltimore-Washington corridor. They also noted that they had established a strong relationship with a domestic violence program on Maryland's Eastern Shore that routinely refers cases. Examination of case files confirmed a concentration of cases in the local area: Cases opened in 2007 came primarily from Prince Georges and Baltimore counties, with the two together accounting for 56 percent of cases opened in 2007. Other counties that contributed for more than one referral include Montgomery, St. Mary's, and Anne Arundel, with two cases each.

In these cases, victims sign a retainer agreement that outlines the scope of services for the clinic attorney. Although this is a small proportion of the 700 victims who come through MCVRC each year, clinic staff believes that the clinic has not turned down any victim for representation it is in a position to help. Victims for whom a case is not opened receive information, referrals to support groups or therapists, or accompaniment to court. In other cases, the legal staff conducts research on an issue facing victims without entering into a formal representation. For example, staff may advise victims about the law pertaining to victims' rights or provide advice regarding victim compensation. In still other cases, attorneys may make a call to prompt a resolution, which eliminates the need for formal representation.

Another clinic service that assists victims indirectly is providing technical assistance to prosecutors who sometimes call with questions about the applicability of victims' rights in specific situations. This technical assistance is a direct result of the clinic's work in the courts, which has established its credibility with prosecutors on victims' rights issues.

### **Training Criminal Justice Officials**

Clinic staff conducts trainings for prosecutors in Baltimore City annually. They also conduct trainings periodically for state's attorneys and judges. Recent trainings conducted by clinic staff include

- training of prosecutors attending a conference on compliance with victims' rights laws in January 2008
- training of judges at the Judicial Training Center
- statewide training for prosecutors

- State Board of Victim Services meetings and State Victim Academy trainings
- meeting with Judicial Council on identity theft and fraud victims.

Clinic staff described judges as generally “very receptive” to considering victims’ rights issues. Surprisingly, defense attorneys were also described as “understanding” of the role of clinic attorneys because they appreciate the concept of representing individual clients regarding their civil rights (or “regarding their treatment by the criminal justice system”). Prosecutors were also described as “very receptive” to victims’ rights, although some were thought to have more of a “mental block” than defense attorneys on this issue.

The MCVRC considers itself deeply involved in the crime victims’ movement in the state. The staff is networked with other providers, law enforcement, and prosecutors. Staff members participate in the Maryland Victim Assistance Academy.

### **How the Clinic Affects the Exercise of Victims’ Rights in Trial Courts**

At the trial court level, staff attorneys (including the executive director) file motions and provide direct legal representation to victims at court appearances. This representation is intended both to change the law to benefit all victims and to promote greater awareness of victims’ rights among local prosecutors and judges through the presence of victims’ rights attorneys in the courtroom. The original intent of trial court advocacy was to create and preserve a record that could then be taken up in an appeal. But, according to clinic staff, the presence of victims’ rights attorneys in the courtroom has also resulted in trial courts adhering more consistently to victims’ rights laws. They feel that having a victim’s attorney serves as a reminder that someone else—other than the parties—has an interest and legal rights. In these cases, there may be no written record indicating that the court has adhered to rights. However, the clinic considers these cases successes.

The most common types of issues in cases with which the clinic deals at the trial court level are the right to be heard, right to receive notice, right to be present at hearings, the right to restitution, and the right to privacy (for example, resisting subpoenas requiring victims to divulge confidential records). Table A.5 provides a breakdown of the issues involved in clinic cases opened in 2007.

In more unusual circumstances, the clinic may get calls from prosecutors concerned that victims are not being treated fairly. For example, in a recent capital case, a judge refused to

**Table A.5**  
**Victims’ Rights Issue in Cases Opened by Clinic**

<b>Reason for Clinic Involvement</b>	<b>Percentage</b>
Right to be present/heard	33
Legal representation	19
Nonspecific involvement	16
Privacy violated	9
Restitution	9
Child victim representation	9
Right to prosecution	5

allow the victim's mother to allocute until after the sentencing decision had been made. Clinic staff asked the judge to reconsider but were unsuccessful. However, after filing an application for leave to appeal, the trial court judge changed her mind and allowed the family to speak before determining whether to impose the death penalty. In another case, clinic attorneys tried to block a local television news program from playing the confession of a murderer that included a description of dismembering the victim. The trial court denied that request but stayed the production of the DVD, and that case is now before an appellate court. In another, clinic staff aided a victim in recovering Veterans' Administration records that had been subpoenaed by a defense attorney. In a domestic violence case, clinic attorneys were successful in getting a judge to reject a plea and then having the prosecutor and defense attorney to amend a plea bargain they had struck by adding a no-contact order, mental health counseling, and other conditions to the probation sentence that had been agreed upon.

In another recent case, a victim called the clinic because she was unhappy with a plea agreement. She had wanted to make a victim impact statement and was not even aware she had a right to restitution. The clinic staff drafted a demand for restitution motion, which they presented to counsel. The defense attorney argued that, since restitution was not part of the plea agreement, the judge could not order it after the fact. After reading the pleading, the judge decided that, since this is an independent right of the victim, the motion should be considered.

While clinic staff hopes for rulings in favor of victims' rights, this is not always the outcome. In fact, some clinic cases have been resolved in favor of the individual victim but without rights issues being resolved or clarified. In one case, for example, a victim requested \$12,000 restitution for funeral expenses, but the trial court judge capped the amount at only \$5,000. The judge was looking to estate law for guidance on this point, inappropriately. The prosecutor referred the victim to the clinic. Clinic attorneys filed an application for leave to appeal, upon which the defense attorney offered to pay the full amount of restitution. The victim got what she wanted, but the case did nothing to promote or negate victims' rights to full restitution. Staff pointed out that they have an ethical obligation to the client and that that obligation trumps the interest in establishing case law in favor of victims' rights. This case highlights the tension that can arise between helping individual victims get what they are seeking and the clinic's interest in seeking cases that have the potential to result in decisions that will clarify or expand the rights of all victims. In fact, sometimes the victim does not want to pursue an issue, even if clinic staff believe that the law is clear and they could win. In a recent case in which the victim was denied the right to be present in the courtroom, she had been convinced by the prosecutor that it was in her best interest not to push the issue, and clinic staff deferred to the victim's wishes.

It is the belief of clinic staff that the presence of a victim attorney in court changes the dynamic of the courtroom. Most judges are not used to seeing an attorney for the victim: The effect is that the judge becomes very scrupulous about applying the law correctly when a victim has an attorney representing him or her. More often than not, clinic staff maintain, their argument in favor of rights for the victim prevails. An obvious question is whether the courtroom dynamic remains altered in subsequent cases once clinic staff leaves the courtroom. While that is a difficult question to answer, the clinic director cited one judge who said, "I'm never taking another plea unless the victim has been asked his opinion."

### Clinic Work on the Appellate Level

The clinic works to shape case law, attempting to bring cutting-edge issues before the state's highest court, the Maryland Court of Appeals. The numbers of cases so far have been relatively few. In part, this reflects the success that the clinic has had at the trial court level, with most cases in which victims are represented by the clinic being resolved in the victim's favor. However, as a result of the *Hoile* case discussed below, victims and their attorneys now have standing as a party in the appellate process in cases in which the defense appeals a trial court ruling. This is likely to increase clinic activity at the appeals level. In cases in which it does not have a direct interest for a victim, the clinic may still file an amicus brief ("friend of the court" brief) on issues of interest to victims. In some cases, the clinic's appellate work has led to revisions in the recognition of victims' rights; in others, it has demonstrated a need for additional legislation.

One important case in which the clinic directly represented the victim was *Lopez-Sanchez v. State*, 388 Md. 214 (2005). In that case, the court of appeals examined the question of whether a victim of a crime committed by a juvenile offender was entitled to seek reconsideration of a consent order for restitution that the trial court had approved without affording the victim his rights to notification or the opportunity to be heard. The court found that the right to seek a special appeal for a denial of victims' rights under section 11-103 of the Criminal Procedure Article did not extend to victims of delinquent acts and, because the victim is not a party to a delinquency proceeding, a victim cannot exercise a general right to appeal.

The *Lopez-Sanchez* case is an example of clinic case work that had a positive impact on victims' rights although the victim petitioner actually lost the case. It directly led to a successful legislative effort to extend the rights of victims of juvenile defendants (see below). In addition, the reporting of this case by the state's highest court served to educate prosecutors and others in the legal community about crime victims' rights. Clinic staff reported that the prosecutor heading a juvenile division in an urban court said that, in reading the opinions in the *Lopez-Sanchez* case, she learned for the first time about the extent of victims' rights in Maryland.

In another case, *Surland v. State*, 895 A.2d 1034 (Md. Ct. App. 2006), the clinic represented the parents of a murder victim. The defendant was convicted and immediately filed an appeal. The defendant then died while the appeal was pending, and the defense attorney moved to have the court dismiss both the appeal and the original indictment. Both the state and the victims opposed the defense motion to dismiss the indictment, with the clinic arguing that such a dismissal constituted unfair treatment of the victims, a violation of their rights under the law. When the defense attorney filed a petition with the state's highest court, the victims (through the clinic) filed a petition of their own, and the court of appeals ruled that the victims were not a party to the case and did not have standing to file petitions with the court. The case was therefore a loss on victim standing; however, it can be seen as contributing to the further evolution of victim standing in Maryland by illuminating the need for clearer rules and legislation with regard to standing. On the issue of unfair treatment, ultimately, the victims did get what they wanted: The defense was given 60 days for the deceased defendant's estate to appoint a substitute for the defendant so that the appeal could continue; when no substitute was appointed, the murder conviction was left intact.

In *Lamb v. Kontgias*, 169 Md. App. 466 (2006), a registered victim of child sexual abuse was not notified of a hearing to reconsider her assailant's sentence. The question was whether the victim had standing to challenge a judgment vacating the original conviction and sentence.

The Court of Special Appeals (Maryland's intermediate court of appeal) held that the circuit court had jurisdiction to decide whether the victim had standing to challenge the revised judgment. However, the court also determined that the victim could not challenge the sentence. The court held that any available remedy depended on legislative expansion of the victim's right to appeal.

Most recently, the clinic was heavily involved in the case of *Hoile v. State*, 404 Md. 591 (2008). In that case, the clinic represented a victim who was not notified of hearings reconsidering the sentence of her assailant and, thus, was denied an opportunity to be heard at those hearings. The clinic, on behalf of the victim, sought to vacate the altered sentence on the grounds that she had been denied her rights. The trial court granted her request, and the defendant appealed.

The court found, significantly, that, under the newly expanded court rule, Maryland Rule 8-111, the victim had the right to participate in a criminal appeal in the same manner as a party regarding issues that directly and substantially affect the victim's rights. Clinic staff, therefore, were authorized to represent the victim in this case, including by participating in oral argument and filing a brief in the case.

However, the court in *Hoile* went on to find that the victim was not entitled to relief in the case. The legislature had not permitted a victim to seek invalidation of an otherwise legal sentence merely because the victim's rights in regard to imposition of that sentence had been violated. The court noted "Although a victim now has more opportunity to participate in an appeal, there remains no effective tangible remedy for a victim to seek to 'un-do' what already has been done in a criminal case."

The clinic also has filed four amicus briefs in cases involving victims' issues before the Maryland Court of Appeals. *Maryland v. Snowden*, 385 Md. 64 (2005), was a case that implicated the victim's interest but not an issue of the victim's rights. That case involved a question of whether statements made by child sexual abuse victims to a social worker were admissible in a criminal trial. The MCVRC filed an amicus brief together with the University of Baltimore Family Law Clinic, Advocates for Children and Youth, and the Maryland Coalition Against Sexual Assault. The brief was not referenced in the court's opinion, which held that such statements were not admissible.

Similarly, another case in which the MCVRC filed an amicus brief in 2005 involved a victim's interest but not a victim's right. This, too, was a child sexual abuse case in which the defendant challenged the admissibility of a social worker's testimony at trial, the propriety of the prosecutor's closing arguments, and the admissibility of an out-of-court accusation when the accusing victim testifies and repudiates the out-of-court accusation. The opinion in *Lawson v. State*, 389 Md. 570 (2005), does not reference the amicus brief.

In contrast, the case of *Stachowski v. State*, 939 A.2d 158 (2008), did involve a victims' rights issue: restitution. In that case, the lower court had imposed restitution in three separate cases as a condition of probation in a fourth case. However, the court dismissed the appeal, finding that the questions regarding the fourth case were not yet properly before it.

In addition, the MCVRC filed an amicus brief in a victim compensation case. The clinic staff also helped the victim's attorney in that case to write his reply brief, and the clinic notes that many of its arguments made in the declined amicus brief were in fact asserted in the court's opinion. That case, *Opert v. Criminal Injuries Comp. Bd.*, 403 Md. 587 (Md. Ct. App. 2008), involved a motorcyclist, Opert, who had been injured in a crash on the Baltimore beltway when a pedestrian walked out onto the highway with or on a bicycle in violation of the law.

The issue was whether Opert was a “crime victim” for purposes of victim compensation. Lower courts and the compensation board had ruled he was not. The court of appeals found he was. Though the language of the statute was ambiguous, after examining the legislative history, the court agreed that finding Opert a “victim” was more likely reflective of the legislative intent.

### Legislative Efforts

Legislative change was an important part of MCVRC’s agenda early in its history. The program was a driving force in passing the state’s victims’ rights constitutional amendment and in all subsequent implementing legislation. Today, though, legislative efforts are relatively minimal. The existing rights are extensive, providing victims the rights to be notified, present, and heard throughout the criminal justice process. The clinic’s aim is to ensure that statutes already on the books are enforced, and this has involved ensuring that victims can seek redress through the courts for a violation of their rights. Maryland is the only state that has allowed victims to assert their rights by seeking leave to appeal a denial of rights to the state’s intermediate court, the Court of Special Appeals. This right was added in 2001.

The reduced focus on legislative advocacy is also due to the legislature’s unwillingness to entertain theoretical proposals simply designed to “make the system better just because.” Victim advocates must demonstrate a real need for statutory change. Today, it is often the work of the clinic that proves the need for legislation. If the clinic loses a case or is unable to help a victim because of barriers in the system, this “failure” serves to make the case for a legislative solution. For example, in 2006, the program successfully argued for a bill expanding the victims’ rights to appeal to include issues regarding notice, restitution, and juvenile delinquency matters. This directly resulted from its work in the *Lopez-Sanchez* case, as described above. In that case, the court had found that victims of a violent attack by a juvenile lack statutory standing to appeal the amount of restitution awarded. A member of the clinic’s pro bono panel had represented that victim, and, during the period of representation, the attorney successfully ran for state delegate. As a delegate and following his loss in the courts, he cosponsored the legislation extending victims’ rights to victims of juvenile offenders.

Two bills in the 2008 legislative session relating to victims’ compensation came directly from this type of case work: one bill to strengthen procedural due process in the compensation process and another to broaden the types of crimes and victims eligible for compensation and make other changes. In its testimony in support of one of the compensation bills, the MCVRC stated that the legislative proposal was developed following the free representation it had provided claimants before the compensation board.

The same was true of an education bill MCVRC promoted during the 2008 legislative session that would give victims of school-based crimes the right to stay in the school and have the offender moved to another school. The agency had been contacted by the father of a school-aged victim who needed assistance in protecting his child following an assault by a fellow student.

Along with legislation connected to the work of the clinic, the MCVRC has advocated for victims’ interests on other pending bills, such as legislation relating to mentally ill offenders and legislation regarding Internet access to court documents.

The MCVRC has also advocated for legislation that directly supports the clinic. This has included bond bills for office space (passed in 2005); legislation to allow program staff to participate in the state’s health insurance program, as legal aid staff was already entitled to do

(passed in 2005); and a bill to provide that unclaimed money from judgments of restitution could be used to make grants providing legal counsel to victims (passed in 2007).

### **Changes to Court Rules**

An early clinic case involving a violation of a protection order tested whether victims had a right to an attorney. The circuit court judge who made the ruling suggested that a rule change was needed to clarify the right of victims to be represented by an attorney. The clinic director provided information to the judge who was drafting a rule that was adopted by the Maryland Court of Appeals. Clinic staff cites the rule, 1-326, whenever they make an appearance on behalf of a victim. This rule was upheld in the recent *Hoile* case, noted above.

### **Role of NCVLI in Supporting Clinic Activities**

NCVLI supports the work of the clinic through hosting conference calls with all the clinics that keep staff informed of what is happening in other states. These quarterly conversations may focus on a particular project or share experiences and approaches in dealing with particular issues that the clinics encounter. The NCVLI June conference includes a cluster meeting that allows face-to-face exchange of ideas between staff of the different state clinics. NCVLI maintains a brief bank containing briefs from all the clinics for each clinic to draw upon in preparing cases. It also has staff attorneys who conduct legal research for individual clinics. The Maryland clinic does its own research into Maryland cases but has used information from NCVLI on how issues have been handled in other state or federal courts to bolster its local research. The Maryland clinic director summarized NCVLI's role by saying, "We would be many, many giant steps behind where we are if it were not for NCVLI."

NCVLI helps by providing the services of an extra law clerk. Staff of the NCVLI clinics are able to request legal research on current cases on which they are working. This has enabled the Maryland clinic to get by with just 15 hours per week from its resident law clerk.

Another benefit of being part of the NCVLI family is the ability to exchange ideas and best practices with others doing similar work. This kind of peer-to-peer support even extends to the sharing of legal research between clinics.

### **Opinions of Criminal Justice Officials About the Clinic**

We spoke with eight members of the Maryland criminal justice system to gather outside opinions about the resource center and its work. Those completing interviews included a judge, two members of the state attorney general's staff, two local prosecutors, two persons involved in victim advocacy work, and a public defender. The persons with whom we spoke were all nominated by the director of the resource center in response to our request to interview people in the criminal justice system familiar with the work of the center, regardless of their opinion of the center.

Respondents were universally enthusiastic about the work that center staff had undertaken on behalf of victims over the years. One respondent described the center director as being primarily responsible for enactment of the major state victims' rights statute. The center director was described as having cultivated excellent connections with lawmakers over the years. Another said that the staff of the resource center has been "in the forefront of making legislation happen." Several acknowledged the role of the center in conducting appellate work on behalf of victims, and one also noted the role that the center has played in enacting court rules that respect victims' rights. In the words of one respondent, "the group is aces."

The sentiment that emerged from the interviews was that the center plays an important role in representing victims in trial court cases as well. Several argued that victims' rights are normally respected in Maryland's trial courts and that victims need attorneys in only a handful of cases (estimated by two respondents as being less than 1 percent). But, while the number of cases in which victims need representation was estimated to be small, most respondents saw the availability of attorneys to represent victims in those cases as important to achieving favorable outcomes. Several of the respondents said that they occasionally referred cases to the center when they saw rights being jeopardized. Center staff were seen as especially useful "problem-solvers" in helping victims negotiate a compensation program that was seen as difficult. Other rights issues in which respondents said they valued the work of the center included failure to notify victims of their rights, restitution, allocation at sentencing, and unprofessional treatment of victims at the hands of prosecutors or judges.

All but one respondent thought that staff of the center had made a significant difference in expanding awareness of and compliance with victims' rights. One respondent said that the "landscape for victims is light-years changed. Victims' rights are now on people's radar screens."

### **Victim Perspective**

To ascertain victims' perspectives of the clinic, we held a focus group with five resource center clients recruited by center staff. One woman whose husband was killed by a drunk driver was referred by a corrections official to the center when she saw the perpetrator driving one day. The perpetrator had been released from a residential treatment facility without notice to the victim's wife. After motions were filed, the center director learned that there was a warrant out on the perpetrator for failing to complete a mandated drug treatment program. A subsequent hearing returned the defendant to jail. The clinic continued to represent the victim in successful bids to block her release at a reconsideration hearing and then at a parole hearing.

A domestic violence victim sought help from the resource center when her husband was about to be released from prison after serving just 1.5 years of a ten-year term. The state's attorney told her that there was nothing he could do, but an acquaintance of the victim who was on the MCVRC board suggested that she contact the center. Center attorneys had the hearing overturned on the grounds that the judge had acted improperly by not notifying the victim. At the new hearing, her husband's sentence was reinstated. The defense filed an appeal, and the appellate case is pending. The case has resulted in a new court rule that establishes that victims have standing before the appeals court.

The mother of a teen killed by a drunk driver found out about the resource center after the perpetrator was released from home detention and then defaulted on restitution payments. She complained to a probation officer but received no help. Center attorneys requested restitution and filed a motion complaining that the mother's rights were violated when the state's attorney failed to notify the victim of the perpetrator's release.

The parents of a murdered girl heard about the resource center through a brochure. Their compensation claim and appeal to the compensation board had been denied on the basis that their daughter had been participating in "illegal activity" when she was killed. Center attorneys got the couple a new hearing date on the ground that there had been insufficient notice for the written appeal. A center attorney represented the couple at the new hearing and impeached the testimony of the police detective who had made the allegations of victim wrongdoing. The appeal decision was in the parents' favor.

The victims in the focus group were unanimously enthusiastic about the service they had received. They had accolades for the staff, with one victim saying that the center director “gets answers we can’t get.” Another called him “the best man around.”

### **Data Availability**

The clinic does not maintain information in a database on activities other than cases in which agreements are signed for representation. The only information available on such activities such as providing information, referrals, or research are contained in the clinic’s quarterly reports to NCVLI. However, the clinic director expressed concerns about whether the information contained in the reports reflected fairly the scope of activities that clinic staff performed. Open cases are entered into Foundation Software’s Legal Files system.

In the state of Maryland, state’s attorneys are required to provide victims with a notification request form that allows victims to indicate whether they wish to be notified of hearings and to submit an impact statement. Some victim data from sentencing guidelines worksheets are entered into a state database. They do provide at least some information on whether victims’ rights are being honored.

## **New Jersey Crime Victims Law Center**

### **Legal Context**

New Jersey historically has had strong support for crime victims’ rights. The state’s victims’ rights amendment was passed in 1991 with 85 percent voter support. Neither the constitutional amendment nor the statutes specifically give victims standing to assert their rights. Nonetheless, New Jersey courts have found that the fact that the rights are in the state constitution as a result of overwhelming voter support to indicate that such rights must be enforceable. A 2007 amendment provided that victims and witnesses are to be given notice of their rights under the state victims’ rights amendment, as well as the rights under the statutory bill of rights. Since the 1980s, New Jersey has had one of the strongest state victim service networks. The state funds victim advocates in each county prosecutor office who, although they do not get involved in rights issues, do provide notice to victims about their rights under state statutes. However, recent severe budget cuts by the state attorney general threaten to reduce the number of these advocates by as much as two-thirds.

### **Clinic History**

The center director has a long history of advocating for victims’ rights. Following the murder of his son in 1989, he devoted his law practice to serving crime victims, opening the New Jersey Crime Victims Law Center in 1992 to represent victims pro bono. Funding through NCVLI in 2005 enabled him to devote himself full time to victims’ rights legal work.

The director has been the leading figure in victims’ rights work in New Jersey. He was involved in a successful effort to add a victims’ rights amendment to the state constitution culminating in its passage in 1991. In 1996 he filed an amicus brief in *State vs. Mohammed* that resulted in a 4-3 state supreme court ruling allowing victim testimony of impact in death penalty cases. In 2003, he became chair of what many thought was a cumbersome and patronage-laden state victim compensation board. As chair, the director streamlined the bureaucracy and tripled the amount of money paid in claims per month (Coscarelli, 2003). He restructured the

board, eliminating paid positions in favor of volunteer positions. He also established a regulation allowing up to eight hours compensation for attorneys who represent victims.

### **Business Model and Staffing**

The law center director continues to dedicate his full-time efforts to victims' rights cases. NCVLI funds cover the salaries of the director and an assistant. The director is now partnered with two attorneys with whom he runs a full-service law firm. The two other attorneys, also interviewed, handle real estate law, matrimonial issues, and other civil cases, dedicating 25 hours per week to victims' rights work on a pro bono basis. This continues the original New Jersey model in which—before federal funding—proceeds of the law firm were used to fund victims' rights work. Eventually, the center director hopes that monies brought in from settlements won by the law firm's civil litigation caseload will be able to fund the victims' rights work. In this way, the director has been able to multiply his efforts and take on a large number of cases—1,100 since 2005.

At the law center, changing the system is secondary to helping victims. “You see these people, they come to you wounded and you help them. That’s what it’s all about. By helping them, you begin to change the system.” The center takes a holistic approach to aiding victims. One of the implications of this philosophy is that the center handles civil issues for clients as well as violations of victims' rights in criminal proceedings. The two types of cases are mutually reinforcing. According to the director, “A lawyer does not wear one hat. I see that as one of the biggest weaknesses out there. You can't parcel the issues with your client. If you're the victims' rights lawyer, you're their lawyer on everything to do with the victimization. You can't say ‘I don't do that.’” The philosophy of dealing with the totality of victim needs also means that the law center aids victims in getting help with emotional and practical problems stemming from crime. Center staff aid victims in filing applications for state compensation and refer victims to a pool of therapists experienced in dealing with victimization issues and to other service providers as needed.

The law center makes some use of inexpensive help, occasionally employing students as interns in an administrative capacity. It has also experimented with using pro bono attorneys, using a small cadre of lawyers in different parts of the state. However, the experience has generally not been positive. With the exception of a few trusted friends, the clinic has found pro bono attorneys to be lacking in both interest and expertise in victims' rights statutes.

### **How the Clinic Gets Its Clients**

In New Jersey, each county has one or more victim advocates, state employees who work out of county prosecutors' offices. The victim advocates are responsible for giving victims notice of their rights but, since they work at the will of the local prosecutor, are hesitant to “make waves.” Therefore, when situations arise in which assistant district attorneys fail to observe the rights of victims, the advocates are not in a good position to push back on behalf of the victims. It is at that point that they are likely to place a call to the law center. Other major sources of referral according to clinic staff include prosecutors, and doctors. Based on the 50 most recent cases opened by the clinic, here is what we found regarding referrals.

Table A.6 suggests that the New Jersey clinic has an especially high proportion of cases referred by community-based programs, doctors, and therapists. This reflects the clinic's efforts to build strong relationships with service providers in order to meet client needs for mental

**Table A.6**  
**Referral Sources**

Source	Percentage of All Referrals
Community program/therapist/doctor	42
Prosecutor victim advocate	18
Prosecutor	16
Web site, brochure, friend/self referred	14
State or local official	4
CJS official (other than prosecutor)	6
Total	100 (n=50)

health and social services. As suggested by clinic staff, prosecutor victim advocates and prosecutors themselves accounted for about a good proportion (about one-third) of all referrals.

Initial consultations on the phone help the attorneys determine whether there have been rights violations. A case file is started when one of the attorneys meets with a client face-to-face and there is further action to take. Cases that are resolved by a phone call without a face-to-face consultation are not counted as open cases in the center's statistics.

Clinic staff state that they are comprehensive in their coverage of the state. In fact, although the law center is located in the northern part of the state, it actually has at least as many cases in south New Jersey as in north New Jersey. According to the center director, the counties from which the center draws most heavily include Essex, Sussex, and Morris in northern Jersey and Atlantic, Burlington, and Cumberland counties in southern New Jersey. Although the center director said that they make special efforts to recruit cases from poorer, urban counties like Essex, he acknowledges that clients skew toward better-educated and better-off victims. Based on the 50 most recent cases opened by the center, we determined that it has the greatest geographic reach of any of the NCVLI clinics. The greatest number of cases comes from the nearby counties of Essex, Bergen, Morris, and Hudson. But, in the 50-case sample, the clinic had at least two cases from 11 counties and at least one case from 19 of New Jersey's 21 counties.

The law center has comprehensive outreach efforts. An information bulletin is distributed by email several times each week to a list of prosecutors, private attorneys, and other interested parties. The center also produces a magazine with the proceeds of an annual fundraising event. The magazine is distributed to 7,000 prosecutors, judges, victim advocates, police, and others with an interest in victims' rights issues. The magazine established the center as the source to turn to on rights issues in the state. Fundraisers have paid for the magazine so far, but staff hope they will be able to bring in revenues from advertising as an ongoing source of funding. A sophisticated Web site provides victims with a wealth of information and steers them to the Center. The site also includes significant court decisions and other research information geared toward prosecutors and other professionals. The center director writes op eds, makes appearances on local radio, and has appeared on several national television talk shows.

The law center opens an exceptionally large number of cases each year—132 in 2007. The center attributes the relatively large volume of cases opened each year to its substantial outreach efforts and to the name recognition of its director, who became a well-known figure in the state

as a result of his work on the Crime Victim Compensation Board. The center has also garnered a good deal of media coverage, with exposure in both local media (e.g., *New Jersey Law Journal*, *Star Ledger*) and national media (e.g., *Dateline*, *Geraldo*). Another reason cited for the large caseload was that, unlike some of the other NCVLI clinics, law center staff do not try to attend all court hearings with clients. Rather, they typically accompany victims to court only when there is a key issue at stake (e.g., a sentencing hearing) that day.

### Training

Prosecutors in New Jersey tend to turn over quickly, with the result that there is little institutional memory for victims' rights among these offices. But, although law center staff feel that training is important, the center does not have a budget for training. Moreover, there is no other state effort to train criminal justice officials on victims' rights issues. The center director has, however, spoken at statewide prosecutors' conferences, promoting the work of the center.

### How the Clinic Affects the Exercise of Victims' Rights in Trial Courts

The center director sees the concept of a victim's attorney as a benefit to the justice process: "We are here to protect the rights of the victim, not at the expense of the rights of the defendant. If we can elevate everyone's rights in the system, it's a better system."

While center attorneys consider the impact that a case may have on how laws are applied, the law center makes representation of clients its first priority. The center director perceived this emphasis on client interests as somewhat different from the interests of the national organization. He saw NCVLI as more focused on setting precedents at the federal level, a goal that he did not see as important to rights issues in individual states.

Clinic staff say that they try to approach rights issues first through negotiation or, as they put it, by "working the system." Typically, they introduce themselves to the local players with a phone call to "set the stage." As they see it, simply filing a motion just creates barriers and does not help the victim: "If your objective is to establish a body of rights laws, then you're going to be an obstructionist." The main objective of the center is to enable the victim to be a part of the process and to be treated decently—a goal they believe is not incompatible with an effective prosecution or defense. But, when filing motions and litigation are necessary, clinic attorneys aim to "blow the defense out of the water" with their briefs. Says the director, "you have to be the authority."

