

VICTIM-DEFENSE ATTORNEY INTERACTIONS IN COURT:
THE DEFENSE ATTORNEY PERSPECTIVE

by

LAUREN ALEXANDER

LIANA PENNINGTON, COMMITTEE CHAIR
IDA JOHNSON
FEDERAL JUDGE L. SCOTT COOGLER

A THESIS

Submitted in partial fulfillment of the requirements
for the degree of Master of Science
in the Department of Criminal Justice
in the Graduate School of
The University of Alabama

TUSCALOOSA, ALABAMA

2015

Copyright Lauren Alexander 2015

ALL RIGHTS RESERVED

Abstract

Despite substantial research focusing on victims of crime and their interactions with various criminal justice professionals, few studies have explored the relationship between victims and defense attorneys. Understanding these interactions is critical to developing positive interactions between victims and defense attorneys, as well as promoting positive outcomes for both criminal defendants and victims. This study focuses specifically on the nature of victim and federal public defense attorney interactions within the federal court setting from a defense attorney perspective. This study also explores the implications of adopting victim outreach programs like Defense-Initiated Victim Outreach, or DIVO, in a southern state. These types of programs promote restorative justice measures and victim outreach on behalf of defense attorneys. Through in-depth interviews which examine the thoughts, opinions, and experiences of defense attorneys, this study provides new information concerning how defense attorneys perceive victim and defense attorney interactions in their work. This research also provides insight into critical aspects of the criminal justice process. Interactions between legal professionals and victims can have a direct impact on cases and the emotional well-being of victims, defendants, and the professionals who work alongside them. Defense attorneys offer a unique perspective that could help provide further knowledge for creating positive effects for interactions with victims.

Acknowledgements

I am grateful to have had such a wonderful experience at the University of Alabama and in the Department of Criminal Justice. I would like to take this opportunity to thank several special people who helped to make this study possible. This project would not have been possible without the help and guidance of Dr. Liana Pennington. She spent so many hours reading my work and offering her support, even when I felt stressed and anxious about meeting deadlines and taking on new experiences. She has been an incredible mentor and friend. I would also like to thank Federal Judge L. Scott Coogler for offering me his insight and support. He has been such a wonderful influence on me as both a student and professional, and I have taken all of his lessons to heart. I would like to also thank Dr. Ida Johnson who offered me great support and advice while I completed this study. I would also like to thank her for being so kind and supportive when I needed someone to listen during my first semester of graduate school. I have been blessed to have had three committee members who genuinely cared about my study and my goals.

Finally, I want to thank my criminal justice friends. They say the best years of your life happen during those first four years of college. They obviously never went to graduate school. The friends that I have made in graduate school will always be in my heart and I love them more than they could ever know. They stayed up late with me, offered me kind words and support, and in some cases, made me laugh until I cried. Thank you for everything.

CONTENTS

Abstract.....	ii
Acknowledgements.....	iii
Introduction.....	1
Literature Review.....	4
Victims' Experiences in the Justice System.....	4
History of the CVRA	5
Defense Attorneys and Their Role.....	7
Defense-Initiated Victim Outreach.....	9
Victim and Prosecutor Interactions.....	10
Victim and Victim Advocate Interactions.....	12
Victims and Law Enforcement	13
The Current Study.....	15
Methods.....	15
Research Limitations.....	16
Sample Selection and Recruitment.....	17
Interviews.....	18
Data Analysis.....	19
Findings.....	21
The Influence of Client Benefit.....	21
The Nature of Victim and Defense Attorney Interactions.....	25
How Prosecutors Affect Victims and Defense Attorneys.....	29

Defense Attorney Opinions of Victim Outreach.....	32
Conclusion.....	39
References.....	43
Appendix A.....	45
Appendix B.....	46
Appendix C.....	48
Appendix D.....	51
Appendix E.....	52

Introduction

Despite substantial research focusing on victims of crime and their interactions with criminal justice professionals, few studies have explored the relationship between victims and defense attorneys. Understanding this gap in the literature is critical for developing positive interactions between victims and defense attorneys, as well as promoting positive outcomes for both victims and the defense. Prior research suggests that victim satisfaction increases when victims are involved and informed about their cases, such as by a prosecution that is sensitive and shows initiative (Goodrum, 2013; Englebrecht, 2012; Laximinarayan, 2012; Beloof, 2008; Levine, 2010). The interactions between victims and prosecutors are often guided by legislation such as the Crime Victims' Rights Act (CVRA), which is a federal statute giving rights to crime victims in the justice system. The CVRA states that victims have the right to be treated with fairness and with respect for the victim's dignity and privacy. However, defense attorneys are never specifically mentioned in the CVRA. It is not known how defense attorneys interpret the CVRA, or whether or not they see this law as applying to them at all. If victims have the right to be treated with both fairness and respect, then defense attorneys may see themselves as having a responsibility to both zealously advocate for their client and stay within the terms and conditions of the CVRA.

Victim satisfaction is affected by the interactions between victims and legal authorities. Law enforcement officers are often the first to respond to a victim in crisis (Foley & Terrill, 2008). Prior research supports that these initial interactions can be critical in determining a victim's future cooperation and immediate emotional responses (Foley & Terrell, 2008). Other legal professionals who have influence over a victim and their satisfaction with the justice system are victim advocates

who work closely with victims. Victim advocates work to guide victims through trial procedures, counsel victims during emotional cases, and offer support and shelter for victims such as battered women or abused children (Kolb, 2011). Victim advocates can have a direct influence on victims due to the intimate nature of their interactions, which can often include discussions of emotional situations or traumatizing events (Kolb, 2011). If prior research suggests that legal entities such as prosecutors, law enforcement, and victim advocates can affect victims of crime (Goodrum, 2013; Englebrecht, 2012; Laximinarayan, 2012; Beloof, 2008; Levine, 2010; Kolb, 2011; Foley & Terrill, 2008), then it would also be reasonable to predict that defense attorneys could also have a role in affecting victim satisfaction with the justice system.

One such program that is concerned specifically on victim-defense attorney interactions is Defense Initiated Victim Outreach (DIVO). The current study explores the implications of DIVO in states outside of Texas, where the DIVO program is primarily promoted. DIVO is a program that promotes outreach initiatives by defense attorneys towards victims of crimes (Frogge & Armour, 2009). DIVO emphasizes the significance of victim-defense attorney interactions and approaches this subject from a restorative justice stance (Frogge & Armour, 2009). Opposition between the prosecution and defense can often lead to severed ties between the victim and the defense attorney. The victim may develop feelings of resentment and anger towards the defense attorney, especially if the victim has been victimized due to a traumatic or violent crime. The defense attorney may also feel uncomfortable contacting a victim in a case such as this or feel that they have no information that would benefit the victim (Frogge & Armour, 2009). However, as Frogge and Armour (2009) would argue, the defense offers a great deal of information that could benefit the victim, especially in terms of closure.

This qualitative study consists of interviews with federal public defenders in a southern U.S. state about their experiences with victims and perceptions of their interactions with victims of crime. The semi-structured interviews provide information from the defense attorney perspective, a viewpoint that has not been previously researched in regards to victim interactions. The results of this study provide more knowledge about victim satisfaction in its entirety and how to best promote positive interactions for victims.

Literature Review

Victims' Experiences in the Justice System

Victim experiences are an important part of the criminal justice system. These experiences not only influence victims, but also can influence the legal professionals around them and the justice system as a whole. A victim who feels negatively towards the justice system may be hesitant to report a future victimization. Victims with negative experiences may also, and perhaps most importantly, learn to distrust attorneys, law enforcement officers, and the courts themselves (Foley & Terrill, 2008; Patterson, 2011). However, victims who have had positive experiences often become vocal supporters of the justice system and its professionals (Foley & Terrill, 2008; Goodrum, 2013; Patterson, 2011). These positive experiences affect the emotional well-being of victims and encourage them to find comfort in the justice system, rather than fear or distrust.

One influential statute affecting victim experiences is the Crime Victims' Rights Act (CVRA). The CVRA has been in existence for several decades, but the idea of victims' rights is still disputed among legal scholars and politicians (Cassall, 2005). The CVRA establishes a federal framework for victims' rights and serves as the basis for the majority of state victims' rights laws within the United States (Cassall, 2005). States that have their own set of rights for victims often mirror those of the CVRA (Cassall, 2005). These rights are broad and extend to various aspects of a case, though some would dispute at which point the CVRA becomes active in a case (Cassell, Mitchell, & Edwards, 2014). Some legislators have argued that the CVRA does not take effect until a formal trial is underway, while others have vehemently argued that these rights begin as soon as a case is opened and is under investigation (Cassell et al., 2014). Such an argument

illustrates the ambiguous nature of the CVRA and the legality of victims' rights. The CVRA, according to Senator Kyl, was meant to be a set of laws that would encompass a vast array of victim related circumstances. Since the language of the CVRA is broad and often vague, the interpretation of the rights can vary depending on the legal professional, the state, and even the district (Cassell et al., 2014 & Cassell, 2005). CVRA is critical because it establishes interactions between victims and their prosecutors, but also leaves room for question concerning defense attorneys' responsibilities under the CVRA. By understanding the overall message of the CVRA and analyzing the eight basic rights of Section 3771(a) of the CVRA, researchers, attorneys, and policy makers can then begin to understand how the CVRA dictates the interactions of defense attorneys and victims, or if the CVRA has no impact at all.

