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Victims' statements can affect sentencing

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Fourteen years later, it remains one of the most powerful victim impact statements I've ever witnessed in a courtroom.

A 16-year-old girl overcomes her deep fears and publicly confronts the neighbor who molested her and at least two other friends when she was 9.

"You are the most evil person in the world," the girl told her abuser, who was then 61.

But the best part was the intriguing sentencing condition the girl suggested and saw a judge hand down: getting the offender to agree to move out and never return to the Bloomington neighborhood where she and his other victims resided.

"It was the one thing that the law didn't address or have any control over," the victim's father recalled last week. "The situation that grated most on my daughter and us was that this son of a gun — regardless of the prison term — could have still stayed in the neighborhood."

Contrary to perception, victim impact statements don't usually affect the duration of a sentence, according to a two-year study released last week.

Most prison terms imposed are mainly the result of plea agreements or strict sentencing guidelines. But victim impact statements can have a great influence on conditions attached to a prison or jail sentence. They include length of probation and no-contact orders, court-ordered restitution or counseling for the "side effect" victims of the crime, such as child witnesses to domestic violence.

The report, compiled by Women at the Courthouse and the University of Minnesota Department of Rhetoric, was based on interviews with 22 Hennepin County judges and 15 victim advocates in both Hennepin and Ramsey counties. It also included observations of 74 sentencing hearings involving adult domestic-violence and sexual assault cases where victim impact statements were included.

A state law passed in 1988 allows crime victims to file or orally deliver impact statements at the time of sentencing or disposition of a case. The study is believed to be the first in the state to measure the effect such statements have on the criminal justice system.

"Victim rights are still in their infancy here and (across) the country," said Marna Anderson, executive director of Women at the Courthouse, a Minneapolis-based nonprofit that follows cases of family and sexual violence and provides feedback to the justice system.

"This study is a way of taking a look at victim rights and how they may improve justice," Anderson said.

Although most judges favored victim impact statements, they had differing views on the statements' effect, the report found.

"People come and they think the courtroom is going to be a therapeutic place, and it's the exact opposite of anything like that. It's not going to bring them peace or comfort," said one Hennepin County judge who was not identified in the report.

Yet, "in some cases (the victim impact statement) is totally decisive," offered another jurist. "That is, I have had cases where I was planning to honor a plea agreement and then after victim impact, I rejected it. That is not typical; it's unusual, but it has happened."

Hennepin County District Judge Kevin Burke did not take part in the study, but he said he would like to see it expanded to include other cases and examples where victim impact statements actually led to more lenient terms.

"It's almost always a good thing," Burke said. "For some victims, it is an opportunity to bring emotional closure to the wound. In some instances, it has a positive effect in how a judge determines sentencing, but it doesn't necessarily end in something more punitive."

The study recommended that victim impact statements should be submitted well in advance of the sentencing to give judges enough time to read and digest them. It also encouraged submissions during the pre-sentencing stage when issues like restitution are better addressed.

The overriding benefit of victim impact statements, one that the study repeatedly underscored, was the ability to humanize and empower the victim in the process. The molested girl, who spoke out when she was 16, agrees.

"I was terrified, but I knew I was safe," she recalled of the courtroom encounter. "It was an opportunity for me to look the man in the eye and tell him how he affected my life."

After the sentencing, the girl told her story publicly to encourage other young abuse victims to come forward. She's now 30 and a happily married mother. She asked that her name and her father's name not be published because she wants to protect her privacy and put the case behind her.

"It was scary but empowering," she added. "It was liberating. Until that moment, I felt I was not in control. That changed that day. Power changed hands that day. I was not afraid of him anymore."

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Read the report on victim impact statements at www.watchmn.org