According to the sample of 50 recent cases provided by the clinic, the most common types of crimes with which clinic attorneys became involved were child abuse, sexual assault, and assault and/or robbery cases, each accounting for more than one in four of the cases opened by the clinic (see Table A.7). Homicides also comprised a significant proportion of the clinic's caseload.

According to center staff and victim advocates, the most common types of issues they encounter involve confidentiality, an issue of special concern to the director: "Criminal trials are all about beating up the victim, delving into personal things—fishing expeditions looking for all kinds of records to intimidate the victim." Other common issues, according to center attorneys, include victim impact statements, the right to be informed of plea offers, speedy trial concerns, and the right to be treated with respect.

Examination of the 50-case sample indicated that the right to privacy was one of the top rights issues dealt with by the clinic, accounting for about one-fifth of its work (see Table A.8). Even more common, however, was the right to be present and/or heard, accounting for two in

**Table A.7**  
**Types of Crimes in Clinic Cases**

Crime	Percentage of All Cases
Child abuse	29
Sexual assault	27
Assault/robbery	24
Homicide/manslaughter	14
DV/stalking/harassment	5
Other <sup>a</sup>	2
Total	100 (n = 49)

<sup>a</sup> Includes voyeurism, fraud, compensation claims, and parole violations.

**Table A.8**  
**Victims' Rights Issues in Clinic Cases**

Issue	Percentage of All Cases
Right to be present/heard	38
Right to privacy	20
Charging decision	12
Plea agreement	8
Respectful treatment	6
Speedy trial	2
Restitution	2
General/other issue <sup>a</sup>	12
Total	100 (n = 39)

<sup>a</sup> Includes legal representation, assistance with compensation claims, and referral for services.

five clinic cases. Encouraging the police or prosecutors to bring charges made up about one-tenth of the clinic's work.

Victim advocates from the Hudson County prosecutor's office—one of New Jersey's most urban jurisdictions—suggested that the failure to afford victims their rights under state law is widespread, often the fault of prosecutors. They believed that victims' rights are violated “on a daily basis” without the victims being aware that this was going on. The center director was not sure what could be done to address that, noting that, in New Jersey, “it took a bunch of white middle class and upper middle class people to become crime victims to get victims their rights.” This raises the question of whether victims who find their way to the NCVLI clinics represent mainly the most aggressive and articulate victims, while victims less knowledgeable, less educated, and/or less aggressive have their rights violated but never ask for or receive help.

One case that center staff thought exemplified their work involved a woman who was beaten with a baseball bat and then had her throat slit. The prosecutor wanted to take a plea to

a reduced charge because he thought she was “too fat” to put on the stand. The county victim advocate called the center—a bold move, since the advocates are based in prosecutors’ offices. Center attorneys were successful in efforts to have the assistant district attorney removed and obtaining a plea to attempted murder with a significant prison sentence.

Another case helped to define the meaning of victims’ right to make an impact statement. New Jersey allows defendants to waive their right to be present at sentencing. The center argued in a multiple-homicide case that the defendant’s intention to exercise this option obviated the victim’s statement of impact at sentencing. The trial judge concurred, and the defendant was ordered to sit through the impact statements of 40 family members of his victims.

Center attorneys also established the right of family members to hold up pictures of the victim in the courtroom and to include DVDs and pictures as part of a statement of impact.

One issue that is of current concern to center attorneys is erosion of the state’s rape shield law by judges concerned about defendants’ rights. If current trends continue, the center director fears that rape prosecutions will become rare. Date rape cases are especially difficult, and the center is considering bringing suit against a prosecutor who refused to take such a case. Center attorneys reason that, whether or not they win, the action will embarrass the prosecutor and make prosecutors more circumspect about refusing to prosecute rape cases.

### **Appellate Work**

Although the clinic has not been involved in any changes to court rules, it has been active on the appellate level. In *State v. Means*, 191 N.J. 610 (2007), the supreme court considered the question of whether a trial court could set aside a plea agreement solely because the prosecutor failed to notify the victims before entering a plea agreement. A girl who had been abducted and molested found that the trial court had taken a plea without notifying her parent as required under the state’s victims’ rights laws. The law center filed a motion to vacate the plea, and the motion was granted. The defense appealed, and the law center filed an amicus brief in the resulting state supreme court case opposing the defendant’s request to have the original plea bargain enforced. The supreme court ruled that such a failure was insufficient grounds to vacate a plea agreement. In its ruling, the supreme court explained that, while a trial court should consider the victims’ concerns, it also may not impinge on a defendant’s constitutional rights. The ruling noted that the trial court had vacated the guilty plea without having information to fairly evaluate the victim’s concerns, because it did not know whether the victims had an objection to the plea agreement. Instead, the ruling continued, the trial court could have heard from the victims at sentencing, at which time it would have been in a better position to decide whether to continue to accept the terms of the plea agreement or to reject the plea. The matter was remanded to the trial court.

*State v. Gilchrist*, 381 N.J. Super. 138 (2005), pitted a rape victim’s right to privacy against the defendant’s right to confront his accuser. During his prosecution for aggravated sexual assault, kidnapping, burglary, and criminal restraint, the defendant filed a discovery motion requesting that a photograph of the victim be taken and provided to him. The trial court granted the request over the objections of the prosecutor. The appellate court reversed, stating that any possible benefits to the defendant from a court-ordered photograph were speculative, and were outweighed by the victim’s “right to privacy; her right to be treated with fairness, compassion, and respect; her right to be free from intimidation; and the need to encourage crime victims to cooperate and participate in the criminal justice system.”

The law center got involved when the defense appealed the case to the state supreme court. This was a case about which the center director felt passionately: “Confidentiality cases are really important to me: District trial courts are all about beating up the victim.” The ruling went in favor of the victim, significant because it pitted the right to privacy against the right to discovery.

In a child abuse case, the defense applied for postconviction relief asking for a new trial on the grounds that the trial court judge should not have allowed a family member to include a video as part of an impact statement. The prosecutor filed a brief supporting the conviction and the law center filed an amicus brief in support of the prosecution’s position. The center’s position as a friend of the court allowed it greater latitude, and it submitted an affidavit of the history in New Jersey of including videos as part of impact statements.

The biggest issue outstanding is whether victims have standing in court. Victims do not explicitly have standing under New Jersey’s current bill of victims’ rights. Although local trial courts have established standing, the appellate level is not bound by this. Therefore, the law center has had to approach this issue delicately. To circumvent this problem, the law center normally will request that the prosecutor file an appeal. In one case in which the center represented families of three murdered children, the families were not allowed in for a waiver hearing. The judge refused the center attorney’s request to discuss the issue, and the attorney did not press it, for fear of losing on the standing issue.

### **Legislative Work**

In spite of what the center director termed a “fractionalized advocacy community,” he and other rights advocates have been very successful through the years in promoting victims’ rights through legislation. He became involved in a case in the mid-1990s in which victims in a child sexual abuse case were billed for their father’s civil commitment as a sexual predator. After failing in a bid to get the state to drop the fees, he instigated action to get a change in the statutes that ensured that victims could not be required to pay for sanctions imposed on offenders.

The center director helped change state law to allow the state medical examiner to overrule county coroners after an accidental-death ruling by a local coroner prevented investigation of what the center director believed was clearly a homicide. He also was instrumental in abolishing the seven-year statute of limitations on rapes and the statute of limitations on civil wrongful death suits when there has been a murder conviction.<sup>1</sup>

According to the center’s director, today the state’s comprehensive set of statutes and precedents together act to protect the rights of victims. Standing is the last major legislative issue remaining and is included in a rewritten bill of rights currently before the state assembly and senate. Additionally, the bill would provide that victims should be free of harassment or abuse by anyone involved in the criminal justice process, including anyone acting in support or on behalf of the defendant; would ensure that victims are notified if a scheduled court proceeding has been adjourned or cancelled; would require that the victim’s impact statement be considered with regard to whether a prosecutor should accept a negotiated plea or a request by the defendant to enter a pretrial intervention program; would permit homicide victims to wear a button with a picture of the victim during court proceedings; would permit a homicide sur-

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<sup>1</sup> The center director does not lobby with federal funds. Any legislative advocacy work is done as an individual on his own time or under nonfederal funds.

vivor to display a photograph, computer-generated presentation, or video presentation of the victim in court.

### **Role of NCVLI in Supporting Clinic Activities**

Law Center staff noted that NCVLI has played an important role in providing effective research on rights cases that have been decided outside of New Jersey. They said they regularly exchanged emails with staff of NCVLI and other clinics. They also found the annual conference useful and productive and would like to see semiannual gatherings of all the clinics. But they were less enthusiastic about conference calls that NCVLI sets up with the clinics. The center director believed that younger clinics might benefit more from NCVLI's technical assistance than those clinics led by staff with extensive victims' rights resumes. He also felt that it would be a good idea for staff of newer clinics to make site visits to those that had been doing the work a long time as a way to learn from their experience.

The center director saw differences between the orientation of the individual clinics and the orientation of NCVLI. The clinics, he thought, were necessarily focused on advocating for their clients, whether that involved negotiating a satisfactory resolution to a rights issue or filing an appellate brief. He saw NCVLI as more focused on establishing precedent, especially at the federal level. He did acknowledge, though, that their orientations had grown closer over time.

### **Victim Perspective**

We held a focus group with six victims (two couples and two single victims) who had been clients of the center. One victim traveled more than two hours to participate.

One couple had two daughters who had been molested by an uncle. The prosecutor recommended that the couple get in touch with the law center. Despite threats to kill the parents, the uncle was released on bail. The center attorney prevailed upon the prosecutor to get the uncle's guns taken away as a condition of bail. The Center attorney also persuaded the prosecutor to convince the judge to allow the child victims to testify via closed-circuit television instead of in open court. He also helped them to prepare their testimony and get state compensation funds to pay for therapy for the mother and daughters. In the end, the defendant was convicted and sentenced to 30 years in prison. The couple were very grateful for the help they received: "Without [the center director] we wouldn't have known [what our rights were]. He said we could call him day or night, and there were times that we did call late at night."

Another couple had their only two children killed by a drunk driver whose license had been revoked. Although the couple had a hard time with the local coroner's office, the driver was eventually arrested and charged. However, months went by while the parents waited for the case to be presented to a grand jury and worried that the defendant would abscond. (The center director speculated that the prosecutor was hesitant to present the case because it might highlight poor judgment of police officers who had stopped the defendant earlier in the evening for an assault on the freeway and let him go.) Frustrated with an unresponsive prosecutor (and receiving no help from the office's victim advocates), the parents called the law center on advice of an acquaintance. The center director attended meetings between the parents and the prosecutor and complained to the district attorney in writing, copying the state attorney general. Eventually, the family received better treatment from the prosecutor, and the case was presented to a grand jury nine months after the incident. The parents felt some satisfaction when the defendant received 125 years in a plea agreement and the attorney general found for

the parents in a formal complaint filed by the law center. “[The director] is a bulldog. . . . We know he is always there for us.”

The mother of a child found beaten to death in school was prevented by the judge from wearing a picture of her daughter in the courtroom. The law center helped the mother file an urgent appeal petitioning the court to allow the picture, but the appeals court would not hear it. The mother then worked with the center and the speaker of the state assembly to pass an amendment to the state victim bill of rights that explicitly allows family members of victims to wear photo buttons in the courtroom. (The legislation is still pending, as discussed above.)

Finally, in a federal case, a town planning-board attorney pled guilty to accepting a \$26,000 bribe in exchange for favorable land deals for a local builder but received a lenient sentence in return for cooperating with the U.S. attorney. The board of trustees of the town that employed the attorney contacted the law center for help getting restitution for the financial burden caused by the attorney’s illegal actions, including the town’s legal fees and fees it had paid to the attorney for what turned out to be dishonest services. The center director filed a motion under the federal Crime Victims’ Rights Act asserting that the town was a victim in this case and was entitled to restitution. The case is significant because the U.S. Attorneys’ Office, after the clinic’s involvement, now recognizes the town as a victim in what it had previously considered a victimless crime.

Focus group participants were asked for their thoughts about how the criminal justice system should be different. Victims had no shortage of ideas. The first thought expressed was better communication, starting with notification to victims of their rights and following up with a reminder in a week or two. Another idea was for prosecutors to be accountable to the attorney general for their treatment of victims. Finally, concern was expressed that victims who are afraid to go home have safe places to go while their case is being tried.

### **Opinions of Criminal Justice Officials About the Law Center**

We spoke with eight members of the New Jersey criminal justice system to gather outside opinions about the law center and its work. Those completing interviews included a superior court trial judge, one local prosecutor, two assistant prosecutors, and four prosecutor-based victim advocates. The interview respondents represented six different New Jersey counties. The persons with whom we spoke were all nominated by the director of the law center in response to our request to interview people in the criminal justice system familiar with the work of the center, regardless of their opinion of the center.

From the interviews, it became clear that the New Jersey Crime Victim Law Center is synonymous with the name of its founder and director. Interviewees told story after story about the director’s interventions in particular cases and about the personal characteristics that make him well-suited to the work of advocating for victims as an attorney. He was described as passionate and empathetic toward victims, with the ability to negotiate and to help prosecutors and victims understand each other when there are disagreements. One advocate said, “He can be the voice of reason with unreasonable people.” Several mentioned his immediate response to any call for help and his willingness to work with and support any victim, regardless of victim characteristics or the type of case. They also expressed amazement at his ability to cover the entire state and to never turn down a call for help.

A few interviewees commented that, at times, there had been resistance on the part of prosecutors to the law center’s becoming involved in a case but stated that, once the director came in and made it clear that he was not looking for a fight but was looking only to partner

with prosecutors in support of the victim, the resistance faded away and the cases were all resolved positively.

All of the prosecutors interviewed stated that they had called upon the law center for help in certain cases and appreciated what its involvement added to their arguments. The prosecutors and the judge all reported that briefs and arguments advanced by the law center complemented what the prosecutors did and made for stronger cases. Every specific legal issue mentioned in the interviews on which the law center worked was resolved in favor of the victims.

Many of the interviewees reported learning from the law center director's presentations at trainings or events, as well as from the magazine the law center publishes and the email updates on victims' rights that are sent out several times per week. Both prosecutors and victim advocates reported being refreshed and rejuvenated by presentations given by the center's director, which "remind you why you're in this business—for the victims."

All interview respondents felt that the law center, or more specifically its director, had had a significant impact on victims' ability to exercise their rights in New Jersey. They cited both the impact on specific victims with whom they and the law center had worked and the state-wide impact of the director's involvement in advancing victims' rights legislation, dating from the New Jersey Crime Victims' Rights Constitutional Amendment in 1991 through to current efforts to expand certain rights by amending the victims' bill of rights in the legislature.

## Data Availability

The clinic does not keep track of work done for victims outside of open cases. In New Jersey, the PROMISGAVEL and VINE systems generate notifications of court dates and release of defendants from custody but do not include a record of whether victims are notified of rights. Another system, VATS, contains information on services provided by victim advocates. In Hudson County, and likely others, records are kept of impact statements and victim appearance at hearings.

## New Mexico Crime Victims' Rights Legal Assistance Project

### Legal Context

Compared with that in other states, the legal context for victims' rights in New Mexico is mixed. In 1987, the legislature passed a statute providing certain victims' rights. Included in the statute was a disclaimer indicating that failure to provide victims these rights did *not* create any cause of action against any state actor in the criminal justice system. It also did not give standing to any offender if victims' rights were not afforded the victims. This disclaimer appeared to prohibit any remedy to victims whose rights were violated.

The New Mexico victims' rights constitutional amendment was enacted in 1992. However, the constitutional amendment required enabling legislation to go into effect. In 1994, the legislature passed the necessary enabling legislation. This legislation included the constitutional language denying standing to an accused to raise a violation of a victims' rights, and it still contained the disclaimer stating that the amendment created no "cause of action" for any other person. The legislature did not define the term "cause of action," and whether there was a distinction between the two clauses or they were synonymous was unclear. Neither the

constitutional amendment nor the enabling statute contained mechanisms for remedy should their contained provisions be violated, and popular consensus in the state was that the amendment and statute were both exhortations rather than enforceable provision. However, despite the absence of the creation of a formal cause of action to enforce victims' rights, the legislation prompted most district attorneys to provide information to victims regarding the criminal justice process and their rights, and they hired additional victim advocates in their offices.

In 2006, the New Mexico Supreme Court held in an unpublished order that victims had standing to enforce their rights in lower and appellate courts in *Nasci v. Pope*, No. 29878 (N.M. 2006). Although the issued order was terse, based on the pleadings of the victim, defendant, and amicus from the New Mexico criminal defense attorney association, the "no cause of action" language in the 1994 enabling legislation was determined to refer only to *monetary* causes of action, because action by the legislature to refuse victim standing would exceed its authority under the separation of powers under the New Mexico constitution—as standing to assert constitutional rights is a matter for the courts to determine rather than the legislature. The result was that victims have standing to assert a claim for equitable rather than economic remedies under the Victim's Rights Constitutional Amendment. The court also held that victims had standing in this case. Ordinarily, unpublished orders have no precedential value in other cases. However, because the New Mexico Supreme Court considered the issue en banc (a highly unusual occurrence) and was unanimous in its decision, the clinic felt that this was a monumental step, and it has actively and successfully made use of this order to avoid being denied standing in numerous trial courts. To this day, no published appellate opinion exists regarding the constitutional amendment and statute protecting victims' rights.

As in many states, the victims' rights statute and constitutional amendment do not apply to all crimes or to all criminal justice actors. In the statute and the constitutional amendment only certain crimes are specifically enumerated. Notably, attempted serious violent offenses or those that are not completed—including murder or rape—are not enumerated. Technically, victims' rights do not extend to victims of crimes not explicitly listed in the statute or amendment. In practice, however, it depends on the discretion of the relevant criminal justice actor. The department of corrections, for example, will not notify victims of the pending release of an offender unless the crime of conviction is one of the enumerated offenses. If, in the plea negotiation process, the crime of conviction is pled down to one that is not listed in the statute or amendment, the rights possessed by the victim can be diminished. Similarly, county jails are not covered by the victims' rights statute or amendment and often do not notify victims of the release of offenders.

### **Project History**

The New Mexico Victims' Rights Project ("the clinic") is a project of the New Mexico DWI Resource Center, a nonprofit organization established in 1993 to reduce the incidence of impaired driving in New Mexico. Prior to receiving the NCVLI demonstration project, the resource center had received a grant from the Bureau of Justice Assistance (BJA) that included education about and enforcement of victims' rights. There was increasing concern about the consistent mistreatment of all crime victims, including the victims of drunk driving. Under this grant, the center created educational videos to educate various professionals in the criminal justice system on victims' rights in New Mexico, and a pro bono attorney entered the first appearance as a victim's attorney in New Mexico criminal court.

The work on the BJA project led to the realization that the education and outreach to the criminal justice system and the limited pro bono attorney work it was doing was not sufficient to effect change; there needed to be more litigation of victims' rights in court. As the BJA grant came to conclusion, the center applied to NCVLI to be one of the demonstration legal clinics. The NCVLI-funded clinic program officially began on April 1, 2004. Operating statewide, the clinic has represented clients in all but three of New Mexico's 13 judicial districts.

Initially, the clinic took more of an informal approach, by having conversations with judges and prosecutors. This approach was necessary because there was uncertainty as to whether the constitution and statute provided separate standing for the clinic attorney to file pleadings. (At the same time, the clinic was looking for opportunities to clarify standing through litigation.) Over time, the clinic undertook less informal advocacy and more litigation. For two years, the clinic attorney frequently entered or attempted to enter an appearance in cases and sought to aggressively litigate on behalf of victims. According to the clinic, it was met with skepticism and opposition from prosecutors and judges. Standing was frequently either ignored or specifically denied. The clinic did have some success filing amicus briefs in support of established actors in the system on behalf of victims. Eventually, in *Nasci v. Pope*, the New Mexico Supreme Court recognized the clinic's standing to represent a victim in a nonprecedential order. The clinic has been able to use this order to gain more de facto recognition in courtrooms across the state.

In 2004, Governor Bill Richardson created the Governor's Office of Victim Advocacy hiring a director and an assistant. At first, the clinic staff was hopeful that this would facilitate the recognition and highlight the importance of victims' rights. The hope was that the coexistence of the clinic and a person operating out of the governor's office would make an effective team to accomplish both compliance and, when necessary, litigation. However, the clinic staff soon grew disenchanted with the governor's representative. The victims' rights attorney operating from the governor's office was unable to litigate cases, and the clinic staff described her as just performing "glorified constituent services." Nevertheless, when a nonenumerated victim, or victim who had not yet had rights attach, contacted the clinic, the clinic refers these victims to the governor's office to use political influence where no legal options existed.

Now that the clinic has established itself, especially through *Pope v. Nasci*, the staff hopes that litigation over standing will be less necessary and that the clinic can focus on litigation that supports specific victims' interests, such as notification, conferring, presence, and making impact statements. The clinic's current victim advocate speaks Spanish, which will help the clinic to expand its services to include more Spanish-speaking crime victims.

### **Business Model**

The clinic is under the umbrella of the DWI Resource Center and, as such, shares office space with the center with the executive director overseeing both the center and the clinic. This allows the clinic to reduce overhead cost.

In an attempt to secure support of prosecutors who have been skeptical of the clinic's role, the clinic attempts to enforce victims' rights without undermining the prosecutor in the case. It will not criticize a plea agreement in front of its client, for example, no matter how unjust it appears. It will assert the rights of the victim within the framework of limited rights. While this sometimes involves formally entering an appearance, it also often involves emails, phone calls and other efforts in order to get the legal system to recognize the victim's rights. As one clinic staff member put it, "we do a brisk business in shame."

It also puts victims in contact with whatever additional service providers they might need and has worked to develop the appropriate networks to perform this function.

### **Staffing**

The clinic staff includes the executive director, a staff attorney, a staff victim advocate (not NCVLI funded) who assists with Spanish-speaking clients, and an office manager/bookkeeper.

One of the clinic's staff attorneys originally worked for the clinic on a pro bono basis. Otherwise, the clinic has made very limited use of pro bono attorneys. Prior to the New Mexico Supreme Court recognizing standing, the clinic did not feel that it was wise to let other attorneys control the litigation. Even now that the New Mexico Supreme Court has recognized victim standing, the clinic staff is concerned that other attorneys will not adequately protect the victims. The clinic's cardinal rule is, "First, do no further harm (to victims)," and it felt that involving pro bono attorneys might jeopardize that principle. The specific concern mentioned is that the outside attorney may put his or her own ego ahead of the needs of the victim and that this will "re-victimize the victim in the hope of saving them." The staff also found that, with some pro bono attorneys, paying clients had priority over the nonpaying clients. In regard to pro bono help, the clinic staff suggested, "You get what you pay for." The overall sense was that in New Mexico, the use of pro bono attorneys will come later, after the clinic has established more recognition and case law on victims' rights as enforceable.

One law firm in southeastern New Mexico has expressed some interest in taking cases; however, that has not yet happened.

According to the clinic, the UNM Law School is very defense-focused and is therefore not receptive to the idea of a clinic on victims' rights issues. The clinic has not accepted this disinterest as final, however, and is currently strategizing about interesting the school into including a victims' rights component in its curriculum.

### **How the Clinic Gets Its Clients**

The clinic advertises its existence through a Web site, ongoing training sessions around the state, speaking events, litigation, and contacts with local media. Most of the clients were referred through law enforcement agencies and the victims' advocates in the prosecutor's offices (see Table A.9). It has also produced crime victim resource cards for distribution to victims by law enforcement.

The clinic is regularly contacted by the media for comment on impaired driving and victims' rights issues. The director has established herself and the center's credibility on the issues of impaired driving and victims' rights, and the media find it useful when covering a story involving these issues. In the few years of its existence, the clinic has received additional publicity during victims' rights week in New Mexico. It has been able to publish opinion pieces, letters to the editor, and feature stories and has had victims who wished to tell their stories interviewed on radio and TV.

Gradually, as the existence of the clinic has become better known, it has received more referrals from other community service providers. Currently, the staff estimate that referrals are 33 percent self-referrals (from resource cards, brochures, Web site, etc), 33 percent from DA's advocates, and 33 percent from community advocates.

An analysis of cases opened over a one-year period from July 2007 to June 2008 indicates that referral sources vary widely and generally confirms these estimates.

**Table A.9**  
**Sources of Referrals**

Source of Referral	Percentage
Social service agency	25
Web site	18
Unknown <sup>a</sup>	18
Prosecutor	5
Prosecutor's victim advocate	8
Police department	6
Friend/acquaintance of victim	7
Judge or other court official	2
Public defender's office	1
Brochure	2
Other	8

<sup>a</sup> According to clinic staff, DA's victim advocates often make "confidential" referrals because they fear adverse reaction from their employers. This might explain the relatively high number of unknown referral sources.

The clinic staff estimated that they receive approximately 100–150 calls a year. Of the 150 victims, the clinic estimated that approximately one-third retain the clinic attorney and sign a "hire" letter. A review of the clinic's case files indicate that, from July 2007 to June 2008, the clinic opened 83 case files, with 19 of the victims signing a hire letter.

Because of resource constraints, they have been able to enter formal appearances less frequently. In cases in which they are unable to formally enter an appearance they sometimes provide sample pleadings to prosecutors and provide pro se forms for victims to use that explicitly include their authorship on the bottom.

From July 2007 through June 2008, the clinic formally represented 19 clients. Eleven percent of these were domestic violence cases, 21 percent were homicide cases, and 68 percent of these were sexual assault cases. In 79 percent of these cases, the clinic attorney formally entered an appearance.

In some instances, the clinic opens case files but does not formally represent the client and no formal "hire" letter is signed. From July 2007 through June 2008, the clinic aided 63 additional clients in this capacity. These ranged widely by type of case: Ten percent were battery cases of some kind, 35 percent were domestic violence cases, 14 percent were homicide cases, and 22 percent were sexual assault cases.

According to the clinic, the source for clients has shifted over time. In the first year of the clinic's existence, all its cases were self-referrals. In many cases, there was nothing that the clinic could do for the victims because these were "book-end cases"—either charges had not been filed or sentencing had already taken place. Initially, it got no referrals from community organizations because of the historical compartmentalization of victim services in New Mexico. Different victim service organizations did not communicate well with each other. Another significant issue with referral organizations was a lack of familiarity with the criminal justice system, as many of them provide support strictly within the civil case context.

In the second year, they began to receive more referrals from victim advocates who operated in the prosecutor's offices, often without the knowledge of the prosecutor. The clinic staff call these "secret spy" referrals. The prosecutor-based victim advocates tell the victim to call the clinic and might specifically ask them not to indicate that the referral was made by the advocate. According to the clinic, this is because the prosecutor's offices believed that victim representation was unnecessary and intrusive. These victim advocate-referred cases tend to be the cases in which the clinic can do the most good because the victim advocates perform a pre-screening function—they refer only those cases in which the clinic's involvement can be useful.

The clinic has been disappointed in the few official referrals from prosecutors' offices that they have received. Clinic staff indicated that they perceived that the prosecutors were dumping "difficult" victims on them only after the victims' rights had already been violated and the cases were too far along to remedy the violation.

Clinic staff alluded to the sometimes territorial nature of victim service organizations and the way that that impeded referrals. Other community organizations also do not necessarily think of litigation or focus on the victim's rights in the criminal justice system. As one clinic staff member put it, "Most community organizations don't 'do' criminal justice." Similarly, many community-based advocates do not trust lawyers or the legal system and are reluctant to refer a client to the clinic, many from the fear of clients being revictimized. Other referrals from community-based organizations occur too late—after the victim's rights have been violated. Finally, clinic staff also alluded to myriad "political" considerations among community organizations. A recent director of the local Survivors of Homicide organization, for example, is steadfastly pro-death penalty and is suspicious of organizations that are not also. The clinic has officially adopted a neutral stance on the issue so that it can serve family members of homicide victims who hold opposing views on the death penalty issue.

Interestingly, the clinic thought that advocates for child victims are more open to victim representation—probably because children are more obviously unable to represent themselves than an ostensibly competent adult victim.

They have sought to balance outreach with the ability to provide services.

After being contacted by a victim, the clinic uses a standard intake form. Intake forms are reviewed at a staff meeting and several factors are discussed, including

- whether the crime is enumerated in the statute/amendment
- judicial district
- any research they have conducted on the case or conversations they have had with advocates
- any additional conversations with the victim
- conflicts.

Clinic staff talk with victims about what they want and give advice about possible outcomes, given the circumstances as they currently understand them. Given the opposition of some prosecutors to the clinic's involvement, clinic staff advise the client that the clinic's involvement may make their relationship with the prosecutor more difficult. According to clinic staff, in at least one case, a prosecutor deliberately "tanked" a case—prosecuted it half-heartedly—in order to punish a victim for contacting the clinic. Before they enter their appearance, they discuss the risks with the victim.

Geographically, the clinic has represented victims in many parts of New Mexico. Of the 19 cases in which hire letters were signed between July 2007 and June 2008, 31 percent (six) of them were from San Miguel County and just 15 percent (three) from Bernalillo County, the county in which Albuquerque and the clinic are located. The rest were scattered over nine other counties. Interestingly, the cases in which the victim did not sign a hire letter were slightly more focused in Albuquerque. One-fourth (26 percent or 17) of these cases were from Bernalillo County. Overall, the clinic aided clients in 19 different counties.

### **Training Criminal Justice Officials**

The clinic has undertaken some training and educational activities. Under the predecessor BJA grant, the clinic developed a training videotape for law enforcement and a training videotape for prosecutors that were distributed to all 13 judicial districts. It regularly trains prosecutors at the district attorney's fall and spring conferences and is hopeful that it will be invited again to the annual judicial conclave. The staff attorney has heard that some of the clinic's briefs on victims' rights issues are being distributed by some judges to other judges.

The clinic also trains victim advocates at the statewide victim services conference. The clinic's presence at this conference has increased over the years. Four years ago, the clinic had a booth and did a workshop. In 2007, the clinic staff attorney gave the opening and closing keynote addresses at the conference. They also do some training of SANE nurses at a public health conference, for the Albuquerque Police Department's Stalking Unit, and with the Arc, an advocacy group for people with disabilities, on victims with disabilities statewide. There has been some training in Indian Country as well at Pueblos and with the Navajo Nation. A former staff attorney is currently on the State Sentencing Commission, which she feels is an important public venue for the clinic and meets quarterly. The same former staff attorney also has taught a victims' rights class as an adjunct professor at UNM law school.

Originally, the clinic suggested creating standard operating procedures for prosecutors, and law enforcement, but it received very little interest from prosecutors' offices.