History of the CVRA

The crime victims' rights movement developed in the 1970s due to feminists, civil rights activists and victim advocates, who pushed the movement forward. The Warren Court revolution established new constitutional protections for defendants. This increase in rights for criminal defendants led to a concern that victims were being overshadowed. At the time, victims had no formal federal legislation that explicitly stated what they were legally entitled to during a case. This also meant that there were no guidelines on how legal professionals and victims were to interact during the course of a case, including the trial process and in regard to sentencing. With these issues in mind, the Warren Court revolution helped to catapult the issue of victims' rights forward in the minds of federal legislators and politicians (Cassell, 2005; Cassell et al., 2014). President Ronald Raegan created the President's Task Force on Victims of Crime, which released a report that recommended responsibilities for prosecutors. These responsibilities included keeping victims notified of all court proceedings, changes in bail, plea bargains, sentences, and

restitution (Cassell, 2005; Doyle, 2012). These became key components of the CVRA. In 1982, the first federal victims' rights legislation was officially passed by Congress, the Victim and Witness Protection Act (VWPA). The VWPA would be added on to and adapted for several years, though the main three goals would remain the same: expand and protect victims and witnesses, ensure that all available resources are used by the federal government to protect victims' rights, and act as the model for state legislation (Cassell, 2005; Doyle, 2012). After several additions and acts were passed on behalf of victims, Senators Kyl and Feinstein attempted to pass a new amendment to the United States Constitution. Though the amendment was not added as a constitutional amendment, it was passed as a federal law in 2004. The final rights are as follows (18 U.S.C.A. § 3771(a)):

- 1) The right to be reasonably protected from the accused;
- 2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused;
- 3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding;
- 4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding;
- 5) The reasonable right to confer with the attorney for the Government in the case;
- 6) The right to full and timely restitution as provided in law;
- 7) The right to proceedings free from unreasonable delay;
- 8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

These rights encompass a broad range of responsibilities for legal professionals, especially prosecutors. Not only are the responsibilities laid out in a formal law, but prosecutors will often adopt additional protections that are not stated, such as allowing victims more participatory action than actually given by law (Goodrum, 2013; Stickels & Mobley, 2008). However, it is unclear as to how defense attorneys fit into these responsibilities. Defense attorneys are never specifically mentioned in the CVRA, suggesting that there are few legislative guidelines for how defense attorneys and victims are to interact.

Defense Attorneys and Their Role

Criminal defense attorneys are an important component of today's modern criminal justice system. In an adversarial justice system, defense attorneys are necessary for the process of achieving a fair trial (Smith, 2012, 2013; Etienne, 2004). Their profession requires them to fulfill several roles, including "technician, counselor, and social worker" (Etienne, 2004, p. 484). The most basic duty of a defense attorney is to be a zealous advocate for their client (Smith, 2012, 2013). Smith (2013) breaks down this duty into three obligations: to be a fearless and zealous supporter of the defendant; to represent the defendant without judgment despite the quality of their character or moral flaws; and to protect the information that pertains to a client's case. According to Smith (2013), advocating for the accused requires an "unflinching and full-throated pursuit" of anything that could benefit or protect the defendant (p. 113). Perhaps one of the more challenging aspects of the defense attorney's role is to remain detached from judgment that could be triggered while defending a client. Detachment helps to secure the notion that no one can be denied fair representation due to the nature of a crime or the client's character (Smith, 2013). A defense attorney might personally feel a great deal of negative emotion towards a client due to the nature of the crime they are accused of or the client's disposition and character. Defense attorneys are

required to set those feelings aside and vigorously advocate for their client despite what that attorney might personally feel. The last obligation that a defense attorney has to their client, according to Smith (2013), is confidentiality, which is important in maintaining a fluid professional relationship between the defense attorney and their client.

In our modern legal system, with the establishment of sentencing guidelines and other legal rules, defense attorneys often find themselves “acting as a buffer between the defendant and the rest of the system” (Etienne, 2004, p. 483). Defense attorneys must use creativity and skill to work a criminal case, sometimes searching for ways to benefit their client. This also entails that a defense attorney must be able to guide their client through the complexity of a criminal case and help them make sometimes difficult decisions (Etienne, 2004). Some defense attorneys from Etienne’s (2004) study characterize their role as being similar to a social worker. These attorneys view the very act of prosecution as being a traumatic experience for defendants, whether the outcome of the case is guilty or not guilty. These attorneys feel that it is important to support their clients, minimize the impact of the justice system on their clients, and sometimes do tasks that are “beyond legal counseling” (Etienne, 2004, p. 484). This includes acts such as helping find community resources for their clients, and in one instance, finding guardianship for a defendant’s “children in anticipation of” her being imprisoned (Etienne, 2004, p. 484).

Furthermore, as Smith (2013) points out, defense attorneys may have an implicit obligation to interact with other parties, such as victims. In order to be a zealous advocate for their clients, defense attorneys must question victims and witnesses about situations that can be traumatic or emotionally intrusive. According to Smith (2013), these types of questions are important and absolutely necessary for serving the best interests of the defendant. However, the eighth rule listed in the CVRA statute states that legal authorities must be respectful of the victim and their dignity.

If that were to include questioning victims for evidence gathering or during cross examination, then that means defense attorneys are having to make decisions about what is necessary for their client's case, but not offensive to an alleged victim.

Defense-Initiated Victim Outreach

Defense-Initiated Victim Outreach (DIVO) is a federal and state level program that is promoted by attorneys and professors from the University of Texas at Austin (Frogge & Armour, 2009). The philosophy of DIVO is that defense attorneys can promote positive interactions between victims and the party of the defense by actively reaching out to victims. DIVO is centered on three principles: providing victim survivors with information and services which enhance coping for the victim, to reduce the harm caused from legal proceedings, and to provide the defense with a means of connecting with victims through compassion (Frogge & Armour, 2009). DIVO asserts that it in no way interferes with the defense attorney's ability to act as a zealous advocate for the defendant, since DIVO uses a trained specialist, known as a Victim Outreach Specialist (VOS) to act as the liaison between the defense attorney and the victim. The (VOS) is not a member of the defense counsel, but works with them like any other legal expert would (Branham & Burr, 2008). This ensures that the relationship between the defense attorney and their client is never compromised (Frogge & Armour, 2009). DIVO acts as the bridge between the victim and the defendant, offering victims the opportunity to connect with what would traditionally be considered the opposing party in an adversarial system (Frogge & Armour, 2009). DIVO training has been conducted in states such as Texas, Georgia, Virginia, Colorado, and Louisiana (Frogge & Armour, 2009; Community Meditation Services, n.d.). Alexander (2010) describes the prominence of DIVO when she states, "it was started at the federal level in the 1990s and...has trickled down to a handful of death penalty states." DIVO is still a relatively new program being practiced, but its

reputation is growing due to increased awareness of victims' rights and victims' experiences of the justice system. However, the DIVO program has been controversial, with at least some prosecutors questioning the motives of defense attorneys and believing that it further harms the victim (National Association of Prosecutor Coordinators, 2009, Alexander, 2010).

Victim and Prosecutor Interactions

The experiences victims have within the justice system are affected by many factors, but perhaps the most influential factor is the prosecution. The prosecutor always represents the public, or the government, and not a victim directly (Goodrum, 2013). However, victims generally associate the prosecutor as their representative. Victims often feel that it is their own interests and concerns that should be at the center of the case and not that of the state or the government (Goodrum, 2013). With these circumstances in mind, it can sometimes be the case that a prosecutor may choose to act on a case in a way that can be disappointing to the victim, such as during plea bargains (Goodrum, 2013). This can cause friction between a victim and the prosecutor, leaving victims with poor feelings about their experience with the justice system. Though the CVRA lays out the responsibilities of the prosecutor, some view the rights as guidelines and subject to interpretation (Englebrecht, 2012; Stickels & Mobley, 2008). Not only may this cause certain rights to be stretched or limited, but victims may try to demand rights that are not outlined in the CVRA. For instance, a prosecutor may settle out of court by means of a plea bargain, while a victim may be adamant that they want to go to trial. This can cause negative feelings to arise. According to Goodrum's (2013) study, two major themes emerged as contributing factors in the victim-prosecutor relationship. Emotional connection and case involvement have direct consequences on victims emotionally and their willingness to cooperate with prosecutors. From these two underlining themes, it is apparent that victims desire a relationship with the prosecutors

working their case. If a victim feel that a prosecutor is emotionally invested and diligent in working their case in a direction most desired by the victim, then the victim often feels satisfied with their experience, even if a case did not receive the verdict that the victim had hoped for (Goodrum, 2013).