### **How the Clinic Affects the Exercise of Victims' Rights in Trial Courts**

Despite the existence of a victims' right statute and constitutional amendment, enforcing victims' rights in New Mexico has been difficult. When the clinic began, prosecutors and the attorney general were nearly unified in *opposition* to victim representation in criminal court. According to the clinic, the prosecutors felt that they represented the victims and thought that independent victim representation was unnecessary and intrusive. The clinicians described a criminal justice system in disarray with an "unholy triage" occurring in which Spanish-speaking complainants were often considered "uncooperative" and their cases ignored. Prosecutors and judges did not want their widespread violation of victims' rights observed or documented. Judges and prosecutors were also very skeptical that victims' rights were anything other than unenforceable "social policy." When the clinic attorney tried to represent victims by formally entering an appearance in court, she was repeatedly denied standing by the courts.

Clinic staff indicated that prosecutors and prosecutor-based victim advocates were reprimanded, punished, or fired for cooperating with the clinic or referring cases to them. According to the clinic, some prosecutors have threatened the victim with having the case "go away" if he or she seeks representation by the clinic. The attorney also reports that one prosecutor deliberately "threw" a case against a defendant in order to punish the victim for seeking repre-

sentation by the clinic. According to clinic staff, there were also inquiries by prosecutors about whether it was possible to eliminate the clinic's funding.

Reaction among the defense bar was mixed. Some quickly understood the idea of vindicating a client's rights and accepted the idea that victims should have independent representation. Others felt that it was like having a second prosecutor and argued that allowing victims' rights would create reversible error.

Over time, as victim representation became more common (while still very rare) and after the New Mexico Supreme Court acknowledged that victims' attorneys have standing to appear in court, the opposition to the clinic has decreased. Crimes against children acted as a bridge issue that brought the clinic some legitimacy in the eyes of the prosecutors. In those cases, the prosecutors were happy for the assistance with issues regarding defense counsel interviews and seeking psychiatric records of the victim. Sexual assault cases similarly provided an opening for the clinic. Eventually, the prosecutors also recognized their assistance in domestic violence cases. Some prosecutors accepted and filed briefs on victims' issues that were drafted by clinic staff. In general, the better, smarter prosecutors were more open to the clinic's involvement, in the opinion of the clinic staff. According to the clinic staff, the less skilled, more insecure prosecutors resent the observation and intrusion and feel that the clinic interferes with their cases. Despite this progress, the current attorney general remains opposed to victim standing. And to this day, clinic staff indicates that, even when they are formally granted standing, they are often not served with filings by either the prosecution or the defense nor notified of status conferences or hearings.

The growing acceptance of the clinic's existence has been paralleled by judges and prosecutors paying more attention to victims' rights. As a result, clinic staff believe that rights violations are less common than they were when the clinic opened.

Concretely, the most common types of victims' rights violations are the rights to be heard, receive notice, be present at hearings, restitution, and privacy. Table A.10 provides a breakdown of the issues involved in clinic cases opened from July 2007 through June 2008.

**Table A.10**  
**Victims' Rights Issue in Cases Opened by Clinic**

<b>Reason for Clinic Involvement</b>	<b>Percentage</b>
Right to privacy	6
Right to be present/heard	8
Victim sought fairness and respect	25
Right to protection	5
General question	17
Restitution	2
Right to notification	12
Failure to prosecute	14
Right to timely disposition	6
Other victim issue	4

On three occasions, the clinic achieved resentencing when the victim's rights were ignored. In each case, the judges believed that they might be creating constitutional issues if they sentenced the defendant differently, so, in each case, the sentence was identical to the original sentence.

There is some risk of unintended outcomes. In one case, an inexperienced prosecutor might have accorded too much weight to the victim's desire to take the case to trial (rather than seek a plea deal) in part because the victims' rights clinic entered an appearance. The result was a trial in a weak case and an acquittal. According to the clinic, the victim might have been better served had the prosecutor exercised discretion and proceeded with a plea.

For good or bad, judges appear more likely to impose harsher sanctions after hearing from a victim who is represented by the clinic.

Besides representing victims with respect to trial-related issues, at times the clinic has assisted victims in obtaining financial assistance from the Crime Victims Reparations Commission as well as court-ordered restitution from the offender.

There were also gatekeepers at the parole board who told victims that they were not allowed to attend parole hearings. Clinic staff threatened to litigate the issue and were able to get this policy changed without litigating. The parole board now does direct notification of victims, but only for crimes that are specifically enumerated in the New Mexico Victims' Rights Constitutional Amendment.

### **Clinic Work on the Appellate Level**

The clinic's overall appellate litigation strategy was fairly simple: (1) Enter appearances frequently with the expectation that they will often be denied, and (2) identify attractive cases to take up on appeal to the New Mexico Supreme Court on the issue of whether victims are entitled to standing in the trial court.

Because appeals from a denial of standing go directly to the New Mexico Supreme Court, the clinic has not litigated before the intermediate appellate courts in New Mexico. In addition the clinic perceives the intermediate appellate court as a comparatively unfriendly venue.

During second year of the project, they received many cases that were not well-suited to take up on appeal for a variety of reasons. They did not want to take a bad case up to the state supreme court on the standing issue because they knew that both the attorney general and the local prosecutors would oppose them.

In 2006, in one case in which the clinic had sought standing, the New Mexico Supreme Court granted oral argument on the specific issue of victim standing. After the oral argument, the court issued an unpublished order granting standing to the victim in the case before the court. Ordinarily, unpublished orders have no precedential value in other cases. However, the clinic felt that this was a monumental step, and it has actively and successfully made use of this order to receive standing in numerous trial courts.

### **Legislative Efforts**

The clinic has not been involved in legislative changes since the advent of the clinic. However, clinic staff in their own capacity have voiced opinions on laws that might have harmed the interests of victims. For example, a bill was proposed that would require every witness identification of a defendant (e.g., showups and lineups) to be videotaped. The purpose of the proposal was to enable a jury to judge the certainty of the identification and to fight against the tendency for witnesses to become more certain of their identifications over time. Clinic staff

objected to the bill because there were no provisions for destroying the videotapes, and this raised concerns about victim privacy. The bill was ultimately defeated.

There have been some significant statutory changes regarding victims' rights in recent years. Arguably, the two most important changes occurred in 2005, one year after the clinic received its first funding.

In 2005, New Mexico amended its law to provide a form of victims' rights enforcement at court proceedings, by enacting procedures to prevent the violation of a victim's right to be heard. The amended law requires courts at any scheduled court proceeding to inquire on the record whether a victim is present for the purpose of making an oral statement or submitting a written statement respecting the victim's rights. If the victim is not present, the court shall inquire on the record whether an attempt has been made to notify the victim of the proceeding. If the prosecutor cannot verify that an attempt has been made, the court must reschedule the hearing and notify the victim or continue with the hearing but reserve ruling until the victim has been notified and given an opportunity to make a statement. This statute does not specify to which proceedings the law applies, but the title of the section is "Crime victim presence at court proceedings; plea agreement notification," and the language tracks other states' laws regarding the rights of a victim at the plea agreement stage. According to the clinic, this statute is routinely ignored.

Another change in 2005 eliminated the requirement that the victim request that the prosecutor notify the victim of scheduled court proceedings.

### **Changes to Court Rules**

The clinic has tried to change the court rules to reflect the New Mexico victim's rights constitutional amendment and statutes, but these efforts have been unsuccessful, in part because the clinic is not permitted to lobby with NCVLI grant money. Clinic staff participates in the Victims' Rights Alliance and has voiced its opinion about the need for appropriate rule changes in that capacity.

### **Role of NCVLI in Supporting Clinic Activities**

The National Crime Victim Law Institute (NCVLI) has been very helpful in providing technical assistance and training to the clinic. NCVLI helped edit nearly every substantive brief filed by the clinic. It also helped tip off the clinic to various issues, such as referring to the victim's address at sentencing as allocution rather than testimony to avoid defense counsel seeking to cross-examine the victim. The clinic believes that NCVLI has helped it avoid mistakes that were made by other programs. NCVLI has been helpful in making it easier for the clinic to avoid "reinventing the wheel."

The clinic believed that NCVLI's involvement as amicus provides additional credibility to the clinic's positions. For example, NCVLI filed an amicus brief in the *Nasci v. Pope* case, which recognized victim standing.

The annual national conference organized by NCVLI has been also very useful in providing general moral support, camaraderie in a sometimes traumatic job, and sense of shared purpose. Clinic staff indicated that it was difficult to actually learn from different jurisdictions because each jurisdiction has fairly unique issues and problems. Despite that, it has been "priceless to be with other people going through the same thing. It confirms you are not nuts, and it's not as bad as you think."

The clinic also stressed the value of the federal funding in immunizing the clinic from local politics and the pressures that would have been brought to bear to rescind the funding had it come from the state.

### **Opinions of Criminal Justice Officials About the Clinic**

We conducted interviews with eight participants in the New Mexico criminal justice system to learn of the clinic's reputation and get outside opinions about the clinic's work. We interviewed the former director of the New Mexico Governor's Office of the Victim Advocacy, three victim advocates, one trial judge, one police officer, and two district attorneys from around New Mexico. All of the people whom we interviewed were suggested by the director of the clinic as being familiar with the work of the clinic.

Respondents were generally enthusiastic about the work accomplished by the clinic. They generally credited the clinic with raising the profile of victims' rights throughout New Mexico.

Respondents emphasized the clinic's victim advocacy in the courtroom. One judge described the clinic's attorney as "politely tenacious" in its advocacy for victims' rights. Prior to the formation of the clinic, prosecutors' and judges' awareness of victims' rights was more theoretical than practical. People were aware of the statute, and prosecutors' offices had hired victim advocates, but victims' rights were not always recognized by some judges and some district attorneys. Through litigation and simply existing, the clinic made participants more aware of victims' rights. While the prosecutors noted that sometimes victim representation complicated their jobs, they also credited the clinic as being useful allies when a victim-related issue arose in litigation.

A district attorney praised clinic staff for their assistance in defeating a bill mandating certain procedures for witness identification of defendants. The clinic argued that the mandated procedures would be onerous on victims, and the bill was ultimately defeated.

The police officer praised the training conducted by the clinic for victim advocates and other officers. While much of it was "preaching to the choir," he thought that learning the history of the legislation and the constitutional amendment was very useful and that it gave him a broader perspective on the role of victims' rights in the criminal justice process.

Two victim advocates interviewed believed that the clinic had had increased attentiveness of judges and prosecutors to victims' rights. Both mentioned as a milestone the New Mexico Supreme Court opinion on standing with which the clinic had been involved. The clinic, with its independence from state institutions, was seen as fulfilling a unique role in promoting victims' rights.

A few reservations about the long-term need for the clinic were expressed. One district attorney questioned whether the money that the clinic required would be better spent by expanding victim advocacy in the district attorneys' offices. He thought that this might be a more effective means of advancing victims' rights. On the other hand, he pointed out that the clinic's independent role allowed it to raise issues in the press to shame judges who did not recognize victims' rights in ways that his office could not. Other reservations expressed include the concern that, by making victims an additional party, proceedings became more logistically complex. Other prosecutors fear that additional recognition of victims' rights will interfere with the prosecutors' discretion. There was also the hope expressed that, as the recognition of victims' rights became more institutionalized, the need for a legal clinic dedicated to victims' rights enforcement would lessen.

### Victim Perspective

A victim focus group provided important insight about the victims' interaction with the clinic. The victims were recruited by clinic staff.

The father of an assault victim attended the focus group. In December 2007, four young people broke into the victim's home and committed a very serious assault, requiring a medical airlift of the victim from Santa Fe to Albuquerque. The prosecutor offered a plea agreement with one of the defendants, who was a juvenile, without conferring with the victim or his family. One of the defendants was released without any notifications to the victim, and another defendant fled the state to Arizona and little was being done to bring him to justice. The father complained about the treatment of the case to the elected district attorney and the governor. A victim advocate advised the father to call the victims' rights clinic. The father believed that the prosecutor was actually afraid of the defense attorney, who was quite well known in the area. The staff attorney at the clinic argued that the victim's rights were violated when he was not informed of the plea deal and afforded the opportunity to be conferred with. A new prosecutor was assigned to the case, which the father attributes to the work of the clinic. The father pushed very hard for the arrest and extradition of the defendant who fled to Arizona. His whereabouts were known at that time, and nothing was happening. The staff attorney was able to advocate with the marshals' service to get the defendant picked up in Arizona. The victim's father states that he and the victim "would not have gotten the respect they now have from the prosecutor without the clinic's work."

Another focus group member was the mother of a child rape victim and she reported on her experiences with the criminal justice system. Her daughter was the victim of a rape. The victim and her mother were not notified of the arrest or the subsequent release of the defendant. The victim's mother made efforts to be present at each step of the proceedings, but the prosecutor's office repeatedly failed to notify her of court proceedings. Eventually, the prosecutor's victim advocate made the referral to the clinic. The staff attorney entered her appearance on behalf of the victim. The staff attorney appealed to the supreme court after her in limine motion asserting the victim's right to be present (during trial) was denied. This case (*Nasci v. Pope*) helped establish standing for victims in New Mexico as well as the victim's constitutional right to be present during trial. The victim's mother states that, prior to the clinic's involvement, she had no idea she had rights. She was told that another victim was barred from the courtroom, and, at one point, she was told by the prosecutors they were going to offer a plea but "it doesn't matter what you think." The original prosecutor told the victim's mother that she "was not a party to the process and not entitled to file motions on their behalf." The victim states that "without the clinic attorney nothing good would have come from the case. The biggest thing to happen was the [supreme court] case for other victims."

Another victim who attended the focus group was the mother of a seven-year-old girl who was molested by a 14-year-old neighbor. The mother stated she felt that "from Day One everyone dropped the ball." For example, for the first hearing, the defendant failed to appear. This was followed by one delay after another. After six months, her daughter was showing reactions to the crime, such as no longer being able to sleep alone. The delays caused frustration for the victim and her mother. The mother tried emailing the prosecutor several times and finally found out that a plea was being offered. Three additional weeks went by with nothing happening on the case and the prosecutor reporting that he had no idea what the defendant was actually going to do. The victim's mother called the prosecutor with some frustrations about the lack of action and then proceeded to call around the state seeking help and advice.

At one point, the victim's mother was told by the prosecutor's victim advocate not to "make the judge mad." The mother felt that the "system allows complacency." Eventually, the family was referred to the victims' rights clinic by the counselor at the rape crisis program. The staff attorney filed a motion for notifications. As a result of the clinic's involvement, the mother reported that the case seemed to be moving along better now and the next court date was set for about six weeks in the future. The victim's mother expressed significant discontent with the criminal justice system: "The system abuse was worse than the original crime." She felt that "the prosecutor's victim advocate [is] just a buffer so prosecutors don't have to deal with victims directly." The victim's mother feels that the clinic has helped get the case "more under control" and believes that every prosecutor should give out the number of the clinic.

Another victim was sexually abused by a serial offender who was the brother of the victim's sister-in-law. Prior to the clinic's involvement, the victim was very frustrated because the prosecutor's office never provided any notifications of upcoming hearings or information on the status of the case. The victim did not even meet the victim advocate from the prosecutor's office until the first day of court. The victim was also very unhappy about the proposed plea agreement. The victim's clinic attorney entered her appearance in the case and helped facilitate the case moving forward and with the plea agreement to include the victim's concerns. While the victim was not satisfied with the criminal justice system, she felt that the clinic was helpful and did the best it could under the circumstances.

The last victim we heard was the mother of a five-year-old girl who was sexually assaulted by the 14-year-old son of a friend she was visiting in New Mexico. Because she waited until she returned to Arizona before reporting the crime to authorities, the New Mexico police and district attorney were unpleasant to her. They told her that nothing would happen to her case. Eventually, a new prosecutor was assigned to her case who was more professional and pursued the case more aggressively. One remaining issue was how to protect her daughter during the trial. She felt that the staff attorney was tremendously helpful in filing an 18-page motion that suggested several approaches to protecting the victim during her testimony while still accommodating the constitutional right to cross-examination.

The focus group members were uniformly supportive of the clinic. They felt that the clinic's involvement meant that good things happened in their cases and that the judge and prosecutors took them and their concerns more seriously.

### **Data Availability and Possible Impact Measures**

The clinic staff had a number of interesting suggestions for impact measures and would be eager to assist with an impact study. They suggested measuring the production of case law and the number of victims assisted. Longer-term effects of the clinic might be measured by survey. In 2003, the clinic conducted a short survey of 155 crime victims. This indicated widespread disregard for victims' rights by actors in the criminal justice system. In 2006, the governor of New Mexico created the Victims' Rights Alliance. In 2007, this alliance conducted a study into the implementation and enforcement of victims' rights in New Mexico that involved several data collection efforts. In conjunction with this study, there was a victim survey in 2007 of 240 victims conducted by the New Mexico Crime Victims Reparations Committee. This survey concluded that many crime victims' rights were violated. The alliance also conducted surveys of victim service providers, which also indicated ongoing problems in the provision of victim services. Focus groups of African American, rural, Native American, and immigrant communities were conducted. A statewide victimization survey was also conducted that con-

sisted of 4,000 telephone interviews to determine the prevalence of domestic violence and stalking in New Mexico.

Follow-up data collection efforts could be conducted to see whether the picture of victims' rights in New Mexico has changed. The clinic staff also suggested that one could also look at public health reporting of crime—if victims are generally empowered, reporting should go up.

The clinic also suggested examining the amount of time prosecutors devote to victims' rights issues. Evidently, there was recently a three-month time study of most actors in the criminal justice system (NCSC and APRI, 2007).

## **South Carolina Crime Victim Legal Network**

### **Legal Context**

South Carolina has long struggled with the implementation of victims' rights. The first broad victims' rights statute was passed in 1984, but a survey five years later found little evidence that rights were being provided (Kilpatrick and Tidwell, 1989). Only 24 percent of victims surveyed at that time said they were notified of the sentencing hearings; fewer than 9 percent of the case files contained any indication that a victim impact statement had been made. In 1993, a report was released by the South Carolina Victim Assistance Network, the South Carolina State Office of Victim Assistance, and the Crime Victims Research and Treatment Center at the Medical University of South Carolina, showing strong support for crime victims' rights in the state. That report called for a crime victims' rights amendment to the state's constitution (Kilpatrick, Best, and Falsetti, 1993).

In 1994, the state created the office of the Crime Victims Ombudsman. A victims' rights constitutional amendment and implementing legislation were adopted in 1996. Then, in 1998, there was an attempt to limit the victims' rights amendment. An amendment to the amendment was proposed to empower the legislature to redefine the concept of victim and exclude victims of certain felonies or misdemeanors from the protections of the state's Victims' Bill of Rights. Proponents of the limitation argued that it was too expensive to require criminal justice agencies to notify all crime victims who request information about the progress of the criminal case. This amendment to the amendment was opposed by a number of victims' advocacy groups and was narrowly defeated by a margin of 18,000 votes (2 percent of the votes cast).

### **Project History**

The South Carolina Victim Assistance Network (SCVAN) was founded in 1984 to operate the Statewide Advisory Group on Victim Issues, which is comprised of key stakeholders: victim advocates, law enforcement, judges, prosecutors, and state agency and nonprofit executives. Over the years since its founding, SCVAN grew and helped to develop victim assistance programs across the state and advocate for victims' rights legislation. In part due to its legislative advocacy, in 2007, SCVAN lost its state funding to operate the Statewide Advisory Group. The new advisory group, the South Carolina Crime Victims Council, is now being coordinated directly by the state Office of Victim Assistance within the governor's office. SCVAN participates in the council and continues to do legislative advocacy on its own.

SCVAN considers itself a one-stop shop for victims. Although it does not provide direct counseling services, it does provide emergency assistance and makes referrals to victim assistance programs throughout the state. SCVAN also provides training and technical assistance

to a statewide network of victim advocates and victim assistance providers across the state. In addition to the Crime Victim Legal Network—the victims’ rights legal clinic—SCVAN operates such programs as the following:

- Underserved Citizens 411 that teaches crime victims’ rights to the elderly, the disabled, and immigrants
- an emergency fund for victims that pays for essential needs while victims wait for compensation to begin
- Crime Victim Information Services System (Web site, lending library, a communications email list and a national and statewide resource directory)
- training through a partnership with Medical University of South Carolina’s National Research and Treatment Center and the State Office of Victim Assistance to produce the SC State Victim Assistance Academy
- Victims’ Rights Week Conference, an annual conference now in its 22nd year.

SCVAN has been a driving force for the expansion of services and victims’ rights in South Carolina since its inception. The SCVAN staff has actively engaged in legislative change issues over the years and has been involved in nearly every legislative change directly related to crime victims.

Because of persistent problems with victims’ rights enforcement, even after the passage of the victims’ rights constitutional amendment, SCVAN twice sought grants from the South Carolina Bar Association’s Interest on Lawyers’ Trust Accounts (IOLTA) fund to initiate a legal clinic for victims in South Carolina, in 2002 and 2003. According to the SCVAN director, those two attempts failed due to the significant size of the request, although the application process led to meetings with the South Carolina Bar Association leadership, which did express some interest in the idea. Eventually, SCVAN did win an IOLTA grant in 2007 to do victims’ rights training for hard-to-reach populations and their service providers.

After the unsuccessful attempts to secure funding from the South Carolina bar for a legal clinic for victims, the South Carolina Crime Victim Legal Network (CVLN) was finally brought to life with a three-year grant from NCVLI in 2004. Funding was \$50,000 in year one, \$100,000 in year two, and \$75,000 in year three. Current funding includes \$160,000 from OVC and has expanded the clinic’s catchment area to include federal cases in North Carolina and South Carolina.

The CVLN’s first three years represent a start-up trajectory. In year one, CVLN’s staff focused on getting the project up and running, outreach, and education. In year two, the clinic conducted a major training and education “blitz” as representation of victims began and the pro bono network of lawyers was recruited. Twenty-seven training sessions were held in the 16 judicial circuits, with multiple sessions held in larger circuits. Those trainings were targeted to prosecutors (commonly called “solicitors” in South Carolina) and victim advocates. Year three was a continuation of the legal services.

### **Business Model**

The Crime Victims Legal Network is housed within SCVAN, a statewide victim advocacy organization. According to the CVLN director, the program “looks like an independent law firm,” and all legal matters are handled by the clinic based on the legal judgment of the direc-

tor. SCVAN provides administrative support and grant management as well as some outreach efforts.

Because South Carolina laws are strict regarding the unauthorized practice of law, the director of CVLN must be an attorney. Because the executive director of SCVAN is not an attorney, the CVLN needs to be run by an attorney and stand alone from a legal decision point of view. However, being affiliated with SCVAN is also a strength. Both the CVLN and SCVAN serve victims statewide and take a holistic approach to meeting victim's needs. The relationship works well, and victims seeking help from SCVAN that have legal issues can easily be referred to CVLN. Conversely, CVLN's clients in need of additional services can easily access them through SCVAN's services and network.

The relationship between CVLN and SCVAN is a very important element of the program's success. SCVAN brings a long history and established relationships across the state in serving and helping victims and conducting outreach and educational activities. Several current members of SCVAN's board of directors—including the South Carolina Crime Victims' Ombudsman, researchers from the National Crime Victims Research and Treatment Center at the Medical University of South Carolina, and the executive director of the state's domestic violence and sexual assault coalition—provide important sources of referral to CVLN. Additionally, SCVAN has been able to engage in activities including legislative efforts that CVLN cannot include in its regular activities due to the lobbying restrictions that accompany federal funding.

### Staffing

The clinic has a full-time coordinator and a full-time director (attorney) and receives part-time support from the CEO of SCVAN.

CVLN has had four directors since its inception. CVLN claims that it has been a smooth succession from director to director and each director has brought his or her own personality to the effort. However, four directors in four years is a great deal of transition in the early stages of a project. It is impossible to gauge whether the number of changes really had no bearing on the program's development or the results would be different had there been fewer changes in leadership.

According to several sources, the CVLN directors initially took a more adversarial approach to the victims' rights work, often filing motions without first attempting to resolve victims' issues directly with the prosecutors. The current approach is more focused on meeting victims' needs through dialogue with prosecutors and other relevant parties first, withholding legal action until it becomes necessary. The clinic is trying to send a message to prosecutors and judges that their services are a resource and a tool for the criminal justice system. The philosophy of the current director is, "Do a good job on every case that comes through the door and more cases will come and change will come."

**Pro Bono Attorneys.** The CVLN is proud of its success at implementing a pro bono attorney network to take victims' rights cases. From the inception of the CVLN, pro bono attorneys were recruited to participate. The early directors of the clinic used personal contacts with lawyers across the state to develop the pro bono attorney pool. Many of the attorneys wanted to help people in the criminal justice arena either as an extension of their existing work or to keep involved in the system in other ways. In fact, at least one of the pro bono attorneys is a former prosecutor. Some of the pro bono attorneys are defense attorneys. They participate to help victims and, in some cases, may be seeking subsequent civil cases if one should emerge.

The pro bono attorneys take cases from start to finish. The original goal had been to have 32 attorneys (two in each of the 16 circuits). After implementing the project, CVLN discovered that the number needed was not that great. Currently, the CVLN has a pool of 13 pro bono attorneys. CVLN reports that the pool is of high quality and well placed geographically around the state. Pro bono attorneys have been especially helpful in working with clients in areas that are more distant from CVLN's offices.

In 2007, 18 percent of cases were assigned to pro bono attorneys. Almost all pro bono attorneys in the network have taken at least one case. As the program grows, CVLN sees the role of pro bono attorneys expanding to help manage a growing caseload. The clinic is likely to seek the help of pro bono attorneys in cases in distant counties, where it would be difficult for clinic staff to make an appearance in court and/or in cases involving relatively simple victims' rights issues (for example, the ability to offer a victim impact statement). The clinic also tends to use pro bono attorneys in cases in which there are civil legal issues that clinic staff is not allowed to address. This situation works well, since the pro bono attorneys are permitted to collect a fee for the civil legal assistance while representing the victims in their criminal cases free of charge.

One major factor in South Carolina is rule 608, which requires all lawyers in the state to take appointments or cases referred by the court (either criminal or family law cases). There is a movement now in the state to modify rule 608. The effect of the change would be to allow attorneys doing pro bono work on behalf of victims to get credit toward their rule 608 requirements. This would provide significant incentive for continued involvement of pro bono attorneys with the CVLN.

In South Carolina, third-year law students are allowed to represent clients in court. The CVLN did make one attempt to engage law students in the program with the Charleston School of Law. Because the school was new and had no third-year students and ultimately did not receive accreditation, the effort was not a success. Going forward, CVLN still might consider starting a clinical program at a law school.

### **How the Clinic Gets Its Clients**

According to clinic staff, approximately 25 percent of cases involve victims who sought help on their own through SCVAN, and the other 75 percent are referrals from victim advocates or other professionals (mostly nonprofit and law enforcement-based advocates, as well as some prosecutor-based advocates, law enforcement officers, and occasionally magistrates). Referral sources include rape crisis centers and therapists at the Medical University of South Carolina, which has a program of therapists that treat post-traumatic symptoms. When a victim advocate or other professional calls to refer a victim, the clinic asks that the referral source have the victim call directly.

A review of the 22 cases opened in 2007 indicates that 45 percent of the cases were referred by victim advocates. Eighteen percent were referred by a college advisor, and another 18 percent were referred by either a social worker or nonprofit organization. Other referral sources included a judge, a state organization, and a law enforcement agency.

The clinic gets cases from around the state. Many come from the city of Columbia, although fewer than would be expected come from the county surrounding Columbia and the state's other large population centers. Clinic staff believe that, with the exception of the city of Columbia, the larger population centers have more resources for training and more victim advocates per capita, and this leads to fewer rights violations in those areas. (The city of

Columbia is the exception: It is a high-crime urban area and has only three victim advocates, who are extremely overworked.) Of the 22 cases opened in 2007, nine were from Richland County (which includes Columbia). There were two cases each from Darlington and Lexington counties, and one each from Marion, Williamsburg, Colleton, Fairfield, Horry, Berkeley, Greenville, Greenwood, and Charleston counties.

Clinic staff noted that their caseload was on the rise. They attributed part of the reason for the increase to a new SCVAN grant for outreach to the disabled and other difficult-to-reach groups.

Other outreach efforts include

- a quarterly electronic newsletter that goes out to 250–300 people, including prosecutors, law enforcement executives, attorneys, judges, and advocates
- an email list associated with the Crime Victim Information System
- a CLE program (two hours) for prosecutors in Charleston and Spartanburg
- SCVAN is listed on the back of every incident report in the state and, by law, victims are given copies.
- training at the Law Enforcement Victim Advocate Association monthly meetings and annual conference
- presentations at the Annual Victims' Rights Week conferences and the Victim Assistance Academy
- a brochure and poster that were developed during the demonstration project.

Media efforts have been more limited. SCVAN does most of the media efforts around victims' rights in the state in a general way. CVLN did have a press conference with the U.S. Attorney when it opened the federal program. High-profile cases have gotten local and national media attention.

### **Intake**

Everyone at SCVAN answers calls from victims. SCVAN uses an intake questionnaire and an automated case tracking system. Sometimes, victims call directly, especially those seeking help through SCVAN's emergency assistance fund, and, if the victim also indicates that there are rights issues or the person taking the call hears that there are legal issues pertaining to how victims have been treated vis-a-vis their rights, they go through a more rigorous screening and investigation before full referral to the CVLN. These screenings are conducted by SCVAN staff or the clinic coordinator. Elements of the screening/investigation may include gathering copies of warrants and incident reports and other basic information—what happened, what county has jurisdiction, what they see as the problem—to establish that the victim has a claim. Contact is also made with the victim advocate and solicitor to establish other facts pertinent to the case.

If there is a rights violation, a case is opened. Cases are sometimes opened if there is the potential for a violation based on the circumstances of the case thus far. Cases are opened based on the victims' needs and not on the potential impact of the case on establishing case law.

Once the case is taken, the staff attorney handles the case from that point forward. CVLN does have a written agreement (retainer) for clients to sign. However, not all clients have been required to sign the agreement, as it is not required by South Carolina law. The clinic's goal is

to have all clients sign the agreement going forward, since it helps clarify the scope of representation CVLN can provide.

### **Training**

Since the major training initiative in year two (27 training sessions for prosecutors and advocates in the 16 judicial districts), the CVLN has conducted several trainings and participates in several regular trainings around the state. A key training and education venue for the CVLN is the Bridge the Gap Training for all lawyers recently admitted to the South Carolina bar, which gathers more than 400 new attorneys at two sessions each year. CVLN also trains all magistrates once a year and at the annual meeting of the South Carolina summary court judges.