The CVRA makes it clear that prosecutors have a responsibility to victims; however, what is more intriguing about these interactions are the ones that are not explicitly drawn from the CVRA. The CVRA does not “grant victims an authority relationship in [a] criminal case”, but victims still implicitly “play a specialist role in the criminal justice system as an emotional and vocal party, influencing prosecutors’ case decisions” (Goodrum, 2013; p. 283). In this type of relationship, the prosecutor works to satisfy a victim’s interests, despite the prosecutor representing the government or the state. It is an unofficial relationship outside the requirements of the CVRA that develops through the interactions between the victim and the prosecutor (Stickels & Mobley, 2008). This implicit relationship likely has a direct effect on defense attorneys and their clients. Since prosecutors could be more willing to meet victim expectations, then more cases could be taken to trial, if a victim wanted to pursue it. Some research has suggested that prosecutors and defense attorneys do not generally want to go to trial (Stickels & Mobley, 2008). Taking a case to trial puts more stress on the attorneys and puts the authority of a case in another’s hands, such as a judge or a jury. Attorneys typically try to reach an agreement between one another without having to risk a verdict at trial (Stickels & Mobley, 2008). However, if a prosecutor is more willing to follow the wishes of a victim, then the prosecutor might take a case to trial only because the victim desires that action (Stickels & Mobley, 2008). This impedes on the ability of defense attorneys to ensure a plea bargain.

Victim and Victim Advocate Interactions

Victim advocates work closely with victims, often times during emotionally charged cases. Victim advocates guide victims through the trial process, counsel victims, and provide victims with supportive resources (Kolb, 2011; Camacho & Alarid, 2008). The prevalence of victim advocates can vary from state to state, usually due to funding (Kolb, 2011). Victim advocates work for non-profit organizations, within police departments and the office of the district attorney (Kolb, 2011). Victim advocates must carefully weave through these different interactions, having to adapt with ease while also maintaining self-control during difficult situations. When interacting with victims, advocates must develop a relationship that is comforting and supportive, but also authoritative in terms of guiding a victim to the best outcome or treatment (Kolb, 2011). Advocates are not always able to develop these bonds with victims. For victims that exhibit behavior perceived as difficult or unmanageable, advocates must sometimes ignore their own frustrations to try and maintain focus on the victim's best interests (Kolb, 2011). This type of victim behavior, referred to as difficult by Kolb (2011), may consist of actions such as lying, returning to abusive partners, expressing hostility towards those helping them, or missing appointments and meetings. This behavior can sometimes cause outsiders to blame the victim for their predicament or lose sympathy for the victim, such as instances when battered women return to abusive partners (Holstein & Miller, 1990; Clark, 1987; Kolb, 2011). Advocates will attempt to look past their own frustrations towards victims who exhibit this type of behavior by deflecting blame away from the victim and reconstructing the victim's victimization scenario (Kolb, 2011).

In order to suppress their frustrations due to a victim's uncooperative behavior, an advocate may blame the perpetrator or the family members who have the ability to influence a victim's

behavior and attitude. Furthermore, by reconstructing the scenario behind the victimization, they may fill gaps in the victim-biography with their own thoughts or personal ideas. Occasionally victims are excessively difficult, hostile, or withdrawn. When advocates encounter these types of situations, according to Kolb's study, advocates will enforce a Micro-Hierarchy and identify inappropriate emotional displays (2011). A Micro-Hierarchy enforces the limitations of an advocate-victim relationship. Though it is important for advocates to bond with victims, they must also enforce the guidelines, rules, and limitations of those interactions. Especially when victims are residents of a domestic violence shelter, advocates must regulate the coming and going of victims, as well as visitors (Kolb, 2011). These limitations within advocate-victim interactions enforce the safety of the victim. The interactions between victims and advocates are often the most significant predictors of whether or not a victim will attend court hearings and be active in a case (Camacho & Alarid, 2008). If a victim is active in a case, this directly impacts the prosecution and can in turn affect interactions with the defense attorneys.

Victims and Law Enforcement

Prior research has also supports that law enforcement can have a direct impact on victims of crime and their willingness to work with legal professionals, such as their attorneys (Patterson, 2011; Foley & Terrill, 2008; Goodrum, 2007). Law enforcement is often the first to respond to a scene, meaning that these critical moments could determine a great deal for victims and their emotional state (Foley & Terrill, 2008). Victims who face aggressive questioning, suspicion, and negligence by police officers have negative opinions of the justice system and will hesitate to report another crime (Foley & Terrill, 2008; Patterson, 2011). Rape victims, for example, can face secondary victimization by police officers during questioning. Rape victims sometimes report feeling violated after being questioned about their state of dress before the crime and their sexual

history (Patterson, 2011). These types of invasive procedures may seem appropriate to law enforcement when seeking the truth of a case, but to victims, they can be intrusive, traumatizing, and degrading (Patterson, 2011).

Victims who experience positive interactions with police say that it is due to supportive officers (Foley & Terrill, 2008; Patterson, 2011). Police officers that show sympathy to victims and expressively comfort them foster positive feelings for the victim and their emotional wellbeing. These types of interactions parallel prior research on the interactions between victims and prosecutors (Goodrum, 2013). The connection between both of these scenarios is that positive interactions can promote positive victim experiences which can lead to general victim satisfaction with the justice system as a whole. In some cases, this can also make the process of completing a case smoother and more successful, in terms of overall satisfaction with the case conclusion (Foley & Terrill, 2008; Goodrum, 2013).

The Current Study

Prior research has extensively explored the interactions of victims and other legal professionals, but not those between victims and defense attorneys. Research supports that the interactions between victims of crime and legal professionals, such as prosecutors, law enforcement, and victim advocates, can have critical consequences for victims and their belief in the justice system. Furthermore, the interactions between the legal professionals themselves can have a rippling effect on other members of the justice system, by affecting victims' willingness to cooperate with other legal professionals. This study explores this gap in the literature by examining this topic from the perspective of defense attorneys. Defense attorneys offer a unique perspective that enables researchers to develop a fuller understanding of how legal professionals affect victims and their general views of the justice system. This study was formally approved by the University of Alabama Institutional Review Board and passed all requirements. This qualitative study involves interviews with federal public defense attorneys in a single southern state in the United States. Several major points of interest for this study are: 1) What kinds of interactions occur between victims and defense attorneys, 2) How do defense attorneys perceive these interactions, 3) What guides or limits these interactions, 4) Do defense attorneys believe these interactions stimulate positive or negative consequences for either the victim or the defense, and finally, 5) How do defense attorneys view victim outreach?

Methods

This study is organized and carried out using qualitative methodology. Qualitative research is appropriate when the topic requires some kind of in-depth exploration of an understudied area

(Berg, 2004; Creswell, 2007). In order to gain an in-depth understanding of defense attorneys and their unique perspective, a more in-depth method is most appropriate.¹ Qualitative methodology is also appropriate because the focus of this research is on defense attorneys' experiences, opinions, and viewpoints on victim-defense attorney interactions. In order to gain this insight, the most appropriate method is to include semi-structured interviews. This allows participants to respond with more detail and personality, and at a much deeper level than can be garnered by using online or physically administered surveys. These interviews were conducted via telephone due to distance and the convenience of the participants. Each participant was called and interviewed individually after their consent form was received. Interviews generally lasted between twenty or thirty minutes in length. These in-depth interviews are analyzed using the analytic method of grounded theory due to the exploratory nature of this study. Grounded theory is used to generate new explanations and understandings of the social world that are grounded in the data itself (Creswell, 2007).

Research Limitations

Despite the results of this study being in depth and adding needed information to this understudied topic, this study does have its limitations. The results of this study are from the perspective of defense attorneys only, which may not provide a complete picture of what happens during the interactions between victims and defense attorneys. It is possible that victims would have a different perspective if interviewed. In addition, the defense attorneys who participated in this study may not be representative of all defense attorneys who work for the American criminal justice system. This study uses defense attorneys from a single

-
1. After reading previous research over the course of eight months, the researcher was unable to find research that specifically examined defense attorneys and their normal interactions with victims. This required a methodology that would be in depth and allow participants to share responses that would help to explain this phenomenon.

southern state, which could limit the generalizability of their responses to other defense attorneys in other regions of the United States. Federal public defenders also tend to be a more qualified group of individuals and receive more training than other attorneys that might work independently or locally. In addition, the current study had a small number of participants. Although this potentially limits the generalizability of this study, it was nonetheless appropriate due to the exploratory nature of this research.

Sample Selection and Recruitment

This study relies on the responses of experienced defense attorneys with years of experience in the court system. Attempted contact was made for federal and state level public defenders through emails and phone calls, but only the federal public defenders produced consistent contact. Due to this, the state public defenders were taken out of the potential participant pool, and only federal public defenders were interviewed. Many of the participants have worked outside of the federal sphere and have variety in their professional experience as defense attorneys. Because of this, the narrowed scope of the participation sample should not greatly limit the results produced in this study. It was required that participants have at least one year of experience as an attorney to ensure that they had experience working with victims. The participants came from three separate offices, each representing a given district (e.g. Northern district, Middle district, and Southern district) within a southern state. These offices deal with a variety of cases including death penalty, habeas corpus, civil, and criminal cases. Aside from the requirement that each participant have at least one year of experience as a defense attorney, there were no other reasons to exclude participants.

An email was sent out to each attorney within each district office. This email included a formal introduction of both the researcher and the topic, as well as an attached consent form. The

proposed body of the email is attached as Appendix A and the proposed consent form in Appendix B. Once a signed consent form had been received, that defense attorney was contacted in order to schedule a time for an interview at the convenience of the participant. Twenty-four defense attorneys were contacted via email. Three participants responded immediately and were quickly interviewed. After approximately one week, a follow-up email were sent out to all potential participants who did not respond to the initial email. Further emails were sent out to participants who sent in consent forms, but did not immediately respond to emails concerning their interview time. Of the twenty-four defense attorneys that were contacted, a total of ten participants returned consent forms and took part in an interview. One participant came from the Southern District, three participants from the Northern District, and six participants came from the Middle District. The breakdown for the sample in gender was 30% female and 70% male. Ethnicity was broken down as 40% African American and 60% Caucasian. Lastly, 90% of the participants had eleven years of experience or more as a defense attorney while 10% had ten years of experience or less.

Interviews

Questions for participants focus on their own experiences interacting with victims and their views and opinions of victim outreach initiatives on behalf of defense attorneys. Semi-structured interviews use a set of predetermined questions or a framework of general themes. This keeps the interview on track and also allows for comparison of responses between participants. Furthermore, semi-structured interviews allow the researcher to be flexible while responding to participants during questioning. By using semi-structured interviews, certain questions can be probed further to gain more information. This method also allows the participants more of an opportunity to speak openly and freely since the interview questions were open ended. Questions focus on the general interactions between defense attorneys and victims. There are also questions about the significance

of these interactions in the eyes of the participant. In closing, participants are asked about their opinions of victim outreach and programs like DIVO. The proposed interview protocol may be found in Appendix C. The interviews were conducted via telephone and lasted approximately twenty to thirty minutes. The interviewed were transcribed as they were being conducted. The information was then reviewed for accuracy once the interviews were completed.

Data Analysis

As the interviews were conducted, interview transcriptions were coded and analyzed using NVivo qualitative software. The grounded theory methodology was used to analyze the data. Grounded theory is an exploratory approach to understanding an understudied phenomenon or process (Strauss & Corbin, 1990). Grounded theory is appropriate because it is grounded in the data itself, specifically in the actions, interactions, and social tendencies of a given group (Creswell, 2007). Another benefit of grounded theory is that it is better able to establish ecological validity, meaning that the results are representative of the real world. This occurs because the theory or explanation is generated by the data itself, or the actual experiences of the participants. Grounded theory also enables the researcher to create an explanation that is original and can be further developed by future researchers. Based on grounded theory, an analytic framework was developed to explain the data as the data was collected. The framework was adapted based on the information that was collected during the interview and coding process.

NVivo is capable of analyzing and measuring interviews, focus groups, social media, and transcripts (QSR International, 2014). The typed interview responses were imported and then coded. Each interview imported was given a randomized number to ensure that it was not directly linked to the participant by name. These interviews were later described using a pseudonym to match the gender described at the end of the interview during the demographics section. This was

done to ensure that the names of the participants are kept confidential. The process began first with open coding, meaning that the data was coded line-by-line using descriptive categories of information (Creswell, 2007). Open codes were initially created from the ten interview transcriptions. These codes were cleaned and edited to help narrow down the response references in accordance to the open codes created. Open codes consisted of codes such as: Negative Experiences for Victims, Opinions of Prosecutors, Reasons to Reach Out, and Ethics.

The second step in the analytic process was axial coding. Axial codes are categories or labels based on the relationship among the open codes. Axial coding is where the researcher will then identify and focus on the core phenomenon, or one single coding category, and return to the data to create the additional categories based off of this one single coding category (Creswell, 2007). The open codes were narrowed down to four major categories during this stage. The previous open codes were merged to create the finalized four major categories. The four major categories developed were used to form hypotheses that describe and explain the interrelationship of all the data (Creswell, 2007). During this step in the analytic process, a number of analytical memos were written to further digest the data and to develop deeper themes. An open code analysis was used while analyzing all ten interviews which described various aspects of victim-defense interactions. Table 2 provides the major results of this study, including four major categories along with associated concepts to describe those categories. Table 2 can also be found in Appendix D. The major categories include client benefit, prosecutors, interactions, and victim outreach.

Findings

This study reveals that there are several different factors that both encourage and limit victim and defense attorney interactions. Not only do these factors shape defense attorney perspectives, but shape their overall attitudes toward legal processes. Client benefit is the most common motivation for defense attorneys while interacting with victims. Interactions between defense attorneys and victims normally occur for the purposes of mitigation and evidence gathering and rarely occur outside of the professional sphere. From the defense perspective, prosecutors rarely interact with victims, thus forcing victims to approach the defense counsel for the information not provided by the prosecution. Finally, the last aspect of this study's findings is the thoughts of defense attorneys on victim outreach. Defense attorneys have varying ideas about what victim outreach means and what victim outreach should ultimately do. These findings, as well as direct quotes from the participants, will be described in the following sections. All participants were given pseudonyms to ensure that their information is kept confidential.

Influence of Client Benefit

Client benefit appears to have the most influence over victim-defense interactions. Client benefit is mentioned at least once by each participant. Four participants refer to client benefit at least three times during the course of their interviews, while John, an attorney with twenty-three years of experience and experience as the supervising attorney for his office, refers to client benefit a total of nine times. During his interview, client benefit is the most predominant topic of discussion while responding to questions. John responds to a question about what should be covered in victim outreach programs by stating,

The latter question is easy, assist in providing the best representation for our clients. I'm not going to do anything that isn't going to assist

in the representation of the people we represent, there's no point otherwise.

So even though the question is referring to victim outreach initiatives, John's response is grounded in the idea that defense attorneys should only act in a way that it is going to benefit their client, not necessarily for the benefit of the victim. Though these types of thoughts make sense when considering the role of defense attorneys as the zealous advocate for their client, this comment seems contradictory of the idea that victim outreach should benefit the victim. If the client's benefit is the sole purpose for interacting with a victim, such as in John's case, then it would appear as though victim outreach by the defense counsel could not benefit the defense in a way that is significant. During John's interview, he was asked if defense attorneys would want to take part in programs that might improve the relationships between victims and defense attorneys, such as victim focused initiatives like DIVO. John's response is again grounded in the benefits of the client. He states, "if it has a potential of improving the potential outcome for our clients, then I think we would have an ethical obligation to look into it." So though programs such as DIVO are geared towards the benefit of the victim, John believes that it should only be considered an option by defense attorneys if there is some client benefit involved.

Furthermore, if a defense attorney chooses to initiate interaction, it is for the sole purpose of finding out information, gathering evidence, or discrediting the victim. In an interview with David, an attorney with eleven years of experience as a defense attorney and experience practicing in Northern states, he explains why a defense attorney might choose to reach out to a victim. His quick example still ties into the idea that contact between defense attorneys and victims should be for the sake of benefiting a client's case or discrediting the victim's statements. When he is asked why he would reach out to a victim, he states,

To talk to the victim to get a civil compromise or whatever and figure out what they hope to get out of it and hope that will help get your client some benefit. The other is just to try and get their side of the story and figure out if you can find something to impeach them when they come to testify later.

David also responds to this question by stating, “typically I just would investigate the victim’s past to find out if they are going to show up [to court] or not and hope that they didn’t.” For the defense attorneys who initiate interaction with victims, there is a set goal in mind. That goal is to benefit the case of the defense and all interactions that come from the defense are strictly defined by that goal. David’s main goal while interacting with a victim, at least in this example, is to make sure that his client’s case will not be jeopardized by the victim’s potential appearance at court.

Ashley, an attorney with fifteen years of experience as a defense attorney, explains that even if an attorney were to interact with a victim in a rare instance due to circumstances unrelated to a case, “subconsciously the thought is going to be ‘is there something I can do here to benefit my client?’” This thought could cause individuals with a victim outreach perspective to worry. If defense attorneys are concerned entirely with benefiting their client, then perhaps defense attorneys cannot assist victims without their own agendas getting involved.

However, victim outreach programs such as DIVO would suggest that the defense attorney should leave the door open to victims so that victims can have information and a means to closure. The success of DIVO’s goal appears doubtful when examining the client benefit fueled goals of the participants questioned during this study. Though Ashley did not agree with the idea that client benefit should be the primary incentive for defense attorneys when interacting with victims, she acknowledges that, “I don’t think you can take self-motivation out of something no matter how hard you try.” According to Ashley, defense attorneys cannot set their job aside, even while interacting with victims. Defense attorneys have one primary goal: to seek the best outcome for

their clients. If interacting with victims could be an opportunity to help the defendant, then according to Ashley, defense attorneys will pursue that. Defense attorneys all take their role as an advocate for their client very seriously, and that comes across during their responses. As Ashley stated, taking client benefit out of the equation could be nearly impossible.