CVLN has successfully qualified its trainings for CLE credit, which has made the training attractive to attorneys. This has been especially effective with pro bono attorneys. CVLN is currently working to get on the agenda of the annual prosecutors' conference. In the past, there was a poor relationship between the former executive director of SCVAN (the predecessor of the current CEO) and the coordinator of the prosecutors' conference; however, the current SCVAN CEO has been able to build a rapport recently and CVLN will most likely be on the agenda for next year. CVLN also has trained in individual circuits at the request of specific prosecutors.

Training has also been conducted for the domestic violence and sexual assault coalitions, and SCVAN and CVLN work closely with other nonprofits on education and training. A new effort involves working more closely with South Carolina Legal Services, which recently secured a VOCA grant to help domestic violence victims with civil legal issues. SCVAN participates in many other training events and, wherever possible, emphasizes victims' rights.

### **How the Clinic Affects the Exercise of Victims' Rights in Trial Courts**

Clinic staff claim not to have turned away any cases in which there was a need for legal representation. While not every call becomes a case, any time there is a victims' rights issue, some kind of help is provided. When the case requires an appearance in court or written documentation (such as a letter to the solicitor on the victim's behalf), a case file is opened. Whenever the clinic and the client decide that it is in the best interest of the victim to have the clinic represent him or her in court, the clinic attorney files a notice of appearance and demand for victims' rights, which alerts the court to the clinic's intention to appear on behalf of the victim for purposes of enforcing the victim's rights. The attorney will then proceed to accompany the victim to court and file appropriate motions, depending on the facts of the case. Clinic staff say that they have never been denied standing by a judge, even though standing is not explicitly granted by the constitutional amendment or other legislation or case law. It seems that judges in South Carolina have interpreted the existence of victims' rights in the state constitution as automatically granting victims (and by extension their attorneys) standing to argue for those rights in court.

Solicitor interest in victims' rights varies. Over time, as relationships have been established and the clinic's approach toward prosecutors has softened, prosecutors have become more open to the presence of victims' lawyers in court. The staff constantly reinforce that they have worked hard to develop a strong rapport with prosecutors and judges. In one case, the new "softer" approach worked to turn around a relationship with a judge who had previously been unresponsive to victims' rights issues. The judge took it upon himself to take a plea offer off the table when he found that the solicitor had not first consulted with the victim.

Table A.11 presents a breakdown of the victims' rights issues that were salient in the clinic's 2007 cases.

There are some specific recurring rights issues for which CVLN would like to establish precedential law, if it can get appropriate cases, such as

- clarifying the term “reasonable notice” (notice happens at various stages and by various elements of the system)
- ending the defense attorney practice of sending subpoenas for victim information without notifying the victim. In South Carolina, defense attorneys can send out subpoenas only for people to appear in court. However, they routinely send them out seeking documents—medical and financial records—without notifying victims. In one such case in which the clinic intervened, the judge ruled that the defense had to return the records. However, since the solicitor agreed to a plea, there was no opportunity for case law to be established on this point.

In one case, a convicted sex offender challenged his conviction on the basis of ineffectiveness of counsel in an application for postconviction relief filed in the court of common pleas. As part of this action, the defendant subpoenaed the victim to testify at the hearing on his application and sought to raise arguments relating to the victim. The defense attorney went so far as to befriend the victim in order to get information that could discredit her. CVLN filed a motion to quash the subpoena and a motion in limine seeking a court order to exclude any evidence relating to the victim's postconviction behavior, allegations of felonious conduct by the victim, or evidence relating to factual matters that were previously determined by the jury. The judge did not quash the subpoena, and the victim was called to testify. However, the judge did limit certain evidence regarding the victim's postconviction actions to an in camera inspec-

**Table A.11**  
**Victims' Rights Issue in Cases Opened by the Clinic**

Reason for Clinic Involvement	Percentage
Improper charging	23
Fairness, dignity, and respect	18
Intimidation and harm	18
Notification	14
Participation postconviction	5
Plea negotiations	5
Privacy rights	5
Restitution	5
Prompt disposition	5
Enforcement of parole conditions	5
Right to be heard	5
Participation in the system	5

tion, during which he determined that it was irrelevant. After the hearing, the defendant's application was denied. The CVLN attorney filed a grievance against the defense attorney for her aggressive and unethical behavior toward the victim.

### **Appellate Work**

CVLN has engaged in only limited appellate work, filing two amicus briefs in the time since it was established. In 2008, the clinic filed an amicus brief in a sexual abuse case. The case involved the grooming and sexual molestation of a minor. Evidence involving the grooming and molestation of a previous victim had been admitted at trial, but the appellate court had found the admission was in error. The brief, written by the clinic attorney together with two pro bono attorneys, argued in part that South Carolina's supreme court should follow the lead of its neighbors and liberally admit evidence of similar sexual crimes. The case is still pending.

SCVAN filed an amicus brief in a 2004 case on the issue of whether a court could order the mental examination of a child sexual abuse victim. This action was taken just before the clinic came into being and with the pro bono assistance of the attorney who would become the first CVLN director. In that case, a juvenile was charged with the sexual assault of a young child. The defense requested to have the victim submit to a psychological evaluation based on the revelation at trial that the victim had reported hearing voices during the time period of the assault. SCVAN argued that the court did not have authority to order such an examination of a crime victim and that ordering such an examination violated the public policy in South Carolina as expressed through the victims' bill of rights, and the Children's Code. Moreover, it argued, permitting such an examination would have a chilling effect on crime victims from coming forward. The state's supreme court, in a 3-2 decision, found that such an examination was proper. The court stated that, if "compelling need" is the standard for ordering psychological evaluations of child victims, the victim's rights would not be compromised. A strong dissent by the chief justice echoed many of the arguments made by SCVAN. *In re Michael H.*, 360 S.C. 540 (2004).

### **Legislative Work**

Until 2007, SCVAN had a legislative advocate and committees that developed agendas to be presented to legislators. Through these processes, SCVAN was involved in much of the legislative change that created a better environment for victims. Although budget cuts have forced a cutting back in this area, SCVAN remains active in advocating to increase penalties in DUI cases and in domestic violence strangulation cases.

During the time the clinic has been in operation, SCVAN has successfully pursued several changes to the statutory rights of victims. Many of these were unconnected to the work of the clinic. However, one significant case did come to the attention of SCVAN through the clinic.

The sister of a stalking victim had approached the clinic after her sister was murdered by the stalker upon his release from prison. The offender had first been transferred from a secure facility to a mental health program, where he was released. Automated notification to the victim had not been successful, and a letter was issued to notify her of the release. The letter arrived at her house the day after her murder. The clinic attorneys met with the victim's family and two civil attorneys to discuss the possibility of a civil suit. Separately, the victim's sister worked with SCVAN's legislative committee to advocate for changes to the law.

In 2005, a bill was passed to specify that victim notification of release or escape of an offender could not be limited to notification by electronic or other automated communication. In addition, the law required agencies to attempt personal notification of a victim before a bond or detention hearing, if automated notice to the victim has been unsuccessful. (The requirement regarding notification of bond or detention hearings was limited in 2006 to certain at-risk victim populations.)

The legislation also provided for victim notification in the case of the transfer or diversion of a defendant. Under the new provisions, victims must be given advance notice of any nonintradepartmental transfer of a defendant to a less secure facility or a diversionary program; in the case of an intradepartmental transfer, victims are to be notified following the transfer.

SCVAN has also advocated for other recent changes that were not related to the work of the clinic. For example, South Carolina recently clarified the duty of a summary court or solicitor's office to forward the victim's impact statement to other agencies and provided that an offender is only entitled to a copy of the victim impact statement after pleading guilty or being found guilty of an offense. SCVAN, but not the clinic, was involved in this legislation. Other recent changes revised procedures for victim statements at parole hearings, providing for closed-circuit capability and the scheduling of parole hearings for all cases related to the same victim for the same day. SCVAN advocated for these changes after working with a victim of multiple offenders who was compelled to travel to Columbia five times each year for the parole hearings of each offender. SCVAN successfully advocated for the law to schedule all offenders' parole hearings related to the same victim on a single day and to allow for the possibility of closed-circuit television testimony at parole hearings, to eliminate the need for the victim to travel to Columbia for the hearings.

In addition to the legislative changes during the clinic's existence, a recent opinion issued by the South Carolina attorney general strengthened the ability of attorneys to represent crime victims. In 2007, the clinic was involved in a criminal domestic violence case, and the victim's attorney (the clinic director at the time) was not notified of a bond hearing for the offender. After arguing with the prosecutor about the failure to give notice, the clinic director mentioned the case to SCVAN's legislative coordinator. She in turn contacted a state senator, and he requested an opinion from the attorney general regarding the prosecutor's obligation to give notice of judicial proceedings to attorneys who have filed a formal notice of appearance on behalf of a crime victim. In his opinion, the attorney general reviewed the statutory requirements regarding victim notification and the legislature's intent that victims' rights be protected to the same degree as the rights of defendants and noted that the state constitution protected victims' right to be informed. The attorney general ruled that, where a formal notice of appearance has been filed by a victim's attorney, the attorney should be provided written notice contemporaneously with the prosecution and defense of all court hearings and that, if an attorney files notice with law enforcement and prosecuting agencies that also have a responsibility to notify victims, those agencies should also attempt to send notice to the attorney as well as to the victims. S.C. Attorney General Opinion No. 07-034. This opinion was a victory for the clinic.

### **Relationship with NCVLI**

NCVLI has played a pivotal role in the creation and implementation of the CVLN. According to SCVAN's CEO, "I wouldn't have known where to begin without them."

SCVAN staff found the grant-management training provided by NCVLI to be helpful in getting them comfortable managing the grant and complying with the grant's requirements.

CVLN staff also spoke highly of the opportunities NCVLI provides for the clinics to get together and share ideas. SCVAN and CVLN staff feel that it is important to hear what others are doing, network and get ideas, and be with people who share their passion for victims' rights. They also value the research and technical assistance NCVLI provides on individual cases and the weekly telephone calls. The staff feel that, with NCVLI's help with research, the clinic does not have a need for law students.

NCVLI has provided other support as well. NCVLI staff came and attended a press conference when the federal program was launched. NCVLI's presence added legitimacy to the effort and connected the CVLN to a larger national effort. CVLN believes that it shares similar goals with NCVLI.

At first, there was some nervousness about being straightforward with NCVLI about the obstacles and problems in implementation. However, CVLN staff was thrilled when NCVLI not only showed an openness to problems but encouraged the clinic to bring them forward and understand them as part of the learning curve.

### **Lessons Learned**

CVLN and SCVAN would recommend that new programs do the following:

- Have one-on-one meetings with prosecutors, deputy prosecutors, and others.
- Try to avoid an adversarial approach whenever possible.
- Start by building relationships with prosecutors and other stakeholders.
- Make sure that attorneys handling victims' rights cases are knowledgeable about criminal law in part to help victim understand how that process works.
- Do not expect results in the first year.
- Create relationships with other legal service providers to address other victim needs.
- Conduct outreach and training in the first year.
- Take time to build up a client base.
- Do not start from scratch—partner with groups already serving victims (such as the SCVAN and CVLN relationship) to build on the victim program's relationship to the community and access to other services that victims need.

### **Opinions of Criminal Justice Officials About the CVLN**

We spoke with seven members of the South Carolina criminal justice system to gather outside opinions about the CVLN and its work. Those completing interviews included the state's Crime Victims Ombudsman, two local prosecutors, a victim advocate, an assistant attorney general, an assistant U.S. attorney, and an attorney in private practice. We reached out to three judges for interviews, but two did not respond and the third reported having no knowledge of the clinic. The persons with whom we spoke were all nominated by the staff of the CVLN in response to our request to interview people in the criminal justice system familiar with the work of the clinic, both those who were supportive and those who were not supportive of the clinic.

The professionals interviewed had mixed opinions of the CVLN and its work on behalf of victims. One prosecutor, the assistant attorney general, and the victim advocate all had high praise for the clinic and its director. The prosecutor stated, "I can only say good things about

them. They have been incredibly strong advocates and I wish we had more.” These respondents described cases in which the clinic had intervened to successfully advocate for victims, including reining in a defense attorney who was relentlessly attacking a victim in a postconviction proceeding and helping to convince a family court judge to stop ordering domestic violence victims into counseling. These respondents had also received training from the clinic staff, which they described as “great information.” One respondent said, “I can go online and look at the victims’ rights statutes, but it’s a lot easier when I can just talk to somebody who deals with them all the time.”

The other prosecutor interviewed described a case in which the clinic had intervened, and he felt that there was some role confusion between the clinic staff and his victim advocates, particularly with regard to who should be helping the victim draft and deliver the victim impact statement at sentencing (something customarily done by the advocates, according to this prosecutor). The prosecutor said that the clinic staff and the victim advocate “were stepping on each other’s toes.” He said he did not personally have a problem with the clinic staff and felt that part of the problem may be that it is a new effort and they are “having to figure out exactly how to do what they do and ensure their clients are represented but not be too pushy on us . . . .”

Perhaps not surprisingly, because the clinic is only beginning to take federal cases, the assistant U.S. attorney was unsure exactly what the clinic does and how it could be useful, although she had attended a presentation by clinic staff. As the clinic is just beginning to get into federal work, professionals in that system in South Carolina likely have not yet had much experience with victim attorneys. The AUSA’s impression from the brief presentation she had seen was that the clinic existed to “assist victims that aren’t satisfied with us,” and she went on to say that she hoped her victims never had that need.

The ombudsman described a somewhat difficult working relationship with the clinic, despite efforts on her part to constructively work on the ombudsman-clinic relationship. In general, there seemed to be some role confusion regarding what types of cases the clinic should take and refer and what the ombudsman’s role should be in investigating complaints versus making referrals to the clinic. The ombudsman is legislatively required to receive and review complaints from crime victims against elements of the criminal justice system, juvenile justice system, or victim assistance programs, according to the Victim Bill of Rights. The ombudsman and SCVAN’s CEO and director held meetings to discuss their working relationship. Although these meetings were constructive, the ombudsman did not feel that there had been great progress toward implementing the processes and procedures discussed in the meetings. The ombudsman is a board member of SCVAN and a supporter of the clinic and feels that it is good for crime victims to have legal representation. However, she said that she does not want to disregard the mandated legislative duties of her office by referring complaints to the clinic rather than investigating them herself as she is required by law to do. She expressed some sadness that the two agencies had not been able to come to a good resolution yet about how to work together without the duplication of services to crime victims.

Finally, a private attorney who had done some pro bono work for the clinic was interviewed. This attorney reported a very positive experience volunteering to help draft a brief for the state supreme court regarding a victim-related evidentiary issue. He stated that he had learned a great deal about victims’ rights from the clinic director through the process and would be happy to provide pro bono help on other victims’ rights cases.

Interview respondents were unsure of the clinic's impact on victims' ability to exercise their rights in South Carolina; however, this varied by jurisdiction, with those having had a case with the clinic describing its impact as "huge" and "helpful." A few interviewees thought that their own jurisdiction was strong in affording victims their rights and, therefore, little intervention from the clinic was needed. All of the interviewees allowed that, in certain cases, legal intervention on behalf of victims was necessary and a good option to have available for victims.

### **Victims' Perspectives**

Five victims of four crimes (including one victim couple) attended the focus group. One participant was a victim of burglary by a former boyfriend, the couple was a victim of video voyeurism, and two were parents of murdered children. Overall, the victims felt that CVLN and SCVAN had provided needed and meaningful assistance. Victims were not always clear on what actual steps (such as filing motions) CVLN had taken for them or exactly which of their rights had been violated. They did seem to feel that CVLN's work sped up the process and, in many cases, made the system more responsive to their needs. Victims had varying degrees of satisfaction with the criminal justice process and the roles of law enforcement and the prosecutors.

The first victim was a victim of domestic violence. In the fall of 2005, the perpetrator, the father of one of the victim's children, broke into the victim's home twice in one night. He was carrying a gun and was intoxicated at the time. A neighbor saw the perpetrator in the victim's yard with the gun and called police. After his arrest, the perpetrator confessed. The case languished in the criminal justice system. Months went by without contact from the solicitor's office. The case was moved to another county because of the small close-knit nature of the rural community.

The perpetrator was the member of a wealthy family in the community and the victim was being pressured by the family to make a deal. The solicitor's office was uncommunicative, and the delays were so long that even the judge was perplexed about why the prosecutor had drawn out the case so long. The victim had been referred to CVLN by a friend who was aware of their services. The CVLN attorney wrote to the solicitor and the judge and got a trial date set. Finally, the trial was held in March 2008. The CVLN attorney went to court with the victim and spoke on the victim's behalf before a plea was entered. The perpetrator pled guilty to a reduced charge of second-degree burglary. Although the judge was originally talking about community service, the defendant was sentenced to 30 days (served on weekends) and six years suspended sentence reduced to three years suspended.

The second victim was a couple who took a vacation and asked a neighbor to care for their pet while they were away. They provided the neighbor with a key to their home. A few days after arriving home, the ceiling fan in their bedroom failed to operate. Upon dismantling the fan in an attempt to repair it, the husband found that a spy cam had been hidden in the fan housing. The police were called, and the couple reported that they felt that the camera had been installed by the neighbor caring for their pet. The police took a report but seemed to not take the incident seriously. The responding officer filled out a form but made no arrest. They heard nothing from the police for a few weeks.

The victims were referred to SCVAN by a college official at the school the victims attended. The delay in the case was very disconcerting, and SCVAN staff referred the case to South Carolina's ombudsman, who contacted the chief of police. Shortly after, the perpetrator

was arrested. The police investigation revealed that another couple had been similarly victimized by the same perpetrator.

The clinic attorney accompanied the victims to court and introduced the victims to the court before they made an impact statement. Because CVLN succeeded in getting the defendant assigned sex-offender status, he was sentenced to serve jail time on weekends in addition to registering as a sex offender and attending counseling sessions while on three years' probation.

The third victim was the mother of a homicide victim. Her son had been murdered by two young men. The perpetrators—one who knew the victim and one who did not—went on the run for a few weeks, and then one turned himself in. The other stayed on the run, committed additional crimes, and was eventually caught. Six months later, they were given a bond hearing but were denied.

The mother was first told by the solicitor that the case would come to trial in a year to a year and half. She was informed that the solicitor had a victim advocate, but she never heard from the advocate. Over time, several different prosecutors took on the case. The victim made repeated attempts to contact the solicitor to find out the trial date, but her calls were not returned. Finally, after one call, she was told that a bond reduction hearing had taken place that morning and that one of the defendants was now out.

The victim's mother was attending Parents of Murdered Children (POMC) meetings when she was referred to SCVAN.

Once she got to SCVAN and CVLN, "the ball got rolling." The CVLN director contacted the solicitor, attended hearings, and eventually filed a motion for a speedy trial. According to the victim's mother, "without [the CVLN director], the trial may not have happened." After CVLN got involved, the solicitor told the victim's family, "You don't need a lawyer." The victim's mother was more satisfied with the solicitor and the process after CVLN's involvement.

When the case finally came to a conclusion—four years after indictment—the current clinic director was in place, and he followed through with the family, including helping the mother and her two daughters prepare victim impact statements and reading the statements on the victims' behalf (at their request).

At sentencing, the shooter received 20 years, and the accomplice received nine years.

The victim's mother states that, without CVLN's help, she thinks she would still be waiting for the case to be resolved.

## Utah Crime Victims Legal Clinic

### Legal Context

Utah first adopted a set of statutory rights for victims in 1987. Importantly, it also created a mechanism to address the violation of rights at the same time, establishing victims' rights committees in each judicial district comprised of members representing criminal justice agencies and victim services. Those committees receive and consider victim complaints that their rights have been violated and, based on the committee's investigation, make recommendations. Recommendations to agencies might include such steps as a letter of apology to the victim, additional training for agency staff, or the reassignment of personnel.

Despite the existence of legal rights for victims and a compliance system for violations, in the early 1990s, victims' rights were frequently ignored by those in the criminal justice system.

As an example, in a small survey conducted in 1993, 66 percent of victims stated that they were not informed of their rights by investigators. (See Cassell, 1994, pp. 1383–1384.)

In 1994, the state strengthened crime victims' rights by adding a victims' rights amendment to its constitution and adopting implementing legislation. The amendment was championed by the Utah Council on Victims of Crime, a diverse body created to make recommendations to the governor, the legislature, and the Judicial Council on matters affecting victims of crime. However, voter approval for the amendment was a relatively low 68 percent.

Utah's victims' rights amendment applies to all felony cases and other crimes as designated by the legislature, currently including class A and B misdemeanors and certain juvenile offenses. The victims' rights amendment is noteworthy in that it says that the right to be heard applies "either in person or through a lawful representative." Most amendments do not address representation.

Utah's implementing legislation also addressed enforcement of victims' rights. It explicitly permitted victims or others to bring an action for injunctive relief for a violation of rights, to seek declaratory relief or a writ of mandamus defining or enforcing the rights of victims, to petition to file an amicus brief in any case that affects crime victims, or to appeal a denial of their rights.

In the courts, a state supreme court case from 2002, *State v. Casey*, 2002 UT 29, affirmed that crime victims have standing to assert their rights. In that case, the mother of a victim of sexual abuse (a class A misdemeanor) had been unable to make a statement to the court at a hearing on the plea agreement. The supreme court found that Utah's statutes clearly provided victims a right to appeal any adverse ruling on a motion or request brought by a victim or representative.

Utah has a very strong informal victim assistance network. It also has a formal organization, the Statewide Advocates for Victims Organization (SWAVO) which holds quarterly meetings, maintains an email list, and generally promotes collaboration. Along with strengthening the legal rights of victims, Utah has generally looked for opportunities to expand victim services in the state. For instance, Utah was one of the first states to receive funding for a state Victim Assistance Academy, which it began in 2000. Such academies, funded by the federal Office for Victims of Crime, are designed to provide foundation-level training in victim assistance for all new victim advocates and allied professionals.

### **Project History**

The clinic was conceived by the Utah Council on Victims of Crime; its chair, Reed Richards, was the driving force. The application for clinic funding was a real collaborative effort, with many of the members of the Utah Council writing or securing letters of support or working on pieces of the application. Because of the breadth of membership on the council, the various letters demonstrated wide support for the clinic throughout the state.

The clinic operations are supported by two grants. At the outset, the NCVLI grant fully supported the clinic director and operating expenses. A year after the clinic was opened, the clinic obtained a VOCA grant, which allowed the clinic to add a victim advocate. Currently, the VOCA grant pays for a victim advocate as well as 800 attorney hours. The NCVLI grant covers the remainder of the director's time, all of the staff attorney's time, all of another victim advocate's time, administrative expenses (including rent and supplies), training efforts, and actions relating to civil protection proceedings.

The clinic received its first funding in April 2005, and the director began work on August 1 of that year. The clinic's first task was to draft a set of policies and procedures. By the end of September, it had its first case, in a rural county.

### **Business Model**

The clinic is a separate program that is housed at the Rape Recovery Center (RCC) in Salt Lake City. The RCC charges the clinic a minimal amount for rent, which includes utility costs.

Much of its support within the broader criminal justice and victim services communities is due to its board of directors. The transition board (while the board shifts from an advisory board to a formal board of directors) includes the director of the Utah County Children's Justice Center, the victim coordinator for the Utah Department of Corrections, the codirector of clinical programs at the Brigham Young University law school, the director of Utah Legal Services, the director of the Salt Lake Legal Aid Society, the chair of the Utah Council on Victims of Crime, director of clinical programs at the University of Utah law school, and the director of the Rape Recovery Center.

Unlike many of the other clinics, the Utah clinic is not part of an organizational "full-service" system. However, the clinic states that, since most of its victims are referred to it by victim service providers or criminal justice officials, it is already connected to other services, and, as part of its intake process, the clinic assesses each victim's needs and refers each victim to the appropriate outside resources.

For the first six months of operations, the clinic would accept nearly any case that came to the staff's attention. Now the clinic adheres to its own criteria concerning the cases it will accept: those directly involving a crime victim's right in an active criminal case, which may include a postconviction matter.

The clinic has three objectives: to train on victims' rights, to represent victims, and to recruit pro bono attorneys and interns. With the exception of the pro bono attorneys, it feels that it has met these goals.

### **Staffing**

The clinic staff consists of a project director, a staff attorney, and two recently hired victim advocates.

The project director was identified early on as a potential choice to lead the clinic. She had been a prosecutor for many years in Davis County and supervised the county attorney's victim assistance program which included ten victim advocates.

The project staff attorney was initially hired as a victim advocate and pro bono coordinator. He had previous experience running a pro bono program at Brigham Young University (BYU) law school, which matched student interns—who could conduct legal research—with attorneys who could take various cases. Since May 2008, he has also actively represented victims.

The two victim advocates are responsible for intake and screening as well as general client contact. The clinic also plans to have the advocates develop the pro bono training project.

In addition to its paid staff, the clinic has a very active intern program. Each semester, it has one or two law student interns from the University of Utah and one or two from BYU, as well as four interns over the summer. This regular participation of students from BYU is especially striking because the school is an hour's drive away from the clinic. Interns contribute 100–200 hours per semester (typically one full day per week). The clinic has a reputation for

providing a high-quality internship experience, so recruitment has not been a problem. Interns conduct research and share in the client intake and communication responsibilities with the victim advocates.

The clinic has been assisted by three pro bono attorneys representing victims in court. Two of those were identified by actively calling contacts in each judicial district to try to identify an attorney willing and able to take the cases. The third pro bono attorney is a retired prosecutor, who, after initially acting as a pro bono attorney, now works for the clinic as a part-time contract attorney.

The clinic plans to expand its use of pro bono attorneys. The clinic director reports that she is collecting business cards of attorneys who might be called upon in the future. It is also considering targeted recruiting—reaching out to victim advocates for the names of potential pro bono attorneys. Other plans to grow its pro bono program include a special training effort, mentioned below, the creation of a manual and “cheat sheets” on regular victim issues to make it easier for attorneys to take on victim cases, and the production of a 20-minute compilation video of some of the director’s in-court arguments on behalf of victims.

Some prosecutors have expressed interest in taking victim cases but currently may not be permitted to do so. The clinic wants to work on this ethics issue, to develop a system whereby a prosecutor in one county can take a victim case in another county—perhaps on an issue that is new to him or her. For example, a child abuse prosecutor in one county might be able to take a general victims’ rights case in another county.

### **How the Clinic Gets Its Clients**

According to clinic staff, most clients are referred to the clinic by victim service providers or prosecutors. A few are referred by other sources or find the clinic on their own through the Web site.

These referrals are the result of extensive outreach by the clinic director, especially during the first year of the clinic. She attended meetings of victims’ rights committees in most judicial districts as well as victim service and criminal justice meetings throughout the state, to introduce the clinic to those who work closely with crime victims.

Based on a review of cases opened in 2007, law enforcement is a principle source of referrals: Twenty-eight percent of clinic cases in 2007 were referred by law enforcement, primarily victim advocates employed by law enforcement agencies. Referrals from non-system-based service providers accounted for another 15 percent of cases.

Prosecutors have made a lot of referrals, with five to seven prosecutors routinely referring victims to the clinic. In 2007, 12 percent of referrals came from prosecutors, with another 14 percent from prosecutor-based victim advocates. Such referrals are especially common in cases in which the defense is seeking the private records of victim, cases in which the defense is harassing victims, and child abuse cases in which the right to speedy trial is at issue. The clinic director, a former prosecutor herself, has reached out to prosecutors letting them know she is not seeking to duplicate their role. In many cases involving prosecutor referrals, the prosecutor may inform the clinic of the arguments expected from the prosecutor and defense counsel and note additional arguments that could be made on behalf of the victim. In such cases, the prosecutors view the clinic’s victim advocacy as complementing the state’s position but not duplicating it.

Other referring sources included therapists and the clinic staff themselves.

**Table A.12**  
**Sources of Referrals**

Source of Referral	Percentage
Police victim advocate	28
Non-system-based victim advocate	15
Prosecutor victim advocate	14
Prosecutor	12
Unknown	9
Clinic staff	5
Therapist	4
Other	6

The clinic does not have a paper or email newsletter due to lack of staff time. However, the Statewide Advocates for Victims Organization has a very active email list, so word of the clinic's work gets around. This helps to reinforce the clinic's reputation and increase referrals.

The clinic opened 85 cases in 2007. However, it received two to three times that number of contacts that involved referrals and intake screenings. For example, between April and June 2007, the clinic served 111 clients, although not all of them had entered formal agreements regarding representation. Many of these might have involved referring the victim to resources or arranging for a single meeting with a prosecutor who declined a case. At the time of the site visit, the clinic had approximately 70 open cases.

More than half the clinic's clients in 2007 were victims of sexual assault, domestic violence, or stalking. Another 20 percent were victims of child sexual or physical abuse. Nearly 10 percent of the cases involved murder, attempted murder, or negligent homicide.

Clinic staff typically appear at eight hearings per week, mostly in Salt Lake City. Sixty percent of the clinic's 2007 cases were in Salt Lake County, with another 19 percent located in the surrounding counties of Davis, Summit, Utah and Wasatch. This heavy representation somewhat tracks the population distribution, with those five counties accounting for nearly 70 percent of the state's population.

The clinic did note that its geographic coverage is increasing. For example, the clinic has recently taken on several cases in Kane County, a rural county in the southeastern part of the state. Their first case in that county was a success and led to several additional referrals.

Recently, the clinic has noted a decrease in referrals. It attributes this decrease to a heavy caseload during part of 2008 that left it unable to return victim contacts within 48 hours and screen each case within a week, as is its standard. However, the clinic is confident that the recent addition of two more staff members will enable it to meet those standards again. The clinic intends to publicize the recent hiring of these two advocates and expects the number of referrals to increase. The director noted that, when the clinic first hired its second staff member, word got around that the clinic had "doubled its staff" and referrals increased dramatically.

### **Training Criminal Justice Officials**

The clinic views victims' rights training of criminal justice officials as an essential component of its work. Initially, much of its training consisted of a five- to ten-minute appearance at other trainings and meetings across the state to introduce the clinic program.

The clinic currently trains between 1,100 and 1,500 criminal justice professionals each year. Staff members train victim advocates and other attendees every year at the victim advocate conference, as well as the entry-level victim assistance academy. While both of those events are largely for victim advocates, attendees also include law enforcement, prosecutors, staff from the Division of Children and Families, and others.