One distinction drawn from the results of this study is the difference between men and women and their views on client benefit and its influence on victim-defense interactions. In this study, 30% of the participants are women and 70% are men. The women who participated in this study felt that client benefit should not be the main focal point of victim outreach. Ashley addresses this idea when she states,

[Defense attorneys] really have to have a good understanding that there needs to be a divide between advocating for your client and doing victim outreach because the victim outreach has to come from a place that is not motivated by client interests.

In Ashley's opinion, victim outreach should focus on the needs of the victim and not client benefit, like the vast majority of the men in this study state. When Mary, a defense attorney with eleven years of experience, thought about victim outreach, she responded by stating,

I would hope that the main goal would be for offenders to understand fully the way that they have negatively impacted someone's life, because maybe having that understanding would stop this cycle.

From her perspective, the goal of interacting with victims would be for the benefit of communities by potentially stopping offenders from recidivating. Mary's comment is reminiscent of restorative justice. By bringing the victim and the offender together so that the offender and victim can have a conversation, perhaps an emotional connection could be made. This could potentially lead to less criminal activity by the offender if they were able to, as Mary states, see how they changed the victim's life. Sarah also believes that victim outreach is a necessary step for defense attorneys to

make. In her opinion, it is disappointing that victim outreach is not commonly practiced, especially when it utilizes restorative justice. The men in this study generally are persistent that client benefit should be the primary focus of their actions, even during situations that involved victims.

Client benefit, overall, is highly influential and is the main goal for defense attorneys who interact with victims. They only choose to interact with victims on the basis of their work responsibilities and helping their client's case. These regular types of interactions, being that they are promoted by client benefit, certainly have a way of shaping the attitudes that defense attorneys have about why they should interact with a victim. This finding is important when thinking about the overall nature of victim-defense interactions, the motivations behind those interactions, and what that means for programs that promote victim-defense interactions.

The Nature of Victim and Defense Attorney Interactions

The interactions between victims and defense attorneys are influenced by several factors, including lack of training and the victim's receptiveness of the defense's attempts at interaction. From these interviews, the CVRA appears to have a small impact on how defense attorneys interact with victims. Sarah and David both have negative opinions of victims' rights. Sarah views victims' rights legislation as being anti-defendant, while David describes certain victims' rights as being "ridiculous". David also refers to the victims' bill of rights as the "so called victims' bill of rights." David explains that the CVRA and other victims' rights bill essentially state that defense attorneys must read victims a version of their own Miranda Rights. The main component of these rights is that victims have the right to have an attorney present during their conversations with the defense counsel. After stating this, David quickly follows up by stating, "First of all, the prosecutor is not their attorney so that's ridiculous." It became clear, at least with David's responses, that some

defense attorneys do not see the victims' rights legislation as beneficial to the defense or logical from a defense perspective.

Furthermore, David shares an experience of his that caused him to pause due to his ethical concerns. He describes how a victim called his office to ask a question about appearing for a trial. David knew that the victim did not have to go to court, but did not want to tell the victim that because his, "big fear was...that [he] would be giving the person legal advice." Defense attorneys have an ethical duty to the court and legal system. Defense attorneys are an officer to the court, which is where their ethical concerns stem from. Defense attorneys are also ethically obligated to their client's interests, and so by straying from those ethical guidelines, defense attorneys risk being sued for ineffective counsel. Being sued for ineffective counsel is a real potential risk for defense attorneys who are sworn to advocate for their client's best interest. If client's feel that they have not been adequately defended, then defendants have the ability to take action against their defense counsel, which can be very damaging to the reputation of a defense attorney.

Defense attorneys are not only cautious about their interactions with victims due to ethical concerns, but also for issues related to the well-being of the victim and the effects of victim interactions on their client's cases. Even when interacting with victims for case related purposes, defense attorneys are cautious about maintaining an atmosphere that is not hostile or uncomfortable. John explains this type of caution when he states that,

You have to tread lightly when making the decision whether to contact a victim, if you get any hint or sense that the victim is not receptive to being interviewed, I back off immediately because I don't want to stir up a hornet's nest there.

Even though John might need to interview a victim in order to build his case, he will drop the interview if the victim shows hostility. These types of interactions are necessary for professional purposes, but are avoided if victims show noticeable or vocal discomfort. Mary also refers to this

feeling of unease when she states “you don’t want to make someone feel uncomfortable or antagonize them or anything like that so you generally don’t go up to the person that is the victim in court.” These two examples show that victim willingness plays a major role in affecting victim-defense interactions. Hostile victims can greatly affect the direction that a defense attorney might go in obtaining key information for a case. Rather than talking to the victim directly to gather evidence, a defense attorney may have to go a different less convenient route to obtain that information, perhaps through other witnesses to the crime.

Ashley notes that victims are often times traumatized by their experience with the justice system. She explains this issue by stating, “when someone has gotten beat up so many times in this court process that goes on for a long time, it can almost be more traumatic later on to get contact.” According to Ashley, the court process itself victimizes victims. As a defense attorney, she understands that interacting with a victim, especially during the late stages of a case, can do more harm than good.

Defense attorneys also point out that victims normally do not wish to talk with them, even if the defense does attempt to initiate some sort of contact. Some participants explain that this feeling of reluctance is due to the nature of being a victim, as Jared, an attorney with twenty-seven years of experience as a defense attorney, states, “there is a natural reluctance to talk to someone who has harmed you, or talk to someone who represents someone that has harmed you.” According to Jared, victims are naturally uncomfortable talking with defense attorneys, which serves as a problem for defense attorneys such as John, who are overly cautious about interacting with victims. If victims are naturally unwilling to talk with defense attorneys, then defense attorneys are constantly plagued with the fear of upsetting a victim, even if their needs for interactions are completely necessary for their professional work.

From the results found in this study, it appears that interactions are a mix of both positive and negative interactions. Sarah describes how she was once at a conference where a victim discussed their negative experience with a defense attorney. She states,

While [the victim's mother] was in the trial, the defense attorney made an argument that the victim would have not wanted the death penalty to be imposed and this is just based totally on no interaction with the family, it was just the victim had been a nurse and nurses are really kind people so surely she wouldn't want a death penalty imposed, and the mother was totally offended by that.

Sarah goes on to tell that defense attorneys attending the conference were very offended by the victim's discussion of their experience. She explains that these issues are caused by a lack of training for defense attorneys on how to interact with victims and what to see as appropriate interaction. According to Sarah, defense attorneys rarely understand what appropriate victim-defense interaction is. David reinforces this when he states, "none of us really know the proper approach to take" and that would make sense, especially when dealing with a case that involves a great deal of trauma. Due to this lack of understanding, defense attorneys normally are reluctant to interact with victims and have difficulties understanding the needs of victims. Sarah's discussion of lack of training leads to the assumption that victim related training is not a primary focus within the offices of defense attorneys. If victim-defense attorney interactions are necessary for defense attorneys in order to build a case, then victim-defense training would be an important component to add to the general training for defense attorneys.

However, Ashley describes an incident with a victim that ended positively. She witnessed a victim find closure after she helped the victim learn more about the defendant. The defendant had been a victim of abuse and had struggled with mental health issues. Ashley states that,

She cried for him and I thought, 'how amazing that someone can find that kind of level of not just forgiveness, but real pain for the person who had caused her so much pain.

After receiving that information, the victim felt more positive about the overall experience, because she was able to forgive the defendant based on that information. Ashley is the only participant to go into detail about an experience that she had where a victim significantly benefited from interacting with the defense. Despite other participants not describing similar types of interactions, it appears possible that defense attorneys and victims can have positive interactions.

How Prosecutors Affect Victims and Defense Attorneys

A surprising theme that emerged is the role of the prosecution and their interactions with victims. Prior research reflects that victims feel detached from the justice system if they are not actively interacting with a prosecutor (Goodrum, 2013). From these responses, it is clear that prosecutors generally are not interacting with victims, even in a simplistic way. Each of the ten participants independently state that prosecutors do not normally interact with victims at a significant level, and victims often are left confused and without critical information.² Craig, an attorney with eight years of experience, explains that from his perspective,

The prosecution only uses victims when they need them, and often times they have very little information given to them. So they'll bring them to court when they need some warm bodies or to gain some sympathy but in reality they don't care about them at all.

According to Craig's statement, victims are not a critical part of the justice system, but a pawn used to push a case through the justice system. He suggests that victims are not supported by the prosecution, but instead, manipulated. Sarah reinforces Craig's statement when she too states that "I feel that too many times the [prosecutor] only deals with [victims] when it's important for their case." Ashley describes the impact of this lack of interaction between victims and prosecutors when she states that she often see victims who are "really rebuffed by [the prosecution] who is allegedly there for [the victims]", which leaves victims without any sort of information and true

understanding of what is occurring with their case. Within this sample, three participants state that some of their interactions with victims occur due to the lack of interaction between victims and prosecutors. Sarah uses an example to describe how a victim's lack of information lead to her own interaction outside of a courtroom. She states,

The family said [to me] 'so is the execution date going to be set for next week?' Well, you know, they had no clue that this was a years, years, years long process and frankly that was four or five years ago and the guy still hasn't been executed. And you know, I just thought, that's awful that they have this inaccurate idea of what's going on.

Because the victim has little understanding of what is occurring within their own case, the victim turns to Sarah, the defense attorney, for answers. Ashley describes a similar instance during her interview where she was sought out by a victim after a trial.

She states,

I've actually been at a hearing for a death penalty case and the victim's family came up to me to ask questions because the prosecutors had already left the room and didn't even speak to the family. [The prosecutors] didn't give them an overview of what just happened, and so I sat there for an hour just talking to the family.

In these instances, the lack of victim-prosecutor interactions is leading to victim-defense a interactions that are not planned or initiated by the defense attorneys themselves. This is problem for the victim-prosecutor relationship. If victims are having negative experiences with prosecutors, then according to prior literature, victims should then have negative feelings about the justice system and possibly, other legal authorities (Goodrum, 2013). This could also put

-
2. The assertion that prosecutors do not normally interact with victims may not necessarily be what occurs in reality, but it is the perspective of the participants of this study. Future research should study this finding to see if this is the reality, since it may in fact play an important role in how victims and defense attorneys interact.

pressure on the defense to ensure that victims have the right answers to their questions and that they too do not cause victims to have negative experiences.

Prosecutors also limit the interactions between defense attorneys and victims. Several of the participants explain that prosecutors often tell victims not to talk to the defense counsel. David, an attorney with eleven years of defense experience, explains that,

There are some prosecutors who tell victims point blank ‘don’t talk to the defense attorneys or anyone else’ which is unethical and inappropriate but it happens anyway and you’ll never know or find out.

In David’s opinion, not only do prosecutions directly limit the interactions between defense attorneys and victims, but they do so in a way that is offensive to defense attorneys. According to David, prosecutors do not have the right to limit victim-defense interactions. This sort of response by David could be the very reason that Sarah feels that the CVRA has a negative impact on the rights of the defendant.

Furthermore, Craig reinforces David’s statement when he states,

The prosecution or the district attorney office people tell the victim not to interact with the defense counsel or they strong advise them not to. So a lot of times if you try to talk to a victim you run into an air of hostility, they already have the idea that the defense is their enemy...and the prosecution or the DA’s people are feeding that mentality.

According to Craig, prosecutors also contribute to idea of the adversarial justice system by setting the defense attorney up as the adversary of the victim. The adversarial justice system causes issues when trying to promote victim outreach by defense attorneys because victims might perceive defense attorneys as their literal enemy in court. Carl, an attorney with thirty years of experience, comments on this exact issue of the adversarial justice system, but also says something very profound. He states, “the key is that [victims] can’t look at the defense as adversarial. We are

adversarial to the prosecution, we aren't adversarial to victims.” This distinction is one that is very important when thinking about the adversarial justice system and its implications. However, to what extent victims actually see defense attorneys as adversarial is an important question to consider. If it is consistently implied by the prosecution that the defense counsel is the victim's adversary, then it would make sense that victims would be hostile towards defense attorneys.

Victims may be limiting their interactions with defense attorneys themselves due to a combination of emotional trauma and prosecutorial limitations. Victim frustrations towards the defense may only be increased by their lack of interactions with the prosecution. Though Sarah and Ashley describe instances where victims came to them for answers because of the prosecution's lack of guidance, some victims may decide to detach themselves altogether from attorneys, assuming that the system is flawed because the prosecution did not fulfill their expectations. These findings show that the interactions that occur between victims and legal authorities ultimately do affect the interactions between victims and other legal authorities. Understanding how these interactions affect other authorities is important in creating a justice system that is more fluid, as well as opening up communication between the various legal channels to ensure that positive outcomes occur for all those involved.

Defense Attorney Opinions of Victim Outreach

For defense attorneys, victim outreach is perceived in a number of different ways. According to programs such as DIVO, victim outreach is traditionally viewed as an action taken to enable victims to better cope and find closure. Though DIVO is practiced in several states, only three participants out of the ten had heard of DIVO or a similar type of program. Every participant, when asked if victim outreach is a common practice within the state studied, responded with a

quick and resounding no. In this southern state studied, victim outreach is not a common practice or a common understood practice.

Of the ten participants, two link victim outreach to prosecutors. Jared states that “normally the prosecutors do that,” referring to victim outreach. Blake, an attorney with thirty years of experience, also believes that prosecutors normally handle victim outreach related issues. When asked about victim outreach, Blake responds by stating, “that would mean more to me if I were the prosecutor.” These two responses show that defense attorneys do not see victim outreach as something related to their line of work. From the perspective of Jared and Blake, it would only make sense that the prosecution would reach out to a victim. The participants who had not heard of DIVO or victim outreach appear to guess at what victim outreach might consist of. In response to a question about her perspective on victim outreach, Mary states,

To me that suggests that there is something you can do –maybe have the victim and the defendant reconcile with each other so that the defendant can make amends to the person and express their regret or express that they have accepted responsibility for the way they maybe have victimized the other person.

Mary uses the word “maybe” several times during her response, indicating that she may not be entirely sure what victim outreach is. When asked if she has ever heard of DIVO, Mary also states, “I don’t know if any programs like that. There may be something like that that exists but I’m not aware of it.” DIVO has is practiced within some the southern states, so it is interesting to note that the majority of participants questioned during this study have not heard of DIVO, since the participants are located within a southern state.

The three attorneys who had heard of DIVO all state that they feel that DIVO is too idealistic. Sarah is one of the attorneys who has heard of DIVO and she candidly states, “I think the DIVO people tend to be a bit in the clouds and not as willing to bring us all along to their

planet.” Craig also views outreach programs in a similar light, stating that, “I think it is seen as, perhaps, overly optimistic.” Part of DIVO’s primary goal is to use defense attorneys as a means to better victim experiences in the justice system. For DIVO to work, defense attorneys should believe in it and its ability to produce successful outcomes. However, at least for some participants, DIVO is not a realistic program with realistic goals. DIVO was created initially by federal defense attorneys due to the Oklahoma Bombing incident (Frogge & Armour, 2009). If DIVO was created by defense attorneys, then it would seem as though DIVO should have a realistic expectation for what the defense attorney role entails. However, it seems as though that is not the case, at least within this study. It may be that since victim outreach is not a common practice within this particular state that the participants who have heard of DIVO may have a different perspective since victim outreach is uncommon in their area. If victim outreach is uncommon, then it would make sense that defense attorneys may be suspicious of victim outreach programs and see their goals of close victim-defense interaction as highly idealistic.

Additionally, two participants discuss their skepticism of DIVO’s success. When asked about how they thought defense attorneys would perceive victim outreach. Blake responds by stating,

From a practical standpoint, unless you just really had a defense lawyer who was invested in a case or the situation, most defense lawyers are going to, once the case is over, its over...I just don’t think the defense bar would be invested in something like that or see a purpose that is going to help their client.

In Blake’s response, he brings client benefit back into the conversation. In his mind, defense attorneys would not see victim outreach, or a program that implements victim outreach, as something worth investing in because it does not serve the client. Paul also expresses skepticism about victim outreach and its programs. He responds to the same question by stating,

Victim defense outreach from a defense perspective—I've always been very skeptical of, because it just doesn't make a lot of sense from our perspective. I know it is something that has come up in the community recently. I'm not a big fan of it.

Paul approaches the question in a way that draws back the idea of the role of the defense attorney as a zealous advocate. For a defense attorney who views their role entirely in terms of the zealous advocate typology, victim outreach would not make sense. Victim outreach would not align with their goals. John, who is very concerned about client benefit throughout his interview, states that victim outreach is done within his office. John states, "We do it to a very limited extent within our office right now but it's very controlled and it is staffed and it is very limited." Again, if the main goal of an attorney or the office that they work within is to focus on client benefit, then it would be reasonable to assume that if they are to practice any type of victim outreach that they would make sure it is regulated and limited to ensure that it would not interfere with the main agenda. Furthermore, Paul also explains that a defense attorney should do victim outreach to try and benefit the client. He states,

[You] reach out to the victims to see if they would be amenable to not pursuing death or writing a letter to the governor saying 'it's been eighteen years and even though I've lost my loved one I've learned to forgive so I'm asking for clemency for so and so'. Those can be incredibly effective, they are also incredibly rare. The family normally wants to go the other way, but that doesn't stop you from trying. I think it would be our responsibility to do that even if victim outreach weren't a thing.