The clinic director also teaches a four-hour segment on victims' rights at the police academy. That material is incorporated into the academy's comprehensive final exam. The clinic director trains new prosecutors every year and provides additional training for prosecutors at two of the four annual trainings—generally, the annual training on domestic violence and the yearly spring training. The director has also written a few articles for the prosecutors' monthly email newsletter.

Clinic staff last trained judges two years ago, but they are seeking an opportunity to repeat that training. After the clinic argued a victims' rights issue before a justice court judge, the judge remarked that most judges at this lower court level were unaware of victims' rights. In fact, victims at this lower court level have most of the rights afforded victims at the district court level, with the exception of the right to notification. As a result, the clinic is seeking an opportunity to provide training for justice court judges. The clinic director is also exploring the possibility of training at the district court judges' conference.

Pro bono attorney training is still in development, along with expanded recruitment efforts. The clinic plans to offer free CLE training to attorneys in exchange for their taking one victim case within the year following the training. One of the victim advocates was hired in part to develop this training.

The clinic director provides limited training to law students at BYU, generally working with student groups, such as the women's law group, to hold a lunchtime session. A class on victims' rights is already taught by an experienced professor at the University of Utah law school.

### **How the Clinic Affects the Exercise of Victims' Rights in Trial Courts**

In representing crime victims, clinic attorneys emphasize their role as negotiators in seeking the best outcome for the victim. They are aggressive in litigation only when they believe they have to be. They note that being too aggressive can have negative consequences, both for the immediate victim and for victims' rights more broadly. An attorney may win an issue at the cost of the ability to negotiate with those same players in the future.

The clinic's style is not to involve the media. From the director's experience, the media rarely get the facts straight and can inadvertently harm the victim's cause. However, a number of clients have issued press statements, and clinic attorneys have collaborated in these statements when requested.

In the courtroom there is no special table for the victim's attorney. That attorney may sit at the prosecutor's table or between the prosecution and defense tables. The clinic attorney will always stand and introduce himself or herself and the client at the start of the proceeding. Then, at the proper time, the attorney will stand and assert the victim's right. For example, the attorney may stand to request that any future requests for continuance be made and considered

on the record. Staff attorneys try to attend every hearing in cases in which they represent the victim.

The clinic has worked with several recurring issues. These include issues described here and listed in Table A.13.

**The Right to Be Heard.** The clinic often works to protect a victim’s right to be heard. This can take many forms. In some cases, the clinic has argued for the right of a nonparent family member—such as a grandparent or an aunt—to make a statement on behalf of a child victim. In other cases, the victim or family member wants to present an audio- or videotaped impact statement.

The clinic encourages victims to add statements about what they want to see happen in the case. Often, the clinic attorney addresses the court following the victim’s statement and argues that the impact on the victim supports a particular sanction. As an example, in one case of child abuse by a mother and her boyfriend, the father gave a victim impact statement. After the father testified, the defense attorney attacked the father, alleging that the father was abusive himself. The clinic argued that this demonstrated that the defendants were not taking responsibility for their actions and that a punitive sanction was necessary. The clinic attorneys may argue for consecutive instead of concurrent sentences. The court often agrees.

The clinic has represented victims in cases in which defendants have petitioned for a postconviction writ, which has been as long as 20 years after conviction. In one case, the judge granted a new trial. Victims want to be heard at these proceedings. Under Utah law these are technically civil proceedings, so the applicability of crime victims’ rights laws is not clear. The clinic attorneys argue that these proceedings affect the victim’s right to have the criminal matter resolved and that victims’ rights apply to all collateral matters that will affect the disposition of the case.

**The Right to Be Free from Threats or Harassment.** The Utah Victims’ Rights Amendment gives crime victims the right “to be free from harassment and abuse throughout the criminal justice process.” The clinic discusses safety issues with victims and, when needed, assists victims in seeking court orders and procedures to prevent harassment and abuse. This often takes the form of making the court aware of inappropriate and threatening defendant behavior while in court (such as glaring at the victim before, during, or after court). The clinic also routinely requests criminal no-contact orders against defendants, especially in domestic violence

**Table A.13**  
**Victims’ Rights Issues in Cases Opened by the Clinic**

Reason for Clinic Involvement	Percentage
Right to be heard	42
Free from harassment/threats	42
Right to notice	25
Speedy disposition	24
Fairness, dignity, respect	18
Privacy rights	7
Restitution	6

NOTE: Total exceeds 100 because many cases involve multiple victims’ rights issues.

and sexual assault cases. The clinic also occasionally represents victims seeking civil protective orders or stalking injunctions, especially when the victim is ineligible for free representation by the civil legal services organizations.

In one clinic case, a father had severely abused his infant twin sons, causing multiple internal injuries as well as likely brain damage. He was permitted through juvenile dependency proceedings to speak to his older children on the phone but not to the twins he was accused of abusing. However, the defendant would regularly have his older children turn on the speaker-phone function so he could call out to the children he had abused, which frightened them. The clinic argued successfully both before trial and again at sentencing for a criminal no-contact order that effectively prevented attempted contact by setting specific criminal penalties for violations.

Another case involved the violation of a protective order. A mentally ill man had broken into his ex-girlfriend's house at 1:00 a.m., expecting a warm reception after his release from prison, in violation of a protective order that had been in place for five years. Criminal charges were filed, and the clinic successfully argued that the defendant should be held in custody pending trial for the protection of the victim and that he should be sent to the state mental hospital for her protection and for the safety of the community. The defendant was eventually found incompetent to proceed to trial. The clinic also assisted the victim in modifying and updating the terms of her civil protective order.

In another case, a victim was seeking a civil protective order against her ex-boyfriend, who had been repeatedly charged and incarcerated for abusing her over several years. His prison release date was approaching, and she wanted to have a protective order in place when he was released. She would have been ineligible for assistance through the civil legal services organization because significant time had passed since he last abused her, but the clinic assisted her in petitioning for and receiving a protective order based on the history of abuse and his upcoming release from prison.

**The Right to Speedy Trial or Disposition.** The victim's right to a speedy trial appears twice in the Utah Code. Under the law, the defendant must make any request for continuance sufficiently in advance so as to give the prosecutor time to notify the victim. The law also provides that the victim's right to speedy trial is governed under the same rules as the defendant's right to speedy trial. Despite these laws, the victim's right to a speedy trial is frequently violated as courts issue multiple continuances of hearings and trial dates.

The clinic frequently works to assert the victim's right to a speedy trial by opposing a motion for continuance but finds that courts rarely deny the motion. However, after hearing from the victim or the clinic attorney, a judge may say, "This is the last time," or "We will not move this trial date again." So the clinic staff believe that their involvement may promote a speedier resolution even if they did not win the argument on the motion.

The clinic successfully protected the victim's right to a speedy trial in one recent case of child sexual abuse involving a 13-year-old victim. The state attorney general's office had referred the victim's family to the clinic. In that case, the homes of the victim and perpetrator were very close, and the victim's family had felt as though they had been prisoners in their home for the year-and-a-half the case had been pending. The victims thought they had a trial date in June 2008, but, approximately one month before the trial date, the defendant fired his defense attorney and hired a new one. The new defense attorney requested a continuance. After the court heard the victim's concerns, the judge ruled against the continuance, noting that the defense attorney was aware of the trial date when he agreed to take the case.

The clinic was also successful in another case involving child sexual abuse. In that case, a family had adopted many children, the oldest of whom sexually abused two of his younger brothers, who were 9 and 12 at the time of the abuse. There had been five trial dates set, and, each time, the defendant argued for additional time. At the pretrial hearing for the most recent trial date, the defense again requested a continuance, and there was every indication that the court would grant it. The judge had expressed his view that, if he denied the continuance, the defense would have grounds to appeal. However, the clinic attorney successfully argued that the victims' father should have the right to address the court on the matter. The father testified about the traumatic effect of the delays on the boys, who were now 11 and 14 and who had been institutionalized as a result of the defendant's threat to kill them if they reported the offense. The judge ruled that, for the mental health of the boys, the case would go to trial as scheduled.

**Privacy/Protection of Crime Victim Records.** A new court rule, based on existing case law, went into effect on November 1, 2007, designed to protect victims' private records. The rule presumes that a crime victim's records are confidential. The defendant can overcome this presumption by showing a likelihood that the record will exonerate the defendant but, in such cases, must offer some other indication or evidence that the record in question will be helpful to the defendant's case.

The clinic had six cases in the spring of 2008 that involved a violation of that new rule.

In one case, the defense directly subpoenaed a 15-year-old victim for her school and medical records. The defense had not requested court permission to seek those records. The victim made an attempt to comply with the subpoena by seeking her school records, but, as the school was closed for the summer, she was unsuccessful. The clinic attorney was able to get the subpoena quashed.

In another case involving alleged sexual assault of multiple victims by a physician, the defense was very aggressive in harassing the victims and in seeking their private records. One of the victims was the subject of 28 subpoenas seeking financial and medical records. The defense attorney had collected a banker's box of private records in violation of the rule. The clinic filed a motion that described the standard that should be met before the court could permit a defendant to seek private records. In that case, the judge ruled against the defendant and returned the box of records to the victim.

**Victim Restitution.** Prosecutors should be prepared for the court to consider restitution at the time of the plea, but they tend to view it as a sentencing issue and often do not consider it until after the plea agreement or conviction. The clinic works with victims to make sure they have compiled information regarding their losses, then clinic attorneys work to have restitution ordered as part of the plea or immediately at sentencing, rather than having the issue of restitution postponed. The clinic also seeks court hearings when restitution has not been paid.

In one case, the prosecutor was not inclined to pursue restitution, because the victim had received payment through the compensation program for most losses. The clinic helped the victim request restitution for \$1,000 in moving expenses, which the court awarded. The victim found this very validating, because it held the defendant personally accountable to the victim.

### **Clinic Work on the Appellate Level**

The clinic has had only limited activity at the appellate level. Recently, the clinic filed an amicus brief written by NCVLI. In that case, the trial court granted the defendant's request for an in camera review of a minor victim's counseling records dating from before to after her

report of sexual abuse by the defendant. The court of appeals had affirmed the trial court's ruling. The state supreme court agreed to hear the case. NCVLI and the clinic filed an amicus brief, arguing that the victim's rights to privacy, protection, and fairness, coupled with the importance of maintaining the confidentiality of victims' counseling records, requires reversal. A decision is pending. In that case, the clinic learned that the child's mother had been supporting the defendant. Rather than attempting to represent the child victim directly, the clinic reached out to the guardian ad litem program about the potential of the GAL representing the victim and restricted its own activities in the case to working with NCVLI on the amicus brief.

The clinic also currently has limited activity in three capital cases in which victim issues are not the subject of the appeal. Instead, the clinic is keeping the victims updated regarding the progress of the case and is monitoring the victims' right to a speedy disposition.

The clinic has been working with the victims in the case of *State v. Brandon Lane*, 2009 UT 35, 212 P.3d 529 (2009), for three years. That case involved an automobile crash in which two elderly brothers riding in the front seat were killed and their wives, passengers in the back seat of the vehicle, were injured. The driver was charged with a class A misdemeanor. There were two charges against the defendant. The prosecutor informed the victims that she had an agreement to take one plea in abeyance and one plea "straight up"—meaning that the defendant would be convicted of the second count and be sentenced. The prosecutor discussed with the victims their right to be heard at sentencing and said that she would seek restitution. In fact, the prosecutor had agreed to take both pleas in abeyance—which meant that there would be no conviction recorded as long as the defendant complied with the conditions of the plea. She had also agreed with the defense to seek only \$1,500 in restitution, but, at the court hearing on the plea, she agreed to convert the \$1,500 to a court fee, so no restitution was sought. The victims were also told the wrong date for the plea hearing. The prosecutor's notes make it clear she had lied to the victims.

The victims filed a motion with the trial court to set aside the plea agreement. That motion was denied, and the victims appealed. The trial judge did stay the abeyance during the appeal. However, pleas in abeyance are valid for only 18 months, and that time expired while the appeal was pending. The appellate court then dismissed the appeal. The victims are asking the Supreme Court to rule that the dismissal was inappropriate, since the court had stayed the plea. They also seek a "do-over" of the plea agreement and restitution.

The clinic has argued that the victims' rights to be treated with fairness, dignity, and respect were violated when they were misled regarding the plea agreement and when the judge dismissed the appeal. The clinic is further arguing that the victims' rights to be present and heard were violated when they were told the wrong date of the hearing on the plea and that their right to be notified of the proposed plea was violated when the prosecutor lied about the nature of the agreement. Finally, they are arguing the prosecutor committed a fraud upon the court when she asserted that the victims had been informed of the plea agreement and agreed with it. This case is still pending.

### **Legislative Efforts**

The clinic is not directly involved in legislation. However, it does report on its work to the Utah Council on Victims of Crime, which does advocate for legislation. (One of the clinic's victim advocates happens to serve on that committee, but her involvement predated her employment by the clinic.)

The clinic's work has had an effect on legislation. As an example, Utah passed a new statute in 2008 giving victims a right to file a written statement with the appellate court. The legislation was proposed by the attorney general's office with the support of the Utah Council on Victims of Crime. Two of the clinic's clients testified about the need for that legislation and asked the clinic attorney to attend with them. However, the clinic did not directly advocate for the legislation.

In another example, the council is aware of the *Lane* case and other cases involving violations of victims' rights and has decided, in light of those cases, that Utah is lacking a remedy for many violations. The council is considering proposing legislation to create a remedy. This remedy may be modeled on the federal Crime Victims' Rights Act, create a ten-day stay of proceedings while victim issues are under way, or provide the court a strict timeline to consider victim motions.

### **Changes to Court Rules**

The clinic has had only indirect involvement in any court rule changes. When a change to the rule establishing privacy of victim records was proposed, clinic staff were asked about the problems they had observed and their recommendations. However, the rule change was really driven by another attorney in a high-profile case, who had written to the rule committee requesting the change.

### **Role of NCVLI in Supporting Clinic Activities**

The clinic values the support it receives from NCVLI. This support includes monthly phone meetings, frequent contact through email, research assistance, and alerts featuring the successes of other clinics and victim attorneys. The clinic finds NCVLI's cluster meetings especially valuable, because the interaction with their peers is informative, motivating, and energizing.

NCVLI has provided important assistance in several cases. In the *Lane* case, referenced above, NCVLI helped conduct the legal research and write the appeals and motions and "moot courted" with the clinic attorney, conducting simulated questioning prior to oral argument. In another case, the defense attorney sought to depose a victim, and NCVLI provided legal research that the clinic was able to incorporate into its court brief.

Clinic staff stated that the reason they have not turned to NCVLI staff more frequently for technical assistance is that they are frequently able to get what they need simply by putting out a request on the NCVLI email list.

Through NCVLI the clinic has formed good relationships with some of the other clinics. For example, in establishing the Utah clinic, staff conducted a site visit to Arizona's clinic. They continue to turn to the Arizona clinic for mentoring. Directors of the New Jersey and Maryland clinics have also provided valuable support.

The Utah clinic feels that it has a similar philosophy to NCVLI, incorporating both a desire to change the system and a desire to serve the needs of individual clients. It notes that this may be due, in part, to the fact that the clinic did not exist prior to receiving NCVLI funding, so it did not have to try to adapt a previously crafted mission statement or philosophy to fit the program.

### **Opinions of Criminal Justice Officials About the Clinic**

We spoke with five members of the Utah criminal justice system to gather outside opinions about the clinic and its work. Those completing interviews included two local prosecutors, one

member of the state attorney general's staff, one person involved in victim advocacy work, and a defense attorney. The persons with whom we spoke were all nominated by the staff of the clinic in response to our request to interview people in the criminal justice system familiar with the work of the clinic, regardless of their opinion of the clinic.

Respondents were generally positive about the work of the clinic. Several were very enthusiastic and thought that the clinic had heightened awareness of the rights of victims across the criminal justice system. One observed that "without the Clinic, Utah would be years behind in the progress we've made for victims."

Both prosecutors stated that they routinely made referrals to the clinic. As one observed, having the clinic represent victims make the criminal justice system more "user friendly" and makes the victims feel more empowered. One prosecutor thought that the clinic's involvement was especially valuable in sexual assault cases, in which the victims are often viewed negatively and feel as though they are the ones on trial. Having their own attorney helps those victims feel safer and on an equal footing with the other players. The prosecutors did note that, while victim representation was generally beneficial for victims and the criminal justice system, the involvement of an additional attorney did require more time, and there could be tension in those instances in which the victim's goals and the prosecutor's goals are different.

The defense attorney respondent believed that the current clinic staff did a disservice to victims by "engendering feelings of victimhood," encouraging victims to take personally the normal posturing that occurs during the motions process, and arguing to victims that the defendant's failure to apologize prior to sentencing shows that the defendant does not care. Even that respondent, however, believed that it is often beneficial for victims to be represented by their own attorney during the criminal justice process.

Respondents were concerned about the state's ability to fund the clinic after the grant expires. They noted that Utah is currently in dire financial straits, with criminal justice funding facing significant cuts. However, several suggested that the clinic could be funded, at least in part, with an additional penalty on offenders.

### **Victim Perspective**

To better understand the victim/client perspective of the work of the clinic, we interviewed two victims during our visit to the clinic. In addition, we were introduced to two other clients preparing for a court hearing. All were effusive in their praise of the clinic's work.

A victim of an attempted murder was referred to the clinic by a law professor. She and her boyfriend had been shot multiple times by a man who said he wanted to kill someone. Her boyfriend died instantly, and she survived by playing dead. After the offender left the scene in her boyfriend's car, she climbed up a mountain for nearly an hour to reach help. The offender had pled guilty and was sentenced to life without parole for the murder and life with parole for the attempted murder. Years later, he appealed his convictions twice, first stating that he had entered the plea agreements when suffering from depression. The second appeal argued that his conviction violated the Vienna Convention on Consular Rights, since he was originally from Guatemala and he was not given an opportunity to speak to the consulate. At the time of the second appeal, the victim was referred to the clinic.

The clinic explained that she had the right to make a statement at the hearing on the postconviction writ. When she arrived at the hearing she was surprised to find the defendant present. The victim believes that only the support and presence of the clinic attorney enabled

her to make her statement, which she found very validating. The judge also acknowledged the victim, which was very affirming.

Another client had been the victim of a stalker. The client and his girlfriend were stalked by their neighbor, who constantly harassed and threatened them over a three-year period. The victims obtained a stalking injunction, which was valid for 18 months. The stalker was later arrested, and he pled guilty to stalking and was put on probation. The prosecutor's office referred the victims to the clinic. The clinic attorney advised the victims that they could seek a permanent protective order and that such an order should have been automatic at the time of conviction. The clinic attorney worked with the victims to obtain the order, educating the judge, who had been unaware of the law. The victim reported that the judge seemed appreciative of the clinic attorney's work and careful explanation of the law and procedure. The judge issued the order.

Two additional clients were parents of a child sexual abuse victim. The child had been victimized by an uncle two and a half years ago. The case had been pending for more than a year and a half and had had a series of prosecutors assigned to the case. The parents were referred to the clinic by the prosecutor's office. The defense attorney was seeking the child's counseling records, and the clinic attorney was working to protect the privacy interests of the victim. The clients expressed their gratitude for the work of the clinic attorney, both in working to protect their interests and in ensuring that the clients understood the motions and arguments being made in the courtroom. The clients stated that the continual delays in the case had been very traumatic for their family. They said that, if it had not been for the clinic attorneys, they probably would have dropped out of the case.

### **Data Availability**

The clinic noted that most prosecutor files have a place on the case folder or on top of the table of contents where they make notes of everything that happens. This would include indications of the victim's presence, whether the victim requested an opportunity to be heard, and so forth. In addition, victim advocates in those offices maintain their own files. Either of these might be fertile sources for data mining.

Also, the prosecutors' offices use GSC software to generate letters to victims, notices of proceedings, and the like. The prosecutors' offices may be able to run certain data reports from this software.

The clinic suggested that a useful indicator of their success could be a chart showing trends in referrals. Indications that referrals were increasing or that the same agencies were regularly making referrals might show validation of their work or reputation.



## Statutory and Case Law Changes in Clinic States

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### Summary of State by State Statutes and Victim Rights Case Law

Project staff evaluated changes to victims' rights laws and the development of victims' rights case law during the time each clinic has been funded by the OVC. The extent of changes varies considerably between the states, but all show continuing expansion of victims' rights.

#### Arizona

**Changes to Victims' Rights Laws.** Arizona has continued to add to its extensive body of crime victims' rights laws in the time since the clinic first received federal funding. In 2003, the year the clinic first received its funding, Arizona amended the victim's right to be heard at sentencing, providing that the right to be heard at sentencing includes the right to address the sentence to be imposed. However, the legislation provides that this change in statute will not take effect unless, on or before June 30, 2013, the state or U.S. Supreme Court rules that it is constitutional for victims to make a sentencing recommendation in a capital case. The legislature also added a law clarifying that, whenever a victim exercises his or her right to be heard in a criminal proceeding, the victim's statement is not subject to disclosure to the state or defendant and the victim is not subject to cross-examination.

Other statutory changes in 2003 included a provision that 30 percent of an offender's prison wages must be used to pay restitution and a provision protecting the confidentiality of domestic violence victim information in voter registration records. The rules of criminal procedure were also amended in 2003 to provide that, whenever the court imposes a sanction on a party for nondisclosure of pretrial information, it must consider the impact of that sanction on the victim.

No noteworthy changes were made in 2004. However, in 2005, the legislature gave the victim standing to file a notice of appearance in an appellate proceeding, at the juvenile or criminal level, seeking to enforce any right or to challenge an order denying any victim's right. On the filing of a notice of appearance and if present, counsel for the victim shall be included in all bench conferences and in chambers meetings and sessions with the trial court that directly involve a victim's constitutional rights.

The legislature also provided that, in cases in which a criminal offense against a victim is charged by the prosecution on the count(s) involving the victim is dismissed as a result of a plea agreement and a defendant or juvenile pleads to other charges, the victim may continue to exercise all applicable rights as a crime victim, as though the count(s) involving the victim had not been dismissed. The prosecutor shall inform the probation department that the victim wishes to exercise his or her rights.

In 2005, Arizona also

- amended the requirement that courts notify victims of juvenile dispositional hearings to include notification of the estate of a deceased victim
- required prosecutors to notify the victim of a juvenile that a predisposition or disposition proceeding may occur immediately following adjudication
- required victims who request notification to provide their contact information
- added rights for victims to be informed and heard regarding any proposed modification of an adult or juvenile's probation
- required juvenile-court judges to make a statement concerning the constitutional rights of victims at the time a victim first appears in court
- gave victims who file a notice of appearance the right to respond to a request for an extension of time to file a brief in any appellate or other postconviction proceeding in a capital case
- strengthened the rights of victims of juveniles to restitution and allowed the estate of a victim to submit a statement regarding losses at a restitution hearing
- provided for the collection of interest on a criminal restitution order in the same manner as any civil judgment
- required courts to order restitution for the value of labor or services in human-trafficking cases
- protected the confidentiality of information regarding victims of domestic violence, or stalking and persons protected under protection orders, that is contained in county indexes of recorded instruments and in documents maintained by the county assessor and county treasurer
- protected information about stalking victims in voter registration records.

Arizona changed the rules of criminal procedure in 2005 to

- require that victims be notified of an intercounty transfer of probationers or other offenders by the court in the transferring county and give victims the right to be present and heard at proceedings regarding such transfers
- require a magistrate to permit the victim to comment on the issue of the suspect's release at the suspect's initial appearance and require the magistrate to consider the comments of the victim concerning the conditions of release
- require the court to notify the prosecutor if the defendant fails to pay restitution as ordered, in cases in which the defendant is not on supervised probation.

The year 2006 saw a number of additional changes. Most importantly, the legislature clarified procedures for enforcing victims' rights, providing that failure to comply with a victim's right is grounds for the victim to request a reexamination proceeding within ten days of the violation or with leave of the court for good cause shown. The court shall reconsider any decision that arises from a proceeding in which the victim's right was not protected. However, the law made clear that violation of a victim's right is not cause to seek to set aside a conviction after trial, nor does it provide grounds for new trial. A victim who was given notice of a plea or sentencing proceeding may make a motion to reopen such proceeding only under limited circumstances.

Other changes in 2006 included

- giving victims of serious crime the right to receive a copy of the police report at no charge
- giving victims or prosecutors standing to contest any legal name change prior to judgment in a criminal case or up to one year after entry of judgment
- giving the parent or guardian of a minor victim the right to refuse an interview by a juvenile or adult offender or that person's attorney
- providing certain protection from liability to victims who use or threaten force to protect themselves against another's use or attempted use of force
- prohibiting the use of blank subpoenas to access records of a victim, providing that records relating to recovered memories may be subpoenaed only if certain conditions are met, and requiring that victims have the right to be notified and heard at any proceeding involving a subpoena of their records
- prohibiting the release of personal information in records of the Department of Transportation except under limited circumstances
- amending the rules of criminal procedure to provide for victim notification when a party is seeking an extension of time to file a brief in a capital case.

In 2007, Arizona made a number of amendments regarding victim's rights:

- strengthening the victims' right to a speedy trial by requiring prosecutors to notify victims or their attorneys of any request for continuance, requiring the court to consider the victim's views and right to speedy trial in ruling on any motion for continuance, and requiring prosecutors to notify victims of any continuance granted
- requiring law enforcement to notify victims of their right to receive a copy of the police report
- providing that the prosecutor must notify victims "immediately" of any postconviction or appellate proceedings and any decisions resulting from those proceedings
- providing that a drug offender may be released to a transition program only after the victim is given notice and an opportunity to be heard
- requiring courts to provide to victims, at no charge, the minute entry or portion of the record of any proceeding reasonably necessary for the purpose of pursuing a victim's right
- ensuring that victims of juvenile sex offenders have rights relating to the offender's probation-review hearings
- expanding the notoriety-for-profit law to include juvenile offenders
- protecting the privacy of victim information in publicly accessible records relating to the case, except for the victim's name and the address at which the crime occurred
- clarifying procedures relating to the nonpayment of restitution, including increasing the amount of time probation can be extended for the nonpayment of restitution
- requiring the Department of Corrections to collect restitution from a prisoner's spendable account (and deleted the requirement that a percentage of prison wages be collected for restitution)
- providing employment protection for victims leaving work to obtain a protective order or similar relief (applies to larger employers only).

Arizona also amended its court rules to require the court to provide at least seven calendar days' notice of a probation-review hearing to the prosecutor, so that the prosecutor may notify the victim.

Changes continued in 2008, with legislation requiring courts at sentencing to consider the evidence and opinions presented by the victim or victim's family at any aggravation or mitigation proceeding or in the presentence report. Arizona also amended the rules of criminal procedure to require a prosecutor to confer with the victim prior to agreeing to an extension of time to decide whether to seek the death penalty. And it added an administrative code provision relating notifying a victim of the results of court-ordered testing of a defendant for sexually transmitted diseases.

There is no clear indication the clinic was involved in any of the above changes. However, the clinic's founder, Steve Twist, is generally active in promoting victims' rights in the legislature and has indicated that issues that arise in clinic cases often lead to legislation. Twist also serves on the Commission on Victims in the Courts, a commission established by the Arizona Supreme Court in 2006 to make recommendations and advise the Arizona Judicial Council on victims' rights issues within the court system.

**Case Law Developments.** During the time the clinic has been funded, the courts have issued opinions in a number of cases implicating victims' rights. In 2003, the state supreme court held that the Eighth Amendment to the U.S. Constitution prohibits victims from recommending punishment in a capital case. Twist was one of the attorneys representing the victim in that case. *Lynn v. Reinstein*, 205 Ariz. 186, 68 P.3d 412 (Ariz. 2003).

The supreme court issued two rulings regarding a victim's right to speedy trial, ruling in one case that a trial court has discretion in determining whether to grant a continuance made in conjunction with a motion to proceed pro se, because it must consider those requests in light of the victim's right to a speedy trial. *State v. Lamar*, 205 Ariz. 431, 72 P.3d 831 (Ariz. 2003). In another case, the supreme court declined to apply an earlier ruling retroactively in which defendants moved for postconviction relief. The court concluded that vacating prisoners' sentences would violate the victims' right to a prompt and final conclusion of the case. *State v. Towery*, 204 Ariz. 386, 64 P.3d 828 (Ariz. 2003).

In a 2003 court of appeals case, a juvenile had challenged a restitution order for tooth repair in which the juvenile was not found delinquent of "assault causing the fracture of any body part" but was adjudicated for aggravated assault while the victim was substantially impaired. The court upheld the restitution award because the victim had sustained a loss that (1) was economic, (2) would not have occurred but for the defendant's conduct, and (3) directly resulted from the defendant's offense. *In re. Stephanie B.*, 204 Ariz. 466, 65 P.3d 114 (Ariz. Ct. App. 2003).

In 2004, the court of appeals permitted the state to replace the legal guardians of minor sexual-assault victims with other legal representatives, because the legal guardians were protecting the defendant and not representing the victims' best interests. The appellate court ruled that the equitable power of the trial court to replace the representatives was preserved by the Victims' Bill of Rights in the Arizona Constitution. *State ex rel. Romley v. Dairman*, 208 Ariz. 484, 95 P.3d 548 (Ariz. Ct. App. 2004).

In another 2004 case, the court of appeals upheld a restitution order for the expenses that a murder victim's children incurred in attending the trial. The court ruled that the victims had a constitutional right to attend trial and the necessity for the trial was a direct consequence of

the crime. Economic loss covers reasonable travel-related expenses incurred in attending the trial. *State v. Madrid*, 207 Ariz. 296, 85 P.3d 1054 (Ariz. Ct. App. 2004).

In one supreme court case and two court of appeals cases, the victims' right to be heard at sentencing was upheld. *State v. Carreon*, 210 Ariz. 54, 107 P.3d 900 (Ariz. 2005), *cert. denied*, 546 U.S. 854, 126 S.Ct. 122 (2005); *State ex rel. Thomas v. Foreman*, 211 Ariz. 153, 118 P.3d 1117 (Ariz. Ct. App. 2005); *State v. Glassel*, 211 Ariz. 33, 116 P.3d 1193 (Ariz. 2005).

The supreme court again upheld the victim's right to be heard at sentencing in three cases in 2006. *State v. Ellison*, 213 Ariz. 116, 140 P.3d 899 (Ariz. 2006); *State v. Hampton*, 213 Ariz. 156, 140 P.3d 950 (Ariz. 2006), *cert. denied*, 549 U.S. 1132, 127 S. Ct. 972 (2007); and *State v. Roque*, 213 Ariz. 193, 141 P.3d 368 (Ariz. 2006).