What is so interesting about Paul's statement is that from his perspective, victim outreach is just an action, not an action specifically geared towards helping a victim. Victim outreach is an action taken by the defense attorney, and from his perspective, to help the client. This means that victim outreach can have several meanings depending on the defense attorney. For Paul, victim outreach is an action taken to help the defense counsel. For Mary, victim outreach made her think of

restorative justice. These varying perspectives may be due to the different types of experiences that defense attorneys might have with victims. If defense attorneys normally interact with victims for the sake of client benefit and avoid it in all other situations, then that might contribute to the mindset that victim outreach should only be necessary if it helps the client. However, if a defense attorney has experience working with victims, like Ashley, to help victims gather needed information, then they might have a different point of view. This is something to consider when trying to implement a victim outreach program. Outreach programs should be able to pull these different perspectives together to create goals that are manageable. If the goal is to benefit the victim, then defense attorneys whose thoughts do not align with the victim benefit agenda would have a hard time adapting to the program or its training.

Defense attorneys have different ideas about what goals should be adopted by victim outreach programs. According to Paul, the main goal should be transparency. When asked about his thoughts of victim outreach goals, he states,

The main goal would ultimately be transparency. Let them know that I work, not for the defense, but I work at their request. We will not talk about the case, but we will provide them with the information that we can. The defense counsel is in a position where they are entrusted with their solemn duty to represent their client and they can never compromise that. That does not mean [that defense attorneys] can't be sympathetic to [victims]. I think that's what has gotten lost somehow because people think you can't do both, and I think you can, you just have to be transparent about it.

Paul acknowledges that defense attorneys have a responsibility to their client and that nothing can steer them away from that, including victim outreach. However, he also states that defense attorneys still have the ability to help victims. What Paul can offer victims is information, which is a finding that aligns with the argument made by DIVO. DIVO supports that defense attorneys have information that could benefit victims and not cause a conflict of interest for the defense

attorney's client. Paul's statement shows that some defense attorneys agree with this argument and are willing to share information with victims.

Blake's suggestion for victim outreach goals aligns with Mary's assumptions about victim outreach and restorative justice. He suggests that,

It might help if victims knew about the defendant's background and what they've been through...because I think victims also need to recognize that that person accused or convicted of the crime has their own history and trials and tribulations.

This information about the client may be the kind of information that would benefit a victim, like Paul refers to in his statement. Sarah mentions during her interview that she sees restorative justice as something necessary and wishes that it would be more widely practiced.

In Ashley's example, she explains that the victim approached her first. Ashley was very open to communicating with the victim and created a PowerPoint for the victim to view that listed all of the information that pertained to the defendant's history. Ashley's example is an example of a defense attorney who went out of their way to assist a victim who wanted to find closure by interacting with the defense counsel. Using Ashley's example of restorative justice, she gave the victim information about the defendant's prior victimization and mental health issues and it helped the victim find closure. This information was something that the victim wanted and Ashley was able to provide. The victim was then able to connect with the defendant emotionally and forgive the defendant. Not all victims will be willing to do that, but for the victims who want that information, then perhaps DIVO is correct in stating that the defense can assist victims in this way.

Craig also saw information as being beneficial to the victim or the victim's family. He states,

I think defense attorneys are a little bit more personable so we have a legitimate concern about the victim's family having the information that they need so sometimes we will try to give them that information by reaching out to them, not to garner their

confidence or anything...but as just a person trying to do something nice for someone else, to generally convey information to them.

Information, from the defense attorney perspective, appears to be the only option for helping the victim without affecting their responsibilities with their own client. These thoughts align with the ideas of DIVO. However, defense attorneys recognize that victim outreach is a complex issue that requires “some thoughtfulness...and strategy”, according to a statement by Paul. However, it seems that the main goal is ultimately still the same. As Mary states, “I would hope that a part of the program would be to...help the victim move past what has happened to them.” Mary’s statement align with the goal that DIVO would support. However, Mary makes a distinction by stating that this goal should be “a part” of the program. In other words, according the defense attorneys, victim outreach should involve several things. They should affect the victim by offering a means for closure and information, but also balance the needs of defense attorneys and their clients.

In conclusion, victim-defense interactions involve a web of elements that ultimately affect how victims and defense attorneys interact and for what purposes. Defense attorneys are strong pursuers of their client’s benefit, but are aware of how their interactions could potentially affect victims. For those reasons, they are often cautious. Prosecutors have great influence on the amount of interaction that can occur between victims and defense attorneys. They often do not interact with victims themselves, which in turn, forces victims to reach out to defense attorneys for information. However, prosecutors do limit victim-defense interactions by telling victims not to talk to the defense counsel. Finally, defense attorneys are open to victim outreach, but are skeptical of its success. They believe that victim outreach requires thoughtfulness and strategy, and that it should be flexible by addressing several issues such as ethical concerns, victim needs, and client concerns.

Conclusion

This study examines the interactions between defense attorneys and victims using in-depth interviews of ten federal public defenders. During the course of these interviews, four primary themes emerged. Client benefit proved to be the most influential factor on victim-defense interactions. Most defense attorneys interact with victims for the sake of client benefit and are not interested in reaching out to victims unless it can help a client's case. This study shows that prior research about zealous advocacy by defense attorneys is very real in the minds of defense attorneys today (Smith, 2013). This study also reveals that within this southern state, prosecutors rarely interact with victims unless it is necessary for their case. The lack of interaction between victims and prosecutors not only leaves victims without important information, but also motivates some victims to reach out to defense attorneys for answers. This finding reflects prior research that has found that victims' opinions of the justice system and their overall emotional state can be impacted by their interactions, or lack of interactions, with prosecutors (Goodrum, 2013). Prosecutors not only were able to increase victim-defense interactions by ignoring victims, but could also limit these interactions by promoting ideas of the adversarial justice system.

The interactions between victims and defense attorneys described in this research are motivated primarily by client benefit. This means that the majority of interactions that take place are due to sentencing, evidence gathering, or obtaining information for a case. This study reveals that positive and negative interactions do occur between victims and defense attorneys. Negative interactions could be occurring due to a lack of training for defense attorneys on how to interact

with victims. However, defense attorneys have shown positive interactions can occur if defense attorneys are approachable and willing to help victims.

However, this study also finds that defense attorneys have reasonable concerns about interacting with victims. Defense attorneys worry that their interactions could lead to more trauma for victims which could lead to problems for the client. According to many defense attorneys, it is safer to just avoid interacting with victims altogether at trial, since victims are often emotionally invested in their cases. Another concern for defense attorneys is maintaining ethical boundaries with victims. Defense attorneys want to stay within the guidelines of their role as a defense attorney and refrain from interacting with a victim that could be seen as inappropriate, such as giving legal advice in a response to a victim's question. Due to concerns about ethics, defense attorneys believe that victim outreach should involve a great deal of thoughtfulness.

Finally, this study shows that victim outreach is still a rare occurrence within some states, especially in the southern state studied. From the perspective of defense attorneys, programs like DIVO are idealistic and without manageable expectations for defense attorneys. Despite their skepticism, defense attorneys hope that victim outreach will provide victims with a way to get past a traumatizing case. Suggested goals by the participants themselves include restorative justice measures and transparency.

These findings provide evidence for several policy recommendations. It is important for policy makers to keep in mind that defense attorneys have an important role within the justice system to advocate for their client. Not only do defense attorneys have an obligation to the justice system to act as an officer of the courts, but they are also ethically obligated to their own clients. Interacting with victims could potentially cause issues for defense attorneys who do not want to risk stepping being sued for ineffective counsel. In order to ensure that ethical obligations are

maintained, victim outreach programs should have set guidelines for defense attorneys, victims, and the prosecutors who utilize it. Furthermore, client benefit should be the main goal for defense attorneys and victim outreach programs should consider this when creating goals for their programs. These programs should have realistic expectations for defense attorneys by keeping in mind that the job of a defense attorney is to advocate for their client.

Secondly, the findings of this study support that defense attorney offices should require that victim interactions be a component of their employee training. Defense attorneys often have to interact with victims to gather evidence or bolster their cases. Proper training would ensure that defense attorneys know the appropriate methods for interacting with victims. Knowing how to interact with victims appropriately could also lead to fewer negative consequences that often occur because defense attorneys are unsure about their approach techniques. Furthermore, training could also help defense attorneys better understand the needs of victims. Victims are often traumatized by the crime that occurred and the court process itself. Due to this, victims can be emotionally hostile and feel isolated. According to most defense attorneys, victims often need information more than anything else. Defense attorneys could potentially provide beneficial information for victims that is constructive, but not detrimental to the defendant's case. Realizing this could remove skepticism on behalf of defense attorneys who doubt that they could benefit victims in any way. Furthermore, training would also ensure that if a victim were hostile or offended by the actions of the defense, then the defense attorney would understand why and how to resolve the situation.

Also, offices of the defense should consider employing a victim outreach specialist to work within their offices. By employing someone that is specifically trained on how to handle situations with victims could potentially resolve issues that might arise between defense attorneys and victims. This person could be the primary person to share information with victims and would be

trained on how to do so in a way that is appropriate for both the defense and the prosecution. Another suggestion would be that this person would assist defense attorneys while interviewing victims for case related purposes. This would help create a more comfortable atmosphere for victims and the defense, and could ensure that problems are extinguished quickly. This person could also appear with the defense counsel at court proceedings in case victims have questions related to the case, as well as help ease any frustrations that victims might bring to court or have in reaction to a court proceeding.