A noteworthy court of appeals case in 2006 involved the privacy of victim counseling records in a case of sexual abuse by a defendant of his minor daughter, who suffered from cerebral palsy. The state had proposed proving six aggravating factors at sentencing, including emotional harm to the victim. The defense subpoenaed the victim's counseling records, and the victim's mother appealed on her behalf to protect those records. The appellate court ordered the trial court on remand to determine whether the state had demonstrated that the victim's counseling records or the counselor's testimony were essential to have the defendant receive an aggravated sentence. The trial court should balance the victim's constitutional right to refuse a discovery request and her claim of privilege against the state's interest in calling the counselor as a witness to prove emotional harm. The trial court should also reconsider whether disclosure of the records to the defense is necessary for cross-examination of the victim. *P.M. v. Gould*, 212 Ariz. 541, 136 P.3d 223 (Ariz. Ct. App. 2006). The Arizona clinic represented the victims in this case.

In 2007, the supreme court upheld the victim's right to be heard at sentencing in two more cases, including the admission of photographs depicting the lives of murder victims. *State v. Garza*, 216 Ariz. 56, 163 P.3d 1006 (Ariz. 2007), *cert. denied*, 128 S. Ct. 890 (2008); *State v. Tucker*, 215 Ariz. 298, 160 P.3d 177 (Ariz. 2007).

The court of appeals upheld the victim's right to refuse to be deposed or interviewed by the defense in two cases. In the first, the defendant was originally charged with aggravated assault, but that class 6 felony was subsequently changed to a class 1 misdemeanor by court motion. The defendant argued that he was now entitled to depose the victim because he had not committed a "criminal offense" for purposes of the victims' rights implementation act, which by statutory definition does not apply to misdemeanors. However, the court of appeals held that the amended definition unconstitutionally limited the categories of victims protected by the Victims' Bill of Rights under the Arizona Constitution. *State ex rel. Thomas v. Klein*, 214 Ariz. 205, 150 P.3d 778 (Ariz. Ct. App. 2007). In another case, the court of appeals held that the victim's right to refuse an interview or deposition by the defense attorney applied to a minor victim's parent or legal guardian. *Lincoln v. Holt*, 215 Ariz. 21, 156 P.3d 438 (Ariz. Ct. App. 2007).

In 2007, the district bankruptcy court affirmed that restitution orders cannot be discharged in bankruptcy. *Reif v. Kaster*, 363 B.R. 107 (Bankr.D.Ariz. 2007).

In 2008, the court of appeals found a violation of a victims' right but found no remedy. In that case, the victim had relied on the prosecutor to timely assert his right to restitution, but the prosecutor failed to do so. *In re. Michelle G.*, 217 Ariz. 340, 173 P.3d 1041 (Ariz. Ct. App. 2008).

Another court of appeals case that year involved the victim's right to refuse an interview or deposition by the defense. The issue was whether the domestic-violence victim, the defendant's ex-wife was a "victim" in a case in which the defendant was charged with interference with judicial proceedings by violating an order of protection that protected the ex-wife. The court determined that she was a victim in the instant case and could refuse to be deposed. *Douglass v. State*, 219 Ariz. 152, 195 P.3d 189 (Ariz. Ct. App. 2008).

Another important 2008 court of appeals decision involved the victims' right to be present in the courtroom, as well as the determination of who was a "victim." In that case, a murder victim's siblings petitioned for reconsideration of a court order excluding them from the courtroom. The court rule on witnesses exempted victims, including the parents and children of a homicide victim. However, the crime victims' rights under Arizona statutes, implementing the victims' constitutional right to attend proceedings, apply to a list of relations of homicide survivors, including siblings. The court ruled that the statutory definition applies and that the siblings have a constitutional right to be present at the trial. *Patterson v. Mahoney*, 210 Ariz. 453, 199 P.3d 708 (Ariz. Ct. App. 2008).

In 2008, the state supreme court issued three rulings upholding the right of victims to make an impact statement at sentencing. *State v. Armstrong*, 218 Ariz. 451, 189 P.3d 378 (Ariz. 2008); *State v. Bocharski*, 218 Ariz. 476, 189 P.3d 403 (Ariz. 2008); *State v. Martinez*, 218 Ariz. 421, 189 P.3d 348 (Ariz. 2008). The supreme court and the court of appeals also issued rulings regarding the victims' right to restitution, clarifying who may be a victim and how to determine losses. *Town of Gilbert Prosecutor's Office v. Downie*, 218 Ariz. 466, 189 P.3d 393 (Ariz. 2008); *State v. Guadagni*, 218 Ariz. 1, 178 P.3d 473 (Ariz. Ct. App. 2008).

The clinic was not involved in the majority of these cases, but its founder, Steve Twist, frequently consulted with prosecutors in those cases. The clinic did represent crime victims in *Lynn v. Reinstein* and *P.M. v. Gould*.

## Colorado

**Changes to Victims' Rights Laws.** Colorado has continued to develop rights for victims during the two years the clinic has been funded.

In 2007, Colorado strengthened the victim's right to be kept informed. It passed a law requiring that, in any administrative action involving a sexual assault that is referred to the office of expedited settlement or the office of the attorney general, victim contact information must be sent to the attorney general's victim advocate. That advocate shall advise the victim of the right to pursue a criminal or civil action, the applicable statutes of limitation, and contact information for the police, sheriff, and community-based resources. Colorado also amended its victims' rights law to require that victims be informed of an attack on a judgment or conviction for which a court hearing is set, even when they have not filed a written request for notice. Victims of sex offenders must be notified if the offender files a petition to terminate sex offender registration requirements.

Colorado also created victims' rights in new areas in 2007. It created a cold-case homicide team and provided that the family member of a homicide could request that the local law-enforcement agency ask the team for assistance in investigating the homicide. The local agency must inform the family whether it will seek assistance and, if it decides not to seek assistance, inform the family of its reasons.

Another new law prohibits the dismissal of charges against a person because a person has been removed or is facing removal from the United States prior to a conviction or other dispo-

sition of criminal charges. A court may not dismiss criminal charges against a person who has been convicted or pled guilty because the person has been removed or is facing removal. The defendant must serve his or her sentence and pay restitution prior to removal. Victims must be consulted in such cases, in accordance with the victim's rights laws.

The state also created a prison sexual-assault prevention program, which protects the rights and interests of victims by requiring prisons to prohibit retaliation for reporting sexual assaults, take measures to ensure victim safety by separating the victim from the assailant, notify the victim about sexual-assault reporting and counseling, and require confidentiality of complaints and confidential mental-health counseling of victims.

Colorado passed a new law promoting the collection of victim restitution in mortgage-fraud cases. That law provides that, where a mortgage broker's license is suspended or revoked due to conduct that resulted in financial loss to another person, no new license should be issued and no suspended license reinstated until full restitution is made to the victim.

Other 2007 changes included making victim compensation records confidential; creating an address-confidentiality program for victims of domestic violence, sexual assault, and stalking; and authorizing courts in domestic-violence cases to restrain defendants from ceasing to make payments for mortgages, rent, insurance, and similar costs.

In 2008, Colorado made several changes regarding juvenile offenders. It required a juvenile parole board to notify any victim of the parole hearing if the victim has provided a written impact statement to the division of youth corrections. It also required the board to notify the victim of any changes in the juvenile's parole. It also encouraged the use of restorative justice practices at the juvenile level to promote juvenile accountability to victims and authorized the court to order victim-offender conferences among other practices.

Colorado also clarified the victim's right to be heard at any court proceeding and added the right to be heard at a court proceeding where the court accepts a plea of *nolo contendere* or where the victim requests a modification of the no-contact order that is mandatory in any criminal case. And it required prosecutors to inform victims of the charges to be filed, prior to filing charges, if the most serious charge to be filed is a less serious offense than the one for which the defendant was arrested and the lesser charge might result in the court lowering the bond requirements.

The state also passed a law prohibiting prosecutors and law enforcement from requiring victims of sex offenses to take a polygraph as a condition of investigation or prosecution or from requiring victims to participate in the criminal-justice process as a condition of receiving a forensic exam. Administrative code provisions were adopted regarding the new address-confidentiality program.

The clinic did not play a role in any of these changes.

**Case Law Developments.** The Colorado courts ruled in a number of victims' rights cases in 2007, most of which involved restitution. The supreme court clarified that victims were entitled to receive both prejudgment and postjudgment interest in probationary restitution orders. *Roberts v. State*, 130 P.3d 1005 (Colo. 2006). Rulings from the court of appeals clarified procedures for granting restitution and the damages for which restitution may be ordered and that restitution should be ordered for the extent of the victim's loss. See *State v. Martinez*, 166 P.3d 223 (Colo. Ct. App. 2007); *State v. Leonard*, 167 P.3d 178 (Colo. Ct. App. 2007); *State v. Reyes*, 166 P.3d 301 (Colo. Ct. App. 2007); *State v. Smith*, 181 P.3d 324 (Colo. Ct. App. 2007).

Also in 2007, the court of appeals issued a ruling that may make it more difficult for minor victims of sex offenses to testify in court. In that case, a 14-year-old victim was permit-

ted to testify behind a physical barrier, which prevented the victim from seeing the defendant. The court found that this violated the defendant's right to face-to-face confrontation with the victim, who was not eligible for special protection because of her age. *State v. Mosley*, 167 P.3d 157 (Colo. Ct. App. 2007).

In 2008, the Colorado Supreme Court issued one important opinion affirming a sexual-assault victim's special right to privacy. In that case, the media filed a series of motions seeking access to an indictment in a criminal case involving numerous child abuse and assault charges. The court found that the Colorado Criminal Justice Records Act (C.R.S. 24-72-306) required that the indictment be made available for public inspection, with the exception of any sexual-assault victims' identifying information. *State v. Thompson*, 181 P.3d 1143 (Colo. 2008).

The clinic was not involved in these cases.

## Idaho

**Changes to Victims' Rights Laws.** Idaho has made few advances for crime victims' rights during the time the clinic has been operational. In 2006, the legislature passed a law requiring restitution in cases of human trafficking and increasing the amount of money that domestic-violence victims could pursue in small-claims court.

Additional changes were adopted in 2008, including laws that authorized a court to order a person convicted of leaving the scene of an accident resulting in injury or death to pay the victim's economic loss; created an address-confidentiality program for victims of domestic violence, stalking, or sexual assault; and protected the social security numbers of persons that are contained in court documents.

None of these changes appears to have been connected to the work of the clinic.

**Case Law Developments.** Crime-victim case law has also developed in Idaho, but those developments do not appear to be connected to the work of the clinic. In 2004, the victim's right to restitution was affirmed when the court of appeals found that a minor victim's parents were entitled to restitution for lost wages related to the victimization of their child. *State v. Doe*, 103 P.3d 967 (Idaho Ct. App. 2004).

In 2005, the state supreme court held that a defendant's criminal conviction was not abated with his death and that the attendant order requiring payment of restitution also remained intact. *State v. Korsen*, 141 Idaho 445, 111 P.3d 130 (Idaho 2005). The court of appeals issued two opinions making clear that the victim's right to be heard is independent of the state's interests. The first found that the admission of testimony from a victim's mother at sentencing did not violate the plea agreement with the state because there was no indication that the victim's mother was presenting testimony at the request of the state. *State v. Jones*, 141 Idaho 673, 115 P.3d 764 (Idaho Ct. App. 2005). The second also found that admission of victim statements did not breach a plea agreement by the state; instead, the prosecutor "merely facilitated the constitutional and statutory right of the victims to make a statement." *State v. Lutes*, 141 Idaho 911, 120 P.3d 299 (Idaho Ct. App. 2005).

In 2006, the court of appeals found that use of a video as part of a victim impact statement was appropriate. *State v. Leon*, 142 Idaho 705, 132 P.3d 462 (Idaho Ct. App. 2006). The supreme court also held, in a case involving the crime of influencing or deterring a witness, that the state was not required to prove that a defendant's conduct actually prevented the witness from testifying, a decision that will help protect future crime victims and witnesses. *State v. Mercer*, 143 Idaho 108, 138 P.3d 308 (Idaho 2006).

The 2007 appellate-level decisions affecting victims' rights related to the right to restitution. These rulings clarified the type of evidence necessary to the nature and extent of a crime-related loss, the types of entities entitled to restitution, and the broader potential for restitution as part of a plea agreement. See *State v. Cheeney*, 144 Idaho 294, 160 P.3d 451 (Idaho Ct. App. 2007); *State v. Gonzales*, 144 Idaho 775, 171 P.3d 266 (Idaho Ct. App. 2007); *State v. Shafer*, 144 Idaho 370, 161 P.3d 689 (Idaho Ct. App. 2007); and *State v. Smith*, 144 Idaho 687, 169 P.3d 275 (Idaho Ct. App. 2007).

There were three Idaho appellate decisions regarding the victims' right to be heard in 2008. In two, the court of appeals noted that the victims' right to be heard in death-penalty cases does not include the right to make a sentencing recommendation. *State v. Deisz*, 145 Idaho 826, 186 P.3d 682 (Idaho Ct. App. 2008); *State v. Payne*, 146 Idaho 548, 199 P.3d 123 (Idaho 2008).

In the third, the supreme court upheld a trial court's discretion in interpreting who may be considered a victim for purposes of presenting a victim impact statement. *State v. Lampien*, 2008 Ida. App. LEXIS 138 (Idaho Ct. App. 2008).

There were also three restitution cases that year. In two, the court merely considered whether evidence offered in support of a request for restitution at the trial-court level was sufficient. *State v. Card*, 146 Idaho 111, 190 P.3d 930 (Idaho Ct. App. 2008); *State v. Doe*, 146 Idaho 277, 192 P.3d 1101 (Idaho Ct. App. 2008). In the third, the court of appeals upheld the imposition of restitution for separate criminal transactions that were not proven at trial. The court reasoned that, since the defendant was not convicted on a charge of theft of a specific amount of money, the state could pursue restitution for all transactions occurring within the same time frame and criminal theory charged. *State v. Schultz*, 2008 Ida. App. LEXIS 149 (Idaho Ct. App. 2008).

## Maryland

**Changes to Victims' Rights Laws.** Maryland's progress in expanding and strengthening the rights of crime victims has continued during the time the clinic has been funded.

In 2004, the legislature authorized the secretary of Public Safety and Correctional Services to adopt regulations establishing minimum mandatory standards applicable to victim notification and restitution.

In 2005, Maryland adopted three court rules that affected victim's rights. The first authorized an attorney to enter an appearance on behalf of a victim or victim's representative for the purpose of representing the rights of the victim. The second gave victims the right to file an interlocutory, or provisional, appeal alleging a denial of their rights. The third rule allows a victim or representative who has requested notice to attend a hearing on a petition for a writ of error directed at another branch of the same court. The legislature also addressed victims' rights in 2005, strengthening the victim's right to restitution, expanding the situations in which a court could order restitution; expanding eligibility for crime-victim compensation to a parent, child, or spouse of a person incarcerated for domestic violence, if the offender had resided with and provided support to that person; and expanding the crimes of inducing false testimony or to avoid a subpoena and of retaliating against victims or witnesses to provide stronger protections.

In 2006, Maryland extended the right to seek an appeal of the denial of a victim's rights to victims of violent juveniles. Maryland also provided that victims of offenders with mental illness will be notified of the dismissal of charges against the defendant and that such vic-

tims will be notified by the Department of Health of the escape, recapture, release, transfer, or death of the defendant. The legislature also created an address-confidentiality program for victims of domestic violence, expanded the list of persons to whom a court was authorized to order restitution, and established the priority of payment of restitution to a victim over another person or a governmental unit. That same year, two court rules were amended to protect victim information in court documents.

The 2007 advances related to court rules. The provision exempting crime victims from the evidentiary rule regarding the sequestration of witnesses was expanded to include victims of juvenile offenders. The court rule regarding the entry of appearance by an attorney on behalf of a victim was extended to cases appealed to the court of appeals or court of special appeals. The victim's right to file an application for leave to appeal from an interlocutory or final order regarding victims' rights was recognized, and another court rule regarding the right of victims to file an appeal was extended to juvenile victims.

In 2008, the restitution law was amended to provide that restitution collected for a victim who cannot be located will be deposited into a fund that will provide grants for victim legal representation. That same year, a new law was passed regarding the medical parole of offenders, which provided victims the rights to be notified and heard during proceedings to consider medical parole.

Many of these changes had been legislative priorities of the Maryland clinic's parent organization, the Maryland Crime Victim's Resource Center (MCVRC). The executive director of the MCVRC is also a clinic attorney, so there is a real sharing of interests. Some of the legal changes were directly related to the work of the clinic. A prime example is the 2006 legislation giving victims of juveniles the ability to seek an appeal where their rights are violated. A pro bono clinic attorney had represented a victim of a juvenile who had attempted to appeal a denial of rights, but the court had ruled in 2005 that victims of juvenile offenders could not exercise the right to seek appeal. That pro bono attorney became a state legislator and was responsible for the 2006 amendment extending the right to victims of juveniles.

**Case Law Developments.** Case law regarding crime victims' rights has also developed in Maryland during the time the clinic has been funded.

In 2005, Maryland's Court of Appeals—its highest court—ruled on three victims' rights cases. In the first, discussed above, the court found that the statutory right of victims to appeal a denial of their rights had not been extended to victims of juvenile offenders. *Lopez-Sanchez v. State*, 155 Md. App. 680, 843 A.2d 915 (2004), *aff'd*, 838 Md. 214, 879 A.2d 695 (Md. Ct. App. 2005). The other two decisions clarified restitution, ruling on whether restitution could be ordered for certain losses. *Goff v. State*, 387 Md. 327, 875 A.2d 132 (Md. 2005); *Williams v. State*, 385 Md. 50, 867 A.2d 305 (Md. Ct. App. 2005).

In 2006, the court of appeals and the court of special appeals took up the issue of the crime victim's remedy for violation of rights. The court of appeals found that a homicide victim's parents lacked standing to file an answer to the defense's petition for certiorari, to cross-petition, or to file a brief or present argument, in a case in which a defendant had died while appeal was pending and the defense was seeking to dismiss the appeal and indictment. *Surland v. State*, 392 Md. 17, 895 A.2d 1034 (Md. Ct. App. 2006). That same year, the court of special appeals ruled that a victim did not have standing to challenge a sentence, where the victim had not been notified of a hearing to reconsider the offender's sentence. *Lamb v. Kontgias*, 169 Md. App. 466, 901 A.2d 860 (Md. Ct. Spec. App. 2006), *cert. denied*, 169 Md. App. 466, 909 A.2d 259 (2006); *cert. denied*, 169 Md. App. 466, 901 A.2d 260, (2006); *cert. denied*, 127 S.

Ct. 1875, 549 U.S. 1304 (2007). Also in 2006, the court of special appeals vacated an order of restitution because the state had not proven the victim's entitlement to restitution or presented competent evidence of the victim's loss. *Juliano v. State*, 166 Md. App. 531, 890 A.2d 847 (Md. Ct. Spec. App. 2006).

In 2007, the court of appeals issued opinions in three restitution cases, holding that (1) a victim must affirmatively request restitution and present evidence of the victim's loss; (2) a restitution order is nondischargeable in bankruptcy; and (3) parents may be ordered to pay restitution for the criminal acts of their child. See *Chaney v. State*, 397 Md. 460, 918 A.2d 506 (Md. 2007); *State v. Garnett*, 384 Md. 466, 863 A.2d 1007 (Md. Ct. App. 2004); *State v. Garnett*, 172 Md. App. 558, 916 A.2d 393 (Md. Ct. Spec. App. 2007), *cert. denied*, 399 Md. 594, 925 A.2d 633 (Md. Ct. App. 2007); *Robey v. State*, 397 Md. 449, 918 A.2d 499 (Md. 2007).

In 2008, the Maryland Court of Appeals ruled on two cases involving victims' rights. In the first and most significant, the court found that crime victims and their attorneys had standing to participate in an appeal. However, the court noted that "there remains no effective tangible remedy for a victim to seek to 'un-do' what already has been done in a criminal case." In that case, the victim was not notified of hearings reconsidering the sentence of her assailant and, thus, was denied her right to be heard at those hearings. *Hoile v. State*, 404 Md. 591, 948 A.2d 30 (2008). In another case, the court held that a broad definition of *crime victim* applied to the victim compensation law. *Opert v. Criminal Injuries Comp. Bd.*, 403 Md. 587, 943 A.2d 1229 (Md. Ct. App. 2008).

The Maryland clinic represented the victims in each of the above cases involving crime-victim standing or remedies for a violation of rights and provided assistance to the victim's counsel in the case of *Opert v. Criminal Injuries Comp. Bd.*

## New Jersey

**Changes to Victims' Rights Laws.** Recent expansion of victim protections in New Jersey has been limited. In 2005, the state adopted a new administrative code provision setting out conditions of parole supervision for life to include a prohibition on contact with the victim without the approval of the parole officer. The legislature also gave trafficking victims the right to receive information, services, and victim compensation; authorized courts to order restitution for the owner of property damaged by a tenant in retaliation for eviction; and created a civil cause of action for victims against those who committed certain forms of identity theft.

In 2006, New Jersey acted to protect victim privacy, adding an administrative code section providing that persons convicted of offenses shall be denied access to a government record that contains the personal information about a victim or the victim's family.

In 2007, New Jersey made two important legislative changes that affect legal representation of crime victims. It added new duties to the victim-witness rights information program, requiring that victims be informed about their constitutional and statutory rights and about obtaining legal advice or representation and requiring the information program to conduct training for attorneys. It also made a number of changes to the crime-victim compensation program, including authorizing the payment of limited attorneys' fees for legal assistance in any legal matter relating to the offense that is provided to a crime victim, not merely actions relating to crime-victim compensation. Other compensation changes included reorganizing the compensation administrative structure and procedures, broadening victim eligibility, and increasing the cap on emergency awards.

Other 2007 changes involved the creation of new pretrial and postsentencing protective orders for victims of sex offenders and a new civil cause of action for hate crimes.

Administrative code changes in 2007 authorized the release of certain information regarding juvenile offenders to victims and required the Residential Community Program Notification Committee to review comments from victims concerning the placement of an inmate in a community-based program and to keep those comments confidential.

In 2008, New Jersey amended its administrative code to further protect victim information from offenders.

The clinic does not appear to have been involved in most of these statutory and administrative code changes, with the exception of the 2007 compensation revisions and provision requiring victims to be informed of their rights and given information about obtaining legal assistance, where involvement by the clinic director is likely.

**Case Law Developments.** New Jersey has only had a few recent appellate-level cases affecting crime victims' rights. In one 2005 case involving aggravated sexual assault, kidnapping, burglary, and criminal restraint, the defendant filed a discovery motion requesting that a photograph of the victim be taken and provided to him. The trial court granted the request over the objections of the prosecutor. The appellate court reversed, stating that any possible benefits to the defendant from a court-ordered photograph were speculative and were outweighed by the victim's "right to privacy; her right to be treated with fairness, compassion, and respect; her right to be free from intimidation; and the need to encourage crime victims to cooperate and participate in the criminal justice system."

The clinic became involved when the defendant sought to appeal to the supreme court. *State v. Gilchrist*, 381 N.J. Super. 138, 885 A.2d 29 (2005).

In 2007, the New Jersey Supreme Court issued two opinions relating to victims. The first upheld the admission of victim impact testimony. *State v. Wakefield*, 190 N.J. 397, 921 A.2d 954 (2007). The second was a case in which the clinic represented a minor victim of kidnapping and sexual assault. The state had failed to speak with the minor victim's father, who had expressed an interest in being present at sentencing, before presenting a plea that included a ten-year sentence. The state moved to vacate the plea; the court granted the motion. A second plea was later entered with included a higher sentence recommendation. The defendant appealed, arguing that the victim's rights did not authorize the state to withdraw a guilty plea to which the defendant had already agreed. The supreme court reinstated the original plea. Importantly, the court gave guidance for how the victim's rights could be accommodated in such a case. *State v. Means*, 191 N.J. 610, 926 A.2d 328 (2007).

In 2008, the New Jersey Superior Court, Appellate Division, determined that the trial court did not err in allowing a victim to remain in the courtroom. While a defendant has no constitutional right to exclude witnesses, a victim has a state constitutional right to remain in the courtroom. *State v. Williams*, 404 N.J. Super. 147, 960 A.2d 805 (2008). Another 2008 decision by that same court division upheld the state's restitution payment system, under which multiple restitution orders are paid on a first-in-time basis, rather than a pro rata basis. *Felicioni v. Administrative Office of the Courts*, 404 N.J. Super. 382, 961 A.2d 1207 (2008).

## New Mexico

**Changes to Victims' Rights Laws.** New Mexico has made modest progress in rights for victims during the years the clinic has been in existence. Perhaps most significantly, in 2005, legislators created a law that requires the court to inquire—on the record—whether a victim is

present for the purpose of making an oral statement or submitting a written statement respecting the victim's rights at any scheduled court proceeding. If the victim is not present, the court must inquire—again, on the record—whether an attempt was made to notify the victim of the proceeding. If the prosecutor is unable to verify that an attempt was made to notify the victim, the court must reschedule the hearing or continue with the hearing but reserve ruling until the victim has been notified and given an opportunity to make a statement, and order the prosecutor to notify the victim of the rescheduled hearing. The legislature also made mandatory the victim's right to receive timely notice of any court proceeding relating to the criminal offense, regardless of whether the victim had formally requested such notice.

The year 2005 also saw several amendments to the right to restitution, providing that a restitution order constitutes a lien against the defendant's property and allowing courts to order restitution for losses from electronic identity fraud or for vet bills for crimes involving service animals.

Statutory changes in 2007 related to the rights of domestic-violence victims. These included the creation of an address-confidentiality program for victims and a provision requiring local law enforcement to enter a domestic-violence protection order into the national crime information center's order-of-protection file within 72 hours. Two court rules were also amended in 2007, permitting magistrate and municipal courts to refuse to allow a complaining witness or victim to post bond for the defendant, if the court finds that the defendant poses a danger to the victim or witness.

In 2008, the legislature addressed victim confidentiality in criminal-justice records, holding that no agency or court may make publicly available on the Internet any information likely to reveal the identity or location of a party protected by an order of protection. It also provided that simplified petition forms for orders of protection shall be made available to everyone, not merely those petitioning without an attorney, and that victims could not be charged with the costs of prosecuting a domestic-violence offense or filing fees for protection orders. The legislature also passed a new law that prohibited law enforcement or prosecutors from asking or requiring any victim of a sex offense to take a polygraph examination as a condition for proceeding with the case.

The clinic was not connected to these advances for victims.

**Case Law Developments.** New Mexico has had limited development in case law relating to victim's rights during the time of the clinic's work. In 2005, the state supreme court addressed the issue of victim privacy in two cases. In the first, the supreme court found that the court rule requiring the disclosure of the names and addresses of all witnesses the state intends to call at trial, together with any statements by those witnesses, applies also to the victim's statements to the prosecutor's victim advocate. *State ex rel. Brandenburg v. Blackmer*, 137 N.M. 258, 110 P.3d 66 (N.M. 2005). In the second case, a trial court had granted defendant's motion to compel rape crisis counselors to provide statements regarding their contact with a victim, holding that, despite the passage of a statutory Victim Counselor Confidentiality Act (N.M. Code §§31-25-1-6), a victim-counselor privilege was not recognized in the supreme court rules of evidence and therefore the statements were not protected. The supreme court found that the nondisclosure provisions of the act were consistent with the psychotherapist-patient privilege contained in the rules of evidence and remanded to the trial court for consideration of whether the communications at issue fell within that privilege. *Albuquerque Rape Crisis Ctr. v. Blackmer*, 138 N.M. 398, 120 P.3d 820 (N.M. 2005). In another 2005 case, the state's court of appeals upheld the imposition of a special condition of probation, prohibiting a

convicted sex offender from having contact with all of his minor children, including the victim and his other children. The court found that the trial court has authority to impose conditions reasonably related to the defendant's rehabilitation. *State v. Garcia*, 137 N.M. 583, 113 P.3d 406 (N.M. Ct. App. 2005).

The most significant victims' rights appellate case in New Mexico took place in 2006, although it resulted only in an unpublished opinion. In that case, the clinic had represented a victim who sought a writ of superintending control granting the victim standing to file a motion with the district court to attend all public court proceedings that the offender has a right to attend. After oral argument by the clinic attorneys, the supreme court issued an order of remand granting the victim standing to assert her rights and ordering the district court to try to maximize the constitutional protections available to the victim under the state's statutes and constitution and the rules of procedure and evidence. The initial order of remand was replaced by an amended order of remand issued November 13, 2006, which specifically ordered the district court to maximize the protection available to the victim under N.M. R. Evid. 11-611 (requiring the court to exercise control over the mode and order of interrogation of witnesses to protect them from harassment or undue embarrassment) and N.M. R. Evid. 11-615 (exclusion of witnesses) as well as the federal constitution. That order was unpublished but has been influential. *Nasci v. Pope*, No. 29,878 (N.M. 2006).

In 2007, the court of appeals ruled that a defendant's bankruptcy filing did not void a restitution order imposed as a condition of probation.

With the exception of the 2006 *Nasci* case, none of the case law developments related to the work of the New Mexico clinic.

### South Carolina

**Changes to Victims' Rights Laws.** South Carolina has an active advocacy network and has worked to strengthen victim's rights. This progress has continued through the recent years the legal clinic has been in operation. In 2004, South Carolina expanded victims' rights at parole, by

- requiring that the parole board make its administrative recommendations available to a victim before it conducts a parole hearing
- requiring the parole board to conduct all parole hearings relating to the same victim on the same day
- requiring the parole board to operate closed-circuit television systems for use in parole hearings, giving victims access to this system in order to make their appearance before the board
- at the victim's request, authorizing the board to allow the victim and offender to appear simultaneously before the board.

In 2005, for example, the state amended several laws to promote the notification of crime victims when offenders are released from custody, transferred to a diversionary program, or discharged from a mental-health facility, expanding notification requirements and ensuring that custodial agencies receive victim contact information or a copy of the victim's impact statement from the prosecutor or summary court in a timely fashion. The legislature also passed laws requiring that the victim information be kept confidential by custodial authorities and that the victim impact statement not be provided to the defendant until after the defendant

has pled or been found guilty or been adjudicated. The amendments also provided that victim notification of release or escape could not be merely by electronic or automated means. Instead, after three unsuccessful attempts at electronic notification, the agency must attempt to personally notify the victim. In 2006, this requirement of additional personal attempts at notification was limited to victims of domestic violence, sex offenses, and stalking.

Also in 2006, the legislature extended the victim compensation program, providing that the manifestation of a physical or mental injury resulting from a crime committed against the person as a minor triggers the running of the time period for filing a claim for compensation.

In 2007, South Carolina passed a law regarding the use of inmate labor and requiring that 20 percent of an inmate's wages be used for payment of restitution. Another new law prohibited victim and witness intimidation by gang members and gave victims of such intimidation a civil cause of action.

In 2008, South Carolina provided for victim notification and the right to be heard when an offender seeks postconviction DNA testing.

While the clinic itself was not involved in these legislative changes, its parent organization, the South Carolina Victims Assistance Network, advocated for many of the changes.

**Case Law Developments.** In 2006, the court of appeals issued an order clarifying a family court's authority to order a juvenile probationer to pay restitution, even after he had been committed for another offense. *In re Terrence M.*, 368 S.C. 276, 628 S.E.2d 295 (S.C. Ct. App. 2006).

In 2007, the supreme court found that victims entitled to receive restitution from offenders, among others, had no private right of action against the Department of Corrections for improperly diverting the offenders' wages into a department surplus fund. *Torrence v. S.C. Dept. of Corr.*, 373 S.C. 586, 646 S.E.2d 866 (S.C. 2007). In another case that same year, the supreme court found no error in permitting a victim advocate to make statements at a probation-revocation hearing on behalf of the victim. The court held that victims had a statutory right to attend and comment at postconviction proceedings affecting probation. *State v. Barlow*, 372 S.C. 534, 643 S.E.2d 682 (S.C. 2007).

Finally, in another 2007 case, the supreme court upheld the statutory requirement that persons charged with a sex offense be tested for HIV and other diseases, finding that the state had an interest in protecting the health of the victims. *State v. Houey*, 375 S.C. 106, 651 S.E.2d 314 (S.C. 2007).

The clinic had no involvement in these cases. However, the clinic's parent organization had filed an amicus brief in the case of *Torrence v. S.C. Dept of Corr.*

## Utah

**Changes to Victims' Rights Laws.** Utah has continued to expand its legal rights for victims during the period of the clinic's existence. In 2005, it created a court rule concerning the public availability of court records, which addressed the privacy and safety reasons for selectively closing court records relating to victims and witnesses. It also made technical changes to its restitution law to allow flexibility in the ordering of victim restitution. In 2006, it expanded its statute prohibiting murderers from inheriting from their victims.

In 2007, Utah amended a court rule to provide safeguards for victims when their records are subpoenaed, requiring that, before such records can be requested, the court must first hold a hearing and determine that the defendant is entitled to such records. It also amended the code to provide that, if a local victims' rights committee is unable to resolve a victim's com-

plaint, it may refer the complaint to the Utah Council on Victims of Crime for its consideration. It gave victims the right to be notified and heard before a court can reduce the level of offenses for which a person is convicted. It also adopted administrative code provisions detailing implementation of the victim's rights during parole proceedings. And it made statutory and administrative code changes to promote the collection and disbursement of restitution to crime victims.

In 2008, Utah gave victims the right to submit a written statement in any action on appeal that is related to the crime committed against the victim. Utah also revised its crime-victim compensation provisions; revised a statute regarding the closing of the courtroom during abuse, neglect, and dependency proceedings; revised a court rule regarding the admissibility of out-of-court statements of a child victim or witness of sexual or physical abuse; and expanded the list of those protected from civil action by an offender to include the personal representatives of a disabled or murdered victim.

Most of these changes were unrelated to the work of the clinic. Two clinic clients testified on legislation to give victims the right to submit a written statement on any appeal related to the crime. Clinic staff were also asked their opinions regarding the need for a rule change regarding the subpoenaing of victim records. However, they were not the advocates for that change.

**Case Law Developments.** During the time the clinic has been operational, there have been two reported cases of note. In a 2006 case, the Utah Supreme Court held that the Utah rules of evidence did not require the trial court to exclude a child-victim's mother from the courtroom. The court also held that it was within the trial court's discretion to allow the mother to sit behind the eight-year-old victim while the victim testified, because the court had taken precautions to ensure fairness. *State v. Billsie*, 2006 UT 13, 131 P.3d 239 (Utah 2006).

In 2007, the Utah Court of Appeals held that a trial court was not precluded from ordering restitution in a cases in which the defendant had undergone bankruptcy proceedings. *State v. Cabrera*, 2007 UT App 194, 163 P.3d 707 (Utah Ct. App. 2007).

In 2008, the Utah Court of Appeals affirmed a trial court's decision granting a defendant's motion for an in camera inspection of the victim's mental-health records. *State v. Worthen*, 2008 UT App 23, 177 P.3d 664 (Utah Ct. App. 2008). This case has been appealed to the supreme court, and the clinic has filed an amicus brief.

Another court of appeals case that year involved the victims' right to restitution. The court affirmed that trial courts have broad discretion when ordering restitution. *State v. Hight*, 2008 UT App 118, 182 P.3d 922 (Utah Ct. App. 2008).

## Summary Tables

**Table B.1**

**Arizona: Changes in Statutes, Administrative Codes, and Court Rules for Victims' Rights**

Year	Citation	Link to Clinic
<b>General victims' rights</b>		
2005	Ariz. Rev. Stat. § 8-382 (juvenile cases) Ariz. Rev. Stat. § 13-4401 (adult criminal cases)	No clinic involvement indicated.

**Table B.1—Continued**

Year	Citation	Link to Clinic
2005	Ariz. Rev. Stat. § 8-383.01 (juvenile cases) Ariz. Rev. Stat. § 13-4402.01 (adult criminal cases)	The clinic's founder drafted the legislation.
2003	Ariz. Rev. Stat. § 8-385.01	No clinic involvement indicated.
<b>Right to be informed</b>		
2005	Ariz. Rev. Stat. § 8-344	No clinic involvement indicated.
2005	Ariz. Rev. Stat. § 8-390	No clinic involvement indicated.
2005	Ariz. Rev. Stat. § 8-396 (juvenile cases) Ariz. Rev. Stat. § 13-4415 (adult criminal cases)	The expansion of the right to be informed of any modification at probation was spurred by the clinic's identification of the problem.
2005	Ariz. Rev. Stat. § 8-421	No clinic involvement indicated.
2005	Ariz. Rev. Stat. § 13-4438	The clinic's founder drafted the amendment to this statute.
2007	Ariz. Rev. Stat. § 13-923	The clinic's founder was involved in this legislation.
2007	Ariz. Rev. Stat. § 13-4405	The clinic's identification of a problem that could be cured by legislation was instrumental in the development of this legislation.
2007	Ariz. Rev. Stat. § 13-4409	The clinic's founder advocated for this legislation.
2007	Ariz. Rev. Stat. § 13-4411	The clinic's founder initiated this legislation.
2008	Ariz. Rev. Stat. § 13-4440	The clinic's founder initiated this legislation.
2007	Ariz. Rev. Stat. § 31-281	No clinic involvement indicated.
2006 2007	Ariz. Rev. Stat. § 39-127	The need for this legislation became apparent in a clinic case, where the clinic needed a copy of the police report as part of its representation of the victim.
2005	Ariz. R. Crim. P. 27.2	No clinic involvement indicated.
2007	Ariz. R. Crim. P. 27.12	No clinic involvement indicated.
2006	Ariz. R. Crim. P. 31.27 Ariz. R. Crim. P. 32.10	The clinic's identification of a problem that could be cured by court rule was instrumental in the development of these amendments.
2008	A.A.C. § R9-6-1104	No clinic involvement indicated.
<b>Right to attend</b>		
2005	Ariz. R. Crim. P. 27.11	No clinic involvement indicated.
<b>Right to be heard</b>		
2006	Ariz. Rev. Stat. § 12-601	No clinic involvement indicated.
2008	Ariz. Rev. Stat. § 13-701	The need for this legislation came to light during the case of <i>State v. Glasel</i> . The clinic founder had consulted with the AG's office on victim issues in that case.
2008	Ariz. Rev. Stat. § 13-703	The need for this legislation came to light during the case of <i>State v. Glasel</i> . The clinic founder had consulted with the AG's office on victim issues in that case.

**Table B.1—Continued**

Year	Citation	Link to Clinic
2003	Ariz. Rev. Stat. § 13-703.01	The clinic's identification of a problem that could be cured by legislation was instrumental in the development of this legislation.
2007	Ariz. Rev. Stat. § 13-923	No clinic involvement indicated.
2005	Ariz. Rev. Stat. § 13-4042	The clinic's identification of a problem that could be cured by legislation was instrumental in the development of this legislation.
2005	Ariz. Rev. Stat. § 13-4234.01	The clinic founder drafted this legislation.
2003	Ariz. Rev. Stat. § 13-4426	The need for this legislation was identified in the case of <i>Lynn v. Reinstein</i> , in which the homicide survivor was represented by the clinic founder.
2003	Ariz. Rev. Stat. § 13-4426.01	The need for this legislation was identified in the case of <i>Lynn v. Reinstein</i> , in which the homicide survivor was represented by the clinic founder.
2007	Ariz. Rev. Stat. § 13-4435	The clinic founder was involved in this legislation. The clinic had identified the need for this legislation.
2007	Ariz. Rev. Stat. § 31-281	No clinic involvement indicated.
2005	Ariz. R. Crim. P. 4.2	No clinic involvement indicated.
2008	Ariz. R. Crim. P. 15.1	No clinic involvement indicated.
2003	Ariz. R. Crim. P. 15.7	No clinic involvement indicated.
2005	Ariz. R. Crim. P. 27.2	No clinic involvement indicated.
2005	Ariz. R. Crim. P. 27.11	No clinic involvement indicated.
<b>Right to speedy trial</b>		
2007	Ariz. Rev. Stat. § 13-4435	The clinic's identification of a problem that could be cured by legislation was instrumental in the development of this legislation.
<b>Right to protection</b>		
2006	Ariz. Rev. Stat. § 12-716	No clinic involvement indicated.
2006	Ariz. Rev. Stat. § 8-412 (juvenile cases) Ariz. Rev. Stat. § 13-4433 (adult criminal cases)	No clinic involvement indicated.
2005	Ariz. Rev. Stat. § 8-416	No clinic involvement indicated.
2005 2007	Ariz. Rev. Stat. § 11-483	No clinic involvement indicated.
2005 2007	Ariz. Rev. Stat. § 11-484	No clinic involvement indicated.
2006	Ariz. Rev. Stat. § 13-101.01	No clinic involvement indicated.
2007	Ariz. Rev. Stat. § 13-4202	No clinic involvement indicated.
2007	Ariz. Rev. Stat. § 13-4439	No clinic involvement indicated.
2003 2005 2007 2008	Ariz. Rev. Stat. § 16-153	The clinic attorney helped draft this legislation based on the experience of a past victim client.

Table B.1—Continued

Year	Citation	Link to Clinic
<b>Right to privacy</b>		
2005	Ariz. Rev. Stat. § 11-483	No clinic involvement indicated.
2005	Ariz. Rev. Stat. § 11-484	No clinic involvement indicated.
2006	Ariz. Rev. Stat. § 13-4071	The clinic's identification of a problem that could be cured by legislation was instrumental in the development of this legislation. The clinic was aware of defense counsel using these subpoenas to obtain sensitive information about victims, and brought the problem to the attention of the clinic founder for his legislative advocacy agenda.
2007	Ariz. Rev. Stat. § 13-4434	The clinic's founder was involved in this legislation.
2003 2005 2008	Ariz. Rev. Stat. § 16-153	The clinic was involved in this legislation.
2006	Ariz. Rev. Stat. §§ 28-455–458	No clinic involvement indicated.
2007	Ariz. Rev. Stat. § 39-123	No clinic involvement indicated.
2007	Ariz. Rev. Stat. § 39-124	No clinic involvement indicated.
<b>Right to restitution</b>		
2005	Ariz. Rev. Stat. § 8-344	No clinic involvement indicated.
2005	Ariz. Rev. Stat. § 13-805	A clinic case brought to light the need for this legislation.
2007	Ariz. Rev. Stat. § 13-810	No clinic involvement indicated.
2007	Ariz. Rev. Stat. § 13-902	No clinic involvement indicated.
2005	Ariz. Rev. Stat. § 13-1309	No clinic involvement indicated.
2006	Ariz. Rev. Stat. § 28-672	No clinic involvement indicated.
2007	Ariz. Rev. Stat. § 31-230	No clinic involvement indicated.
2003 2007	Ariz. Rev. Stat. § 31-254	No clinic involvement indicated.
2007	Ariz. Rev. Stat. § 31-261	No clinic involvement indicated.
2005	Ariz. R. Crim. P. 26.12	No clinic involvement indicated.
2005	Ariz. R. Crim. P. 27.2	No clinic involvement indicated.
<b>Enforcement of rights</b>		
2005	Ariz. Rev. Stat. § 8-416 (juvenile cases) Ariz. Rev. Stat. § 13-4437 (adult criminal cases)	The clinic's identification of a problem that could be cured by legislation was instrumental in the development of this legislation.
2006	Ariz. Rev. Stat. § 13-4436	The clinic's identification of a problem that could be cured by legislation was instrumental in the development of this legislation.
2007	Ariz. Rev. Stat. § 33-1361	No clinic involvement indicated.

**Table B.2**  
**Arizona Victims' Rights Case Law**

Year	Case	Implications for Victims	Clinic Involvement
<b>Definition of victim</b>			
2007	<i>State ex rel. Thomas v. Klein</i> , 150 P.3d 778 (Ct. App. 2007).	Expands amended definition of "victim" to categories of victims previously unconstitutionally unprotected by the Victims' Bill of Rights.	The clinic's founder consulted with the country attorney on victim issues in this case on a voluntary basis.
<b>Right to attend</b>			
2008	<i>Patterson v. Mahoney</i> , 199 P.3d 708 (Ariz. Ct. App. 2008)	Supports the expanded statutory definition of victim, extending the right to attend to victims, even where court rule definition conflicts.	Clinic was approached but could not take the case due to a conflict of interest; referred the case to one of their pro bono attorneys. The clinic's founder consulted with the prosecutor on a voluntary basis.
<b>Right to be heard</b>			
2008	<i>State v. Armstrong</i> , 189 P.3d 378 (Ariz. 2008)	Supports the position that victims' impact statements are generally relevant to rebut mitigation evidence and that the admission of such statements after mitigation evidence has been introduced is not unduly prejudicial.	The clinic's founder consulted with the prosecutor on a voluntary basis.
2008	<i>State v. Bocharski</i> , 189 P.3d 403 (Ariz. 2008)	Supports that victim impact evidence offered in a death penalty case that focus on the impact of the crime on the victim's family is not unduly prejudicial.	The clinic's founder consulted with the prosecutor on a voluntary basis.
2008	<i>State v. Martinez</i> , 189 P.3d 348 (Ariz. 2008)	Confirms the constitutionality of allowing victim impact statements in rebuttal of mitigation evidence. Affirms that victims presenting impact statements are not subject to cross-examination and do not have to be sworn in.	The clinic's founder consulted with the prosecutor on a voluntary basis.
2007	<i>State v. Garza</i> , 163 P.3d 1006 (Ariz. 2007), <i>cert. denied</i> 128 S. Ct. 890 (2008)	Affirms a victim's right to be heard and authorizes showing of homicide victim's photo in life as representative of loss suffered.	The clinic's founder consulted with the prosecutor on a voluntary basis.
2007	<i>State v. Tucker</i> , 160 P.3d 177 (Ariz. 2007)	Upheld admissibility of victim impact evidence to rebut mitigation evidence during penalty phase.	The clinic's founder consulted with the prosecutor on a voluntary basis.
2006	<i>State v. Ellison</i> , 140 P.3d 899 (Ariz. 2006)	Affirmed the admission of victim impact statements as relevant to the harm caused and authorized the jury's review of the homicide victim's in-life photo.	The clinic represented the victims, assisted with the victim impact statement and the selection of the photos, including consulting with the prosecutor on the appropriateness of the photos.

Table B.2—Continued

Year	Case	Implications for Victims	Clinic Involvement
2006	<i>State v. Hampton</i> , 140 P.3d 950 (Ariz. 2006), cert. denied 549 U.S. 1132; 127 S. Ct. 972 (2007)	Affirmed the admission of victim impact evidence and found evidence not to be unduly prejudicial.	The clinic represented the victim.
2006	<i>State v. Roque</i> , 141 P.3d 368 (Ariz. 2006)	Upheld the admissibility of victim impact statements in death penalty cases.	The clinic's founder consulted with the prosecutor on a voluntary basis.
2005	<i>State v. Carreon</i> , 107 P.3d 900 (2005), cert. denied, 546 U.S. 854, 126 S. Ct. 122 (2005)	Affirmed the admission of victim impact evidence.	No clinic involvement indicated. AG's office represented the victim's position.
2005	<i>State ex rel. Thomas v. Foreman</i> , 118 P.3d 1117 (Ct. App. 2005)	Found that the admission of victim impact evidence is not unconstitutional.	County attorney's office represented the victim's position. The clinic provided technical assistance to the prosecutor.
2005	<i>State v. Glassel</i> , 116 P.3d 1193 (Ariz. 2005)	Allows victims to exhibit some emotion during presentation of victim impact statement without fear of unconstitutionally prejudicing the jury. Prohibits a victim from making a sentencing recommendation to the jury in a capital case pursuant to supreme court holding.	The clinic represented the victim. The clinic founder consulted with the AG's office on the victim issues in this case.
2003	<i>Lynn v. Reinstein</i> , 68 P.3d 412 (Ariz. 2003)	Prohibits a victim from making a sentencing recommendation to the jury in a capital case pursuant to supreme court holding.	Arizona Voice for Crime Victims, by Steven J. Twist, was one of the attorneys representing the victim.
<b>Right to protection</b>			
2008	<i>Douglass v. State</i> , 195 P.3d 189 (Ariz. Ct. App. 2008)	Determines that a person protected by an order of protection that is violated qualifies as a victim for the purpose of exercising victims' rights.	No clinic involvement indicated.
2007	<i>Lincoln v. Holt</i> , 156 P.3d 438 (Ct. App. 2007)	Allows a minor victim's parent or legal guardian who exercises victims' rights on behalf of the minor to also exercise all victims' rights specified on their own behalf.	No clinic involvement indicated. County Attorney represented victim's interest.
<b>Right to privacy</b>			
2006	<i>P.M. v. Gould</i> , 136 P.3d 223 (Ariz. Ct. App. 2006)	Calls for balancing a victim's right to privacy with the State's need for the evidence to prove its case. No clear implication with decisions seemingly made on a case by case basis.	The clinic represented the victim in this case.
<b>Right to speedy trial</b>			
2003	<i>State v. Lamar</i> , 72 P.3d 831 (Ariz. 2003)	Requires weighing of defendant's request for a continuance in light of victim's constitutional right to speedy trial.	The clinic's founder consulted with the prosecutor on a voluntary basis.

Table B.2—Continued

Year	Case	Implications for Victims	Clinic Involvement
2003	<i>State v. Towery</i> , 204 Ariz. 386, 64 P.3d 828 (Ariz. 2003)	Affirms a victim's right to speedy trial.	No clinic involvement indicated.
<b>Right to restitution</b>			
2008	<i>State v. Guadagni</i> , 178 P.3d 473 (Ariz. Ct. App. 2008)	Further clarifies who may be a victim for the purposes of receiving restitution.	No clinic involvement indicated.
2008	<i>Town of Gilbert Prosecutor's Office v. Downie</i> , 189 P.3d 393 (Ariz. 2008)	Establishes that value conferred on the victim should be considered when determining the proper amount of restitution.	
2007	<i>In re Andrew C.</i> , 160 P.3d 687 (Ariz. Ct. App. 2007)	Affirms that restitution is for the extent of the economic harm caused to the victim.	No clinic involvement indicated.
2007	<i>State v. Dixon</i> , 162 P.3d 657 (Ariz. Ct. App. 2007)	Authorizes ordering of restitution on basis of evidence substantiated by the victim's claim even if it is uncorroborated by other evidence.	The clinic represented the victims.
2007	<i>In re Richard B.</i> , 163 P.3d 1077 (Ariz. Ct. App. 2007)	Took responsibility for victim's failure to timely submit documentation of restitution losses because of the court's failure to notify the victim of the need to do so.	No clinic involvement indicated. Victim's position was argued by the prosecutor.
2007	<i>Reif v. Kaster (In re Reif)</i> , 363 B.R. 107 (Bankr. D. Ariz. 2007)	Affirms that criminal restitution orders cannot be discharged in bankruptcy.	No clinic involvement indicated. Victim's interests represented by Pima County Attorney.
2005	<i>In re William L.</i> , 119 P.3d 1039 (Ct. App. 2005)	Recognizes that restitution should cover the full harm to the victim.	
2004	<i>State v. Madrid</i> , 85 P.3d 1054 (Ariz. Ct. App. 2004)		No clinic involvement indicated. Attorney General's office represented interests of victim.
2003	<i>In re Stephanie B.</i> , 204 Ariz. 466, 65 P.3d 114 (Ariz. Ct. App. 2003)	Further supports the concept that restitution is to be awarded for all harm caused by the criminal or delinquent act.	No clinic involvement indicated.
<b>Enforcement of Rights</b>			
2008	<i>In re Michelle G.</i> , 173 P.3d 1041 (Ariz. Ct. App. 2008)	Clearly acknowledges the impact of failure of criminal justice officials to perform their duties to assist victims exercise their rights.	No clinic involvement indicated.
2004	<i>State ex rel. Romley v. Dairman</i> , 95 P.3d 548 (Ariz. Ct. App. 2004)	Upheld the court's equitable power to appoint a representative when the minor's is not protecting the child victim's best interests.	No clinic involvement indicated.

**Table B.3**  
**Colorado: Changes in Statutes, Administrative Codes, and Court Rules for Victims' Rights**

Year	Citation	Link to Clinic
<b>Right to be informed</b>		
2007	Colo. Rev. Stat. § 18-3-417	No clinic involvement indicated.
2007	Colo. Rev. Stat. § 17-1-115.5 (adult prisoners) Colo. Rev. Stat. § 19-2-214 (juveniles in detention)	No clinic involvement indicated.
2008	Colo. Rev. Stat. § 19-2-1002	No clinic involvement indicated.
2007	Colo. Rev. Stat. § 24-4.1-302.5	No clinic involvement indicated.
2008	Colo. Rev. Stat. § 24-4.1-303	No clinic involvement indicated.
2007	Colo. Rev. Stat. § 24-33.5-425	No clinic involvement indicated.
2007	Colo. Rev. Stat. § 25-3-110	No clinic involvement indicated.
<b>Right to be heard</b>		
2007	Colo. Rev. Stat. § 16-3-502	No clinic involvement indicated.
2008	Colo. Rev. Stat. § 19-2-303	No clinic involvement indicated.
2008	Colo. Rev. Stat. § 19-2-708	No clinic involvement indicated.
2008	Colo. Rev. Stat. § 24-4.1-302.5	No clinic involvement indicated.
<b>Right to protection</b>		
2007	Colo. Rev. Stat. § 13-14-102	No clinic involvement indicated.
2007	Colo. Rev. Stat. § 17-1-115.5 (adult prisoners) Colo. Rev. Stat. § 19-2-214 (juveniles in detention)	No clinic involvement indicated.
2008	Colo. Rev. Stat. § 18-3-407.5	No clinic involvement indicated.
2007	Colo. Rev. Stat. §§ 24-21-201–214	No clinic involvement indicated.
2008	8 CCR 1505-13	No clinic involvement indicated.
<b>Right to privacy</b>		
2007	Colo. Rev. Stat. § 17-1-115.5 (adult prisoners) Colo. Rev. Stat. § 19-2-214 (juveniles in detention)	No clinic involvement indicated.
2007 2008	Colo. Rev. Stat. § 24-72-204	No clinic involvement indicated.
<b>Right to restitution</b>		
2007	Colo. Rev. Stat. § 12-61-905.5	No clinic involvement indicated.

**Table B.4**  
**Colorado Victims' Rights Case Law**

Year	Case	Implications for Victims	Clinic Involvement
<b>Right to protection</b>			
2007	<i>State v. Mosley</i> , 167 P.3d 157 (Colo. Ct. App. 2007)	This decision will make it more difficult for minor victims of sex offenses to testify in court.	No clinic involvement indicated.
<b>Right to privacy</b>			
2008	<i>State v. Thompson</i> , 181 P.3d 1143 (Colo. 2008)	This case affirmed a sexual assault victim's special right to privacy.	No clinic involvement indicated.
<b>Right to restitution</b>			
2007	<i>State v. Leonard</i> , 167 P.3d 178 (Colo. Ct. App. 2007)	This case affirmed victims' right to restitution for their losses.	No clinic involvement indicated.
2007	<i>State v. Martinez</i> , 166 P.3d 223 (Colo. Ct. App. 2007)	Ruling further clarified procedures for granting order for restitution.	No clinic involvement indicated.
2007	<i>State v. Reyes</i> , 166 P.3d 301 (Colo. Ct. App. 2007)	Clarified the damages for which restitution can be ordered.	No clinic involvement indicated.
2007	<i>State v. Smith</i> , 181 P.3d 324 (Colo. App. 2007)	Case clarifies that restitution should be ordered for the extent of the victim's loss.	No clinic involvement indicated.
2007	<i>Roberts v. State</i> , 130 P.3d 1005 (Colo. 2007)	Case clarifies victim's ability to receive interest on the amount ordered as restitution.	No clinic involvement indicated.

**Table B.5**  
**Idaho: Changes in Statutes, Administrative Codes, and Court Rules for Victims' Rights**

Year	Citation	Link to Clinic
<b>Right to privacy</b>		
2008	Idaho Code Ann. § 9-340C	No clinic involvement indicated.
2008	Idaho Code Ann. §§ 19-5701–5708	No clinic involvement indicated.
2008	Idaho Misd. Crim. Proc. R. 2.1	No clinic involvement indicated.
<b>Right to compensation</b>		
2006	Idaho Code Ann. § 72-1003 Idaho Code Ann. § 72-1019	No clinic involvement indicated.
<b>Right to restitution</b>		
2006	Idaho Code Ann. § 18-8604	No clinic involvement indicated.
2008	Idaho Code Ann. § 19-5304	No clinic involvement indicated.
<b>Right to civil action</b>		
2006	Idaho Code Ann. § 39-6316	No clinic involvement indicated.

**Table B.6**  
**Idaho Victims' Rights Case Law**

Year	Case	Implications for Victims	Clinic Involvement
<b>Right to be heard</b>			
2008	<i>State v. Deisz</i> , 186 P.3d 682 (Idaho Ct. App. 2008)	Broadly interprets the right to be heard to allow a sentencing recommendation in a victim impact statement except in death penalty cases.	No clinic involvement indicated.
2008	<i>State v. Lampien</i> , 2008 Ida. App. LEXIS 138 (Idaho Ct. App. 2008)	Upholds a trial court's discretion in interpreting who may be a victim for the purposes of presenting a victim impact statement under Idaho law.	No clinic involvement indicated.
2008	<i>State v. Payne</i> , 199 P.3d 123 (Idaho 2008)	Clarifies that evidence relating to the victim's personal characteristics and the impact of the crime on the murder victim's family is admissible in a death penalty case, but characterizations and opinions about the crime, the defendant, and the appropriate sentence are not. Also interprets the right to make a statement in homicide cases to extend only to the victim's immediate family members.	No clinic involvement indicated.
2006	<i>State v. Leon</i> , 132 P.3d 462 (Idaho Ct. App. 2006)	Strengthens broad interpretation of victim impact statement.	No clinic involvement indicated.
2005	<i>State v. Jones</i> , 115 P.3d 764 (Idaho Ct. App. 2005)	Further validates right of victims to be heard at sentencing.	No clinic involvement indicated.
2005	<i>State v. Lutes</i> , 120 P.3d 299 (Idaho Ct. App. 2005)	Gave further support to the premise that the victim's rights are independent of the state.	No clinic involvement indicated.
<b>Right to protection</b>			
2006	<i>State v. Mercer</i> , 138 P.3d 308 (Idaho 2006)	Strengthens a victim's right to protect. The court declined to interpret the statute in a way that would make it more difficult to prove that a defendant intimidated a witness.	No clinic involvement indicated.
<b>Right to restitution</b>			
2008	<i>State v. Card</i> , 190 P.3d 930 (Idaho Ct. App. 2008)	Requires that evidence offered in support of a request for restitution must be sufficient to establish that costs incurred for losses suffered have a causal connection to the crime. No real implications for victims as decisions regarding the sufficiency of the evidence will be made on a case by case basis.	No clinic involvement indicated.

**Table B.6—Continued**

Year	Case	Implications for Victims	Clinic Involvement
2008	<i>State v. Doe</i> , 192 P.3d 1101 (Idaho Ct. App. 2008)	Upheld the sufficiency of evidence submitted in support of request for restitution. No real implications for victims as decisions regarding the sufficiency of the evidence will be made on a case by case basis.	No clinic involvement indicated.
2008	<i>State v. Schultz</i> , 2008 Ida. App. LEXIS 149 (Idaho Ct. App. 2008)	Authorizes the pursuit of restitution for additional similar unauthorized transactions occurring within the same time frame and criminal theory alleged in the charging document.	No clinic involvement indicated.
2007	<i>State v. Cheeney</i> , 160 P.3d 451 (Idaho Ct. App. 2007)	Emphasizes victim's right to receive restitution for the full amount of economic loss suffered. Interprets the definition of "victim" to limit the entities who can receive restitution.	No clinic involvement indicated.
2007	<i>State v. Gonzales</i> , 171 P.3d 266 (Idaho Ct. App. 2007)	Court fails to recognize true impact of crime	No clinic involvement indicated.
2007	<i>State v. Shafer</i> , 161 P.3d 689 (Idaho Ct. App. 2007)	Broadly interprets agreement to pay restitution as part of plea agreement to include payment of all losses incurred by the victim in the accident.	No clinic involvement indicated.
2007	<i>State v. Smith</i> , 169 P.3d 275 (Idaho Ct. App. 2007).	Clarifies the type of showing necessary before a court can order restitution.	No clinic involvement indicated.
2005	<i>State v. Korsen</i> , 111 P.3d 130 (Idaho 2005)	The question of the validity of restitution orders when the defendant dies on appeal is not settled nationally. This is a good decision for Idaho victims, preserving their right to restitution.	No clinic involvement indicated.
2004	<i>State v. Doe</i> , 103 P.3d 967 (Idaho Ct. App. 2004)	Ruling contemplates that those who sustain harm are "victims."	No clinic involvement indicated.

**Table B.7**  
**Maryland: Changes in Statutes, Administrative Codes, and Court Rules for Victims' Rights**

Year	Citation	Link to Clinic
<b>Right to be informed</b>		
2004	Md. Code Ann. Corr. Servs. § 8-103	No clinic involvement indicated.
2008	Md. Code Ann. Corr. Servs. § 7-309	No clinic involvement indicated.
2006	Md. Code Ann. Crim. Proc. § 3-123	No clinic involvement indicated.
<b>Right to attend</b>		
2005	Md. Rule 15-11206	No clinic involvement indicated.
2007	Md. Rule 5-615	No clinic involvement indicated.
<b>Right to be heard</b>		
2008	Md. Code Ann. Corr. Servs. § 7-309	No clinic involvement indicated.
<b>Right to protection</b>		
2005	Md. Code Ann. Crim. Law § 9-302	Clinic's parent organization supported this legislation.
2005	Md. Code Ann. Crim. Law § 9-303	Clinic's parent organization supported this legislation.
<b>Right to privacy</b>		
2006	Md. Rule 16-1008	Clinic's parent organization had advocated for a statute creating this privacy in 2006. The statute was not adopted, but the court implemented this rule change following the legislative session.
2006	Md. Rule 16-1009	No clinic involvement indicated.
2006	Md. Code Ann. Family Law §§ 4-519–530	No clinic involvement indicated.
<b>Right to compensation</b>		
2005	Md. Code Ann. Crim. Proc. § 11-808	No clinic involvement indicated.
2004 2006	Md. Code Ann. Crim. Proc. § 11-809	No clinic involvement indicated.
2004	Md. Code Ann. Crim. Proc. § 11-813	Clinic's parent organization supported this legislation.
<b>Right to restitution</b>		
2005	Md. Code Ann. Crim. Proc. § 11-601	These 2005 changes to Maryland's restitution law were a legislative priority of the clinic's parent organization.
2005	Md. Code Ann. Crim. Proc. § 11-603	See above.
2005 2006	Md. Code Ann. Crim. Proc. § 11-606	See above.
2005	Md. Code Ann. Crim. Proc. § 11-608	See above.
2005	Md. Code Ann. Crim. Proc. § 11-610	See above.
2005	Md. Code Ann. Crim. Proc. § 11-613	See above.
2006	Md. Code Ann. Crim. Proc. § 11-619	See above.

**Table B.7—Continued**

Year	Citation	Link to Clinic
<b>Enforcement of rights</b>		
2006	Md. Code Ann. Crim. Proc. § 11-103	Clinic pro bono attorney handled a case involving a juvenile defendant. The victim did not win that case. The attorney later became a state legislator, and introduced legislation to create this statute.
2007	Md. Code Ann., Crim. Proc. § 11-919 Md. Code Ann., Commercial Law § 17-317	The Executive Director of the umbrella organization originated this idea and advocated for it.
2005 2007	Md. Rule 1-326	A clinic trial court case caused a judge to recognize the need for this rule. The judge then suggested this rule change. Clinic staff provided assistance to the drafter.
2007	Md. Rule 8-111	Unclear whether this was linked to the Clinic's work. It did follow on a disappointing case that denied a victim the right to assert his rights on appeal in a case that did involve the clinic, <i>Surland v. State</i> .
2005 2007	Md. Rule 8-204	The 2007 Rule change followed the successful statutory change (see above, Md. Code Ann. Crim. Proc. § 11-103)

**Table B.8  
Maryland Victims' Rights Case Law**

Year	Case	Implications for Victims	Clinic Involvement
<b>Right to protection</b>			
2008	<i>Lancaster v. State</i> , 948 A.2d 102 (Md. Ct. Spec. App. 2008)	Recognizes that it might be necessary to balance a defendant's discovery rights against the State's interest in safeguarding witnesses and preserving the integrity of the judicial process.	No clinic involvement indicated.
<b>Right to compensation</b>			
2008	<i>Opert v. Crim. Injuries Comp. Bd.</i> , 943 A.2d 1229 (Md. 2008).	Definition of "victim" now somewhat broader for purposes of eligibility for compensation.	Clinic assisted the victim's attorney to write his reply brief. Clinic also attempted to file an amicus brief. Although their amicus brief was declined, the clinic notes that many of its arguments made in that brief were in fact asserted in the court's opinion.
<b>Right to restitution</b>			
2007	<i>Chaney v. State</i> , 918 A.2d 506 (Md. 2007).	Requires victims to affirmatively request restitution.	No clinic involvement indicated.
2007	<i>State v. Garnett</i> , 863 A.2d 1007 (Md. 2004). <i>State v. Garnett</i> , 916 A.2d 393 (Md. Ct. Spec. App. 2007), <i>cert. denied</i> , 925 A.2d 633 (Md. 2007).	Clarified that restitution is nondischargeable in bankruptcy, and gave indication that those found not criminally responsible cannot be ordered to pay restitution.	No clinic involvement indicated.
2007	<i>Robey v. State</i> , 918 A.2d 499 (Md. 2007).	Affirmed that parents are liable for restitution for their child's criminal acts.	No clinic involvement indicated.

Table B.8—Continued

Year	Case	Implications for Victims	Clinic Involvement
2006	<i>Juliano v. State</i> , 890 A.2d 847 (Md. Ct. Spec. App. 2006).	Clarified the need to prove loss before restitution can be ordered.	No clinic involvement indicated.
2005	<i>Goff v. State</i> , 875 A.2d 132 (Md. 2005)	Affirms the victim's right to restitution for all direct damages.	No clinic involvement indicated.
2005	<i>Williams v. State</i> , 867 A.2d 305 (Md. 2005)	Prohibits the ordering of restitution for losses that are not a direct result of the criminal act.	No indication clinic was involved
<b>Enforcement of rights</b>			
2008	<i>Hoile v. State</i> , 948 A.2d 30 (Md. 2008).	Grants victims and their attorneys standing as a party in the appellate process in cases in which the defense appeals a trial court ruling.	The clinic represented the victim.
2006	<i>Surland v. State</i> , 895 A.2d 1034 (Md. 2006).	Denies victims standing in the appeal process.	Court decision states that homicide victim's parents filed responses to motions through the clinic.
2006	<i>Lamb v. Kontgias</i> , 901 A.2d 860 (Md. Ct. Spec. App. 2006), <i>cert. denied</i> , 909 A.2d 259, (2006); <i>cert. denied</i> , 909 A.2d 260, (2006); <i>cert. denied</i> , 127 S. Ct. 1875, (U.S. 2007).	Finds that, although the victim's right was violated, no remedy exists that victims had standing to pursue.	The clinic represented the victim.
2005	<i>Lopez-Sanchez v. State</i> , 843 A.2d 915 (2004), <i>aff'd</i> , 879 A.2d 695 (Md. 2005).	Although the victim lost this case, the decision directly led to a successful legislative effort to extend the rights of victims of juvenile defendants.	This was a clinic case.

**Table B.9**  
**New Jersey: Changes in Statutes, Administrative Codes, and Court Rules for Victims' Rights**

Year	Citation	Link to Clinic
<b>Right to be informed</b>		
2005	N.J. Stat. Ann. § 52:4B-44	No clinic involvement indicated.
2007	N.J. Stat. Ann. § 52:4B-25	No clinic involvement indicated.
2007	N.J. Stat. Ann. § 52:4B-42	Likely, since victims must now be informed about how to request legal advice or representation, and to train attorneys as well as service providers.
2007	N.J.A.C. §10A:22-2.11	No clinic involvement indicated.
<b>Right to be heard</b>		
2007	N.J.A.C. § 10A:9-10.1	No clinic involvement indicated.
2007	N.J.A.C. § 10A:9-10.3	No clinic involvement indicated.
<b>Right to Protection</b>		
2007	N.J. Stat. Ann. § 2C:44-8	No clinic involvement indicated.
2007	N.J. Stat. Ann. § 2C:45-1	No clinic involvement indicated.
2007	N.J. Stat. Ann. § 2C:45-2	No clinic involvement indicated.
2007	N.J. Stat. Ann. § 2C:14-12	No clinic involvement indicated.
2005	N.J.A.C. § 10A:71-6.12	No clinic involvement indicated.
2007	N.J. Stat. Ann. § 2A:53A-21	No clinic involvement indicated.
<b>Right to privacy</b>		
2007	N.J.A.C. § 10A:9-10.1	No clinic involvement indicated.
2006	N.J.A.C. § 10A:31-6.5	No clinic involvement indicated.
2008	N.J.A.C. § 13:18-11.3	No clinic involvement indicated.
<b>Right to compensation</b>		
2007	N.J. Stat. Ann. §§ 52:4B-3.2 et seq	The clinic director was a previous head of the compensation program, and he recommended the revisions to the program
2007	N.J. Stat. Ann. § 52:4B-8	The clinic director was a previous head of the compensation program, and he recommended the revisions to the program
2005	N.J. Stat. Ann. § 52:4B-11	No clinic involvement indicated.
<b>Right to restitution</b>		
2005	N.J. Stat. Ann. § 2C:17-3	No clinic involvement indicated.
2007	N.J. Stat. Ann. § 5:9-13.17	No clinic involvement indicated.
<b>Right to civil action</b>		
2005	N.J. Stat. Ann. § 2C:21-17.4	No clinic involvement indicated.
2007	N.J. Stat. Ann. § 2A:53A-21	No clinic involvement indicated.

**Table B.10**  
**New Jersey Victims' Rights Case Law**

Year	Case	Implications for Victims	Clinic Involvement
<b>Right to be informed and heard</b>			
2007	<i>State v. Means</i> , 926 A.2d 328 (N.J. 2006)	Somewhat negative: no remedy for violation of victim's right. However, solution suggested.	This was a clinic case. A girl who had been abducted and molested found that the trial court had taken a plea without notifying her parent as required under the state's victims' rights laws. The Law Center filed a motion to vacate the plea, the motion was granted, defense appealed, and the case reached the state supreme court, which held that the plea could not be vacated. The clinic had filed an amicus brief with the supreme court.
<b>Right to attend</b>			
2008	<i>State v. Williams</i> , 960 A.2d 805 (N.J. Super. Ct. App. Div. 2008)	Determines that a defendant has no federal constitutional right to exclude witnesses, but victims have a state constitutional right to remain in the courtroom.	No clinic involvement indicated.
<b>Right to be heard</b>			
2007	<i>State v. Wakefield</i> , 921 A.2d 954 (N.J. 2007)	Supports the admission of victim impact evidence.	No clinic involvement indicated.
<b>Right to privacy and protection</b>			
2005	<i>State v. Gilchrist</i> , 885 A.2d 29 (N.J. Super. Ct. 2005)	Ruling in favor of the victim, significant because it pitted the right to privacy vs. the right to discovery.	The clinic became involved when the defense appealed.
<b>Right to restitution</b>			
2008	<i>Felicioni v. Administrative Office of the Courts</i> , 961 A.2d 1207 (N.M. Super. Ct. App. Div. 2008)	Upholds the state's current restitution payment system whereby multiple restitution claims are paid on a first-in-time rather than pro-rata basis.	No clinic involvement indicated.

**Table B.11**  
**New Mexico: Changes in Statutes, Administrative Codes, and Court Rules for Victims' Rights**

Year	Citation	Link to Clinic
<b>Right to be informed</b>		
2005	N.M. Stat. Ann. § 31-26-9	No clinic involvement indicated.
<b>Right to be heard</b>		
2005	N.M. Stat. Ann. § 31-26-10.1	No clinic involvement indicated.
<b>Right to protection</b>		
2008	N.M. Stat. Ann. § 30-1-15	No clinic involvement indicated.
2008	N.M. Stat. Ann. § 30-9-21	No clinic involvement indicated.
2007 2008	N.M. Stat. Ann. § 40-13-6	No clinic involvement indicated.
2007	N.M. Magistrate Ct. R.Cr.P. 6-401 N.M. Munic. Ct. Rule 8-401	No clinic involvement indicated.
<b>Right to privacy</b>		
2008	N.M. Stat. Ann. § 40-13-3.3	No clinic involvement indicated.
2007	N.M. Stat. Ann. § 40-13-11	No clinic involvement indicated.
<b>Right to restitution</b>		
2005	N.M. Stat. Ann. § 28-11-5	No clinic involvement indicated.
2005	N.M. Stat. Ann. § 30-16-24.1	No clinic involvement indicated.
2005	N.M. Stat. Ann. § 31-17-1	No clinic involvement indicated.
<b>Enforcement of rights</b>		
2005	N.M. Stat. Ann. § 31-26-10.1	No clinic involvement indicated.

**Table B.12**  
**New Mexico Victims' Rights Case Law**

Year	Case	Implications for Victims	Clinic Involvement
<b>Right to attend</b>			
2006	<i>Nasci v. Hon. John W. Pope, Cody East, and Office of the District Attorney for the 13th Judicial District</i> , No. 29,878 (N.M. Nov. 8, 2006)	Though expressly unreported and, therefore, of limited value as legal precedence, represents the first acknowledgement by the state supreme court that victims have standing to assert their rights.	The clinic represented the victims.
<b>Right to be heard</b>			
2005	<i>State v. Aker</i> , 113 P.3d 384 (N.M. Ct. App. 2005)	Limited implication for victims, since the impact letters at issue were from persons other than the victim or victim's family.	No clinic involvement indicated.
<b>Right to protection</b>			
2008	<i>State v. Martinez</i> , 176 P.3d 1160 (N.M. Ct. App. 2008)	Will help protect future victims.	No clinic involvement indicated.
2005	<i>State v. Garcia</i> , 113 P.3d 406 (N.M. Ct. App. 2005)	Affirms the ability of the court to set protective order conditions on probation.	No clinic involvement indicated.
<b>Right to privacy</b>			
2005	<i>State ex rel. Brandenburg v. Blackmer</i> , 110 P.3d 66 (N.M. 2005)	Potentially harmful to victims, severely limiting their ability to communicate freely with the system-based victim advocate.	No clinic involvement indicated.
2005	<i>Albuquerque Rape Crisis Ctr. v. Blackmer</i> , 120 P.3d 820 (N.M. 2005)	Upholds victim privacy in communications with rape crisis counselors.	No clinic involvement indicated.
<b>Right to privacy and protection</b>			
2004	<i>State v. Herrera</i> , 84 P.3d 696 (N.M. Ct. App. 2004)	None; the court based its ruling on the defendant's failure to assert his rights at the trial court level.	No clinic involvement indicated.
<b>Right to restitution</b>			
2007	<i>State v. Collins</i> , 166 P.3d 480 (N.M. Ct. App. 2007)	Confirms that restitution orders cannot be discharged by bankruptcy.	No clinic involvement indicated.

**Table B.13**  
**South Carolina: Changes in Statutes, Administrative Codes, and Court Rules for Victims' Rights**

Year	Citation	Link to Clinic
<b>Right to be informed</b>		
2005 2006	S.C. Code § 16-3-1525	The clinic attorneys had met with the sister of a stalking victim and her attorneys after her sister was murdered by the stalker upon his release from prison. The victim had not received notice of his release. The clinic's parent organization then worked with the victim's sister to advocate for legislative changes.
2005	S.C. Code § 16-3-1530	See above.
2005	S.C. Code § 16-3-1535	Clinic's parent organization sought this change.
2005	S.C. Code § 16-2-1555	Clinic's parent organization sought this change.
2005	S.C. Code § 16-3-1740	Clinic's parent organization sought this change.
2008	S.C. Code § 17-28-50	The clinic's parent organization was involved in this change; its former policy director was the chief advocate for this law.
2008	S.C. Code § 17-28-90	See above.
2008	S.C. Code § 17-28-100	See above.
2008	S.C. Code § 17-28-340	See above.
2004	S.C. Code § 24-21-35	Clinic's parent organization supported this legislation.
2005	S.C. Code § 44-24-150	The clinic attorneys had met with the sister of a stalking victim and her attorneys after her sister was murdered by the stalker upon his release from prison. The victim had not received notice of his release. The clinic's parent organization then worked with the victim's sister to advocate for legislative changes.
<b>Right to attend</b>		
2004	S.C. Code § 24-21-30	Clinic's parent organization supported this legislation.
<b>Right to be heard</b>		
2005	S.C. Code § 16-1-130	The clinic attorneys had met with the sister of a stalking victim and her attorneys after her sister was murdered by the stalker upon his release from prison. The victim had not received notice of his release. The clinic's parent organization then worked with the victim's sister to advocate for legislative changes.
2005	S.C. Code § 16-3-1535	See above.
2005	S.C. Code § 16-3-1555	See above.
2008	S.C. Code § 17-28-50	The clinic's parent organization was involved in this change; its former policy director was the chief advocate for this law.
2004	S.C. Code § 24-21-710	Clinic was active in this case. Clinic's parent organization initiated this legislation.

**Table B.13—Continued**

<b>Year</b>	<b>Citation</b>	<b>Link to Clinic</b>
<b>Right to protection</b>		
2005	S.C. Code § 16-3-1735	Clinic's parent organization supported this legislation.
2007	S.C. Code § 16-8-250	No clinic involvement indicated.
<b>Right to privacy</b>		
2005	S.C. Code § 16-3-1525	The clinic attorneys had met with the sister of a stalking victim and her attorneys after her sister was murdered by the stalker upon his release from prison. The victim had not received notice of his release. The clinic's parent organization then worked with the victim's sister to advocate for legislative changes.
2005	S.C. Code § 16-3-1535	See above.
2005	S.C. Code § 16-3-1555	See above.
2005	S.C. Code § 16-3-1770	See above.
2006	S.C. Code § 40-47-190	Clinic's parent organization initiated this legislation.
<b>Right to compensation</b>		
2006	S.C. Code § 16-3-1230	Clinic's parent organization initiated this legislation.
2008	S.C. Code § 16-3-1180	No clinic involvement.
<b>Right to restitution</b>		
2007	S.C. Code § 24-1-295	Clinic's parent organization initiated this legislation. The SC Crime Victim Council shepherded it through legislature.
<b>Right to civil action</b>		
2007	S.C. Code § 16-8-250	No clinic involvement indicated.

**Table B.14**  
**South Carolina Victims' Rights Case Law**

Year	Case	Implications for Victims	Clinic Involvement
<b>Right to be informed</b>			
2007	SC Attorney General Opinion No. 07-034	Strengthened the ability of attorneys to represent crime victims.	In 2007, the clinic was involved in a criminal domestic violence case, and the victim's attorney (the clinic director at the time) was not notified of a bond hearing for the offender. After arguing with the prosecutor about the failure to give notice, the clinic director mentioned the case to SCVAN's legislative coordinator. She in turn contacted a state senator, and he requested an opinion from the Attorney General.
<b>Right to be heard</b>			
2007	<i>State v. Barlow</i> , 643 S.E.2d 682 (S.C. 2007)	Gives victims the option to have an advocate present their views.	No clinic involvement indicated.
<b>Right to protection</b>			
2007	<i>State v. Houey</i> , 651 S.E.2d 314 (S.C. 2007)	Highlights the State's interest in protecting victims' health.	No clinic involvement indicated.
<b>Right to restitution</b>			
2007	<i>Torrence v. S.C. Dept. of Corrections</i> , 646 S.E.2d 866 (S.C. 2007).	Negatively impacts crime victims by giving them no recourse to challenge the diversion of prisoners' earnings that could be applied to pay restitution or compensation awards.	No clinic involvement indicated.
2006	<i>In the Interest of Terrence M.</i> , 628 S.E.2d 295 (S.C. Ct. App. 2006).	Supports a victim of a juvenile offender's right to restitution.	No clinic involvement indicated.

**Table B.15**  
**Utah: Changes in Statutes, Administrative Codes, and Court Rules for Victims' Rights**

Year	Citation	Link to Clinic
<b>Right to be informed</b>		
2007	Utah Code § 76-3-402	No clinic involvement indicated.
2007	U.A.C. R671-203-2	No clinic involvement indicated.
<b>Right to attend</b>		
2007	U.A.C. R671-203-1 U.A.C. R671-203-3	No clinic involvement indicated.
<b>Right to be heard</b>		
2007	Utah Code § 76-3-402	No clinic involvement indicated.

**Table B.15—Continued**

<b>Year</b>	<b>Citation</b>	<b>Link to Clinic</b>
2008	Utah Code § 77-38A-4	The legislation was proposed by the Attorney General's office with the support of the Utah Council on Victims of Crime. Two of the clinic's clients testified about the need for that legislation, and asked the clinic attorney to attend with them. However, the clinic did not directly advocate for the legislation.
2007	U.A.C. R671-203-1, 203-3, 203-4, 203-5	No clinic involvement indicated.
<b>Right to protection</b>		
2008	Utah Code § 78B-3-110	No clinic involvement indicated.
2008	Utah R. Crim. P. Rule 15.5	No clinic involvement indicated.
<b>Right to privacy</b>		
2008	Utah Code § 78A-6-114	No clinic involvement indicated.
2005	Utah R. Judicial Admin Rule 4-202	No clinic involvement indicated.
2007	Utah R. Crim. P. Rule 14	The clinic staff were asked their opinions regarding the need for the rule, but were not the advocates for this rule change.
<b>Right to compensation</b>		
2008	Utah Code § 63M-7-501–525.	No clinic involvement indicated.
<b>Right to restitution</b>		
2005	Utah Code § 77-38A-302	No clinic involvement indicated.
2007	Utah Code § 77-38A-404	No. Change was prompted by an individual victim/ legislator.
2007	Utah Code § 78A-6-121	No clinic involvement indicated.
2007	Utah Code § 78A-6-1105	No clinic involvement indicated.
2007	U.A.C. R671-315-1	No clinic involvement indicated.
2007	U.A.C. R671-403-1	No clinic involvement indicated.
<b>Enforcement of rights</b>		
2007	Utah Code § 77-37-4	No clinic involvement indicated.
2008	Utah Code § 77-38A-4	The legislation was proposed by the Attorney General's office with the support of the Utah Council on Victims of Crime. Two of the clinic's clients testified about the need for that legislation, and asked the clinic attorney to attend with them. However, the clinic did not directly advocate for the legislation.

**Table B.16**  
**Utah Victims' Rights Case Law**

Year	Case	Implications for Victims	Clinic Involvement
<b>Right to attend</b>			
2006	<i>State v. Billsie</i> , 131 P.3d 239 (Utah 2006)	Very important: providing support for a young child victim is crucial to enabling them to testify.	No clinic involvement indicated.
<b>Right to privacy</b>			
2008	<i>State v. Worthen</i> , 177 P.3d 664 (Utah Ct. App. 2008)	Illustrates that there are times when the defendant's right to discover material, exculpatory evidence outweighs the need to protect a victim's confidential records.	This case has been appealed to the supreme court, and the Clinic has filed an amicus brief.
<b>Right to Restitution</b>			
2008	<i>State v. Hight</i> , 182 P.3d 922 (Utah Ct. App. 2008)	Affirms that trial courts are given broad discretion when ordering restitution.	No clinic involvement indicated.
2007	<i>State v. Cabrera</i> , 163 P.3d 707 (Utah Ct. App. 2007)	Strengthened victim's right to restitution even when the defendant declares bankruptcy.	No clinic involvement indicated.

## Interview Topics

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### Questions for Clinic Staff

#### History of the Clinic

- Can you tell me how the clinic got started? Who was involved? Was the clinic an add-on to an existing program?

#### Criminal Justice Context

- To what extent does the clinic concentrate on the local jurisdiction versus a statewide focus?
- Number of courts in which clinic staff have represented clients, filed motions or briefs, or trained criminal justice staff
- To what extent do the state statutes on victim rights facilitate or hinder the work of the clinic?
- What is the jurisdiction in which the clinic has done the most work (target jurisdiction)?
- How receptive are judges and prosecutors to victim rights and the work of the clinic?
- What kind of reactions do you get from defense attorneys to the presence of the clinic's attorneys in court? Do defense attorneys use any tactics to try to silence victims' attorneys?
- How do victim advocates react to your work? Are there differences between the response of prosecutor-based victim advocates and that of community-based advocates?
- What are the principal victim service organizations in the target jurisdiction, and what is the nature and extent of their cooperation with the clinic?
- Does clinic staff train judges, prosecutors, advocates, or other criminal justice professionals? How often? What formats does the training take? Stand-alone trainings, workshops at conferences, train-the-trainer, recommending trainers of the same profession as the trainees?
- To what extent does clinic staff make calls/inquiries on behalf of victims with prosecutors, judges, probation/parole officials? How successful are these efforts generally?

#### Pro Bono Staff

- How many practicing attorneys has the clinic trained in each year of its operation? How many law students?

- How many of the attorneys and law students continue to represent victims after their training or, in the case of law students, after they have graduated?
- To how many practicing attorneys have you provided other types of assistance, such as model forms or pleadings?
- Can pro bono attorneys be used to take responsibility for a case, given scheduling issues and wait time in court? Are they best used for smaller tasks (e.g., help prepare briefs, assist in collecting restitution) that do not require court appearances?
- Are law students in your jurisdiction allowed to represent clients? If so, does the clinic use students in that capacity?

### **Recruiting and Screening Mechanism for Selecting Clients**

- How is outreach conducted?
- What kinds of public information is available? Is there information geared toward professionals (victim service providers)?
- Does the clinic make any special efforts to reach underserved populations in culturally appropriate ways?
- What kind of media coverage has the clinic received or generated? Has that helped outreach efforts?
- What are the eligibility criteria for representing victims (e.g., types of cases, types of issues, location)?
- Through what sources are most of your clients referred? Have there been any changes in your referral sources over time?
- How do you determine when to formally open a “case”? What proportion of calls or inquiries result in opening a case?
- What kinds of inquiries from victims or their advocates are most frequent? How are they handled?
- In the past year, how many referrals have been determined to be eligible for clinic services; of these, how many were accepted?
- How many cases were determined to be eligible but were not accepted for assistance? What were the reasons for not taking these cases; were there differences in characteristics of the cases accepted versus those not accepted?

### **Legislative Changes**

- Have there been any favorable changes to state victims’ rights statutes since the clinic opened?
- Were clinic staff involved in bringing about those changes? How?
- Can you separate the impact of the clinic’s legal work from advocacy that clinic staff would normally be doing anyway? For instance, did specific cases help demonstrate the need for statutory changes?
- With whom do you work in legislative advocacy?
- Has the presence of clinic staff or clinic-trained attorneys in the court—or the clinic’s reputation for legal work—affected your relationship with judges, prosecutors, or others who might be partners or adversaries on proposed victim legislation?

- Have there been any attempts at changing legislation that did not work out? Did those attempts produce any useful information?
- Have there been any unfavorable changes to victims' rights legislation or unfavorable court decisions?
- Are you working on any legislation now (separate from your federal funding, of course)?
- Have you proposed any changes to court rules? Were they enacted? Was there a direct link between the rule changes and any specific cases on which the clinic worked?

### **Representation in Court Cases**

- How do you view your role as a victims' attorney? What types of work does that role entail?
- In how many court cases have you represented victims and/or filed papers during the past year at the trial court level and at the appellate level?
- In how many cases did you accompany victims without a formal representation agreement?
- What were the most common victim rights issues involved in those cases?
- Can you summarize the results of these efforts?
- Have you noticed any difference between cases when you formally represent victims versus appear informally (accompaniment)?
- In addition to your work directly representing victims, have you filed any amicus briefs in cases affecting the interests of crime victims?
- Can we get copies of any of your briefs? Appellate-level briefs are especially helpful. [This will help us determine the extent to which specific arguments were persuasive to the court.]

### **Relationship with NCVLI and the Other Clinics**

- How has participation in the NCVLI demonstration project influenced the clinic's goals, activities, and functioning?
- Now that the demonstration project is ending, will the clinic make changes to its goals, objectives, or operations, or will it keep functioning essentially as it has for the past few years?
- Is there any tension between clinic leadership's goals for the clinic and the constraints imposed by funding sources (OVC, NCVLI, others)?
- Describe this clinic's relationship with the other victims' rights clinics. How has that relationship affected the work of your clinic?

### **Information for Impact Study**

- What does clinic staff believe are the best ways to assess the impact of their clinic? What data do they have to evaluate these program effects? What has been their "success" rate in filing motions? How do they define *success* (winning rights for individual victims, changing the way the criminal justice system responds to victim rights)?
- In what ways has the clinic changed the climate for victim rights in the state and in the targeted jurisdiction?
- Have there been any unintended consequences (positive or negative) of the clinic?

- Is the program logic model accurate? Would clinic staff suggest any changes to the model based on changes in clinic goals or objectives?
- Would clinic staff be willing to participate in an impact study? Would program and court records be made available to the research project?

### **Suggestions to Improve Clinic Operations**

- What obstacles has the clinic faced in meeting its goals and objectives? What steps were taken to overcome those obstacles?
- How has the approach or strategy of the clinic changed over time?
- Does the clinic staff have suggestions to improve the effectiveness of the local clinic or the effectiveness of the NCLVI program generally?
- What are the prospects for long-term survivability of the clinic? What sources might provide funding? Has the clinic taken any steps toward sustainability?
- Is there anything else you would like to say?

### **Questions for Judges, Prosecutors, and Victim Advocates**

- Are you familiar with the work of the victim rights clinic? Could you describe what it does?
- Have you or your staff received training from clinic staff on victim rights?
  - Please describe the training.
  - Did you or your staff learn new information in the training?
  - Did it change the way you think about victims' rights in any way?
  - Did the training affect how you handle victims?
- Have there been any changes to state victims' rights statutes or court rules since the clinic opened? Were clinic staff involved in bringing about those changes? How?
- Do you think victims should have lawyers to represent them in court? How should it be paid for?
- What problems does victim representation raise for you and your staff?
- Has clinic staff changed how you approach victim rights? How?
- What impact do you think the clinic has had on the extent to which victims are able to exercise their rights in this jurisdiction? Why do you say that?

### **Questions for Victim Focus Groups**

- Were you informed of your rights as a crime victim? By whom?
- How did you learn about the clinic?
- What did the clinic do for you?
- What types of services were provided by clinic staff?
  - Representation in court
  - Assist victim in securing compensation, social services

- Brief filed on behalf of victim
- How did the assistance received through the clinic help you? Do you think you would have been as successful in obtaining your rights without the help of clinic staff?
- Were you satisfied with the people who provided the services?
  - Were they professional and knowledgeable?
  - If so, in what ways? If not, why not?
- What suggestions do you have for service providers to improve how they work with victims to obtain their rights?
- What suggestions do you have for the courts and the criminal justice system to ensure that victims' rights are enforced?
- Is there anything else you would like to say?