Helping create more positive interactions between victims and defense attorneys would help to improve the negative experiences for victims and stifle the discomfort that often occurs when defense attorneys try to interact with a victim. Defense attorneys care a great deal about their role as a zealous advocate and their ability to help the justice system. Victim outreach could allow victims to benefit from their interactions with defense attorneys, and ultimately, aid defense attorneys in bettering the justice system.

References

- Alexander, P. (2010). DIVO: The ultimate oxymoron. *The Prosecutor*, 40(6).
- Beloof, D. (2008). Dignity, equality, and public Interest for defendants and crime victims in plea bargains: A response to professor Michael O'Hear. *Marquette University Law School*, 349-355.
- Berg, B. (2004). *Qualitative Research Methods: For the social sciences* (5th ed.). Boston, MA: Pearson Education, Inc.
- Branham, M., & Burr, R. (2008). Understanding Defense-Initiated Victim Outreach and why it is essential in defending a capital client. *Maurice A. Deane School of Law*.
- Camacho, C. & Alarid, L. (2008). The significance of the victim advocate for domestic violence victims in municipal court. *Violence & Victims*, 23(3), 288-300.
- Cassell, P. (2005). Recognizing victims in the federal rights of criminal procedure: Proposed amendments in light of the crime victims' rights act. *Brigham Young University Law Review*, 835-925.
- Cassell, P., Mitchell, N., & Edwards, B. (2014). Crime victims' rights during criminal investigations? Applying the crime victims' rights act before criminal charges are filed. *The Journal of Criminal Law & Criminology*, 104(1), 59-104.
- Community Meditation Services. (n.d). *Defense initiated victim outreach*. Retrieved from <http://www.cmsnola.org/services6.html>.
- Creswell, J. W. (2007). *Qualitative Inquiry & Research Design: Choosing Among Five Approaches* (2nd ed). Thousand Oaks, CA: Sage Publications, Inc.
- Doyle, C. (2012). Crime victims' rights act: A summary and legal analysis of 18 U.S.C 3771. *Journal of Current Issues in Crime, Law and Law Enforcement*, 5(4), 231-279.
- Englebrecht, C. (2012). Where do I stand? An exploration of the rules that regulate victim participation in the criminal justice system. *Victims and Offenders*, 7, 161-184.
- Etienne, M. (2004). The declining utility of the right to counsel in federal criminal courts: An empirical study on the diminished role of defense attorney advocacy under the sentencing guidelines. *California Law Review*, 92(425), 427-485.
- Foley, T., & Terrill, W. (2008). Police comfort and victims. *Victims and Offenders*, 3, 192-216.

- Frogge, S., & Armour, M. (2009). *Defense-initiated victim outreach (DIVO): A guide for creating defense-based victim outreach services*. Austin, Texas: The Institute for Restorative Justice and Restorative Dialogue.
- Goodrum, S. (2007). Victims' rights, victims' expectations, and law enforcement workers' constraints in cases of murder. *Law & Social Inquiry, 32*(3), 725-757.
- Goodrum, S. (2013). Bridging the gap between prosecutors' cases and victims' biographies in the criminal justice system through shared emotions. *Law & Social Inquiry, 38*(2), 257-287.
- Kolb, K. (2011). Sympathy work: Identity and emotion management among victim-advocates and counselors. *Qualitative Sociology, 34*, 101-119.
- Laxminarayan, M. (2012). Procedural justice and psychological effects of criminal proceedings: The moderating effect of offense type. *Social Justice Research, 25*, 390-405.
- Levine, D. (2010). Public wrongs and private rights: Limiting the victim's role in a system of public prosecution. *Northwestern University Law Review, 104*(1), 335-361.
- Moore, N. (1992). Intra-professional warfare between prosecutors and defense attorneys: A plea for an end to the current hostilities. *University of Pittsburgh Law Review, 52*(2), 515-542.
- National Association of Prosecutor Coordinators. (2009) *Resolution*. Retrieved from <http://www.ndaa.org/pdf/NAPC%20Resolution%20II.pdf>.
- Patterson, D. (2011). The linkage between secondary victimization by law enforcement and rape case outcomes. *Journal of Interpersonal Violence, 26*(2), 328-347.
- Rose, M., Nadler, J., & Clark, J. (2006). Appropriately Upset? Emotion norms and perceptions of crime victims. *Law and Human Behavior, 30*, 203-219.
- Smith, T. (2012). Zealous advocates: The historical foundations of the adversarial criminal defence lawyer. *Law, Crime, and History, 1-20*.
- Smith, T. (2013). The "quiet revolution" in criminal defence: how the zealous advocate slipped into the shadow. *International Journal of the Legal Profession, 20*(1), 111-137.
- Stickels, J., & Mobley, S. (2008). Texas criminal defense attorney's perceptions of crime victim involvement in criminal prosecutions. *Journal of Police and Criminal Psychology, 23*, 35-44.
- Strauss, A., & Corbin, J. (1990). *Basics of qualitative research: Grounded theory procedures and techniques*. Newbury Park, CA: Sage Publications.

Appendix A

Dear Attorney _____,

I am writing to you on behalf of the Department of Criminal Justice at the University of Alabama to request your participation in a research study. This research study will examine the interactions between federal public defense attorneys and alleged victims of crime. This will not require you to disclose any information pertaining to specific cases or individuals that you may have had contact with. This study involves participating in a one-time interview via telephone. The interview should take no more than thirty minutes of your time.

I have contacted [name of Supervising Attorney] concerning this research project. Attorney [name] is aware of the purpose of this research and states that he/she has no objections to this research study. Your name and information will be kept confidential and will never be made public, nor will your name be connected to your answers after the interview has been completed. This research is being supervised by Dr. Liana Pennington, my professor at the University of Alabama and a former public defender. By participating in this study, you will be adding to scientific knowledge and providing feedback for this study and future studies. Your participation is completely voluntarily and may be terminated by your request at any time during the course of this study.

Attached to this email, you will find a consent form. If you would like to participate, please return the consent form with your signature either by fax ([205]348-7871) or by email with a PDF. Again, your participation is completely voluntary.

Thank you very much for your time and consideration. You are welcome to contact me at this email address or Dr. Liana Pennington at ljpennington@ua.edu with any questions or concerns regarding this project. I look forward to hearing from you.

*Sincerely,
Lauren Alexander
Master's Student in Criminal Justice
The University of Alabama*

Appendix B

Research Participant Consent Form **Victim and Defense Attorney Interactions in Federal Court: A** **Southern Perspective**

Lauren Alexander, M.S. Candidate
The University of Alabama, College of Arts & Sciences

You are being asked to participate in a research study concerning your views concerning victims relating generally to your work as a defense attorney. This study is being conducted by Lauren Alexander, a Master's student in the department of Criminal Justice at The University of Alabama. You have been asked to participate in this study because you are currently employed in the Office of the Federal Public Defender in the State of Alabama.

Purpose of Research. The purpose of this research is to examine the extent of victim and criminal defense attorney interactions in the federal justice system in a Southern state. The study will also examine the potential implications of applying victim outreach initiatives by defense attorneys.

Specific Procedures. This study will consist of one telephone interview with each participant. The questions will pertain to your personal experiences as a legal professional and will not ask any questions pertaining to client information, cases, or information pertaining to victims. Once you have read the consent form and returned it to the researcher via email, fax, or by mail, the researcher will contact you to schedule a interview time at your convenience. You may withdraw from the interview at any time, and you may skip any questions that you feel uncomfortable answering.

Duration of Participation. The interview should take approximately thirty minutes.

Risks. The risks to you are minimal. They are not greater than those ordinarily encountered in daily life. Please know that all information will be kept confidential. All reports and academic papers using this data will utilize pseudonyms in place of your name. Likewise no report and academic papers using this data will reveal your office location. Interview questions will pertain to your general work as a defense attorney and will not ask you to reveal any client information.

Benefits. The benefits of participating in this study will be that you are contributing to academic knowledge that is important to understanding scientific research associated with this study.

Confidentiality. Your name and information will be kept separate from your responses to the interview questions. Pseudonyms will be used for each participant so that your name and office will not be connected to your responses to the interview questions. Only researchers associated with this study will have access to the data. All data will be stored in a secured and locked location. The project's research records may be reviewed by departments at The University of Alabama responsible for regulatory and research oversight. After the project has been completed, all participant information will be destroyed.

Voluntary Nature of Participation. Your participation in study is completely voluntary and you may withdraw from the study and interview at any time. In addition, you may choose to skip any questions that you feel uncomfortable answering.

Contact Information. If you have any questions about this interview either before or after completion, you may contact Lauren Alexander, the principal researcher, via email at lnalexander@crimson.ua.edu. You may also contact Dr. Liana Pennington, the supervisor for this project, via email at lpennington@ua.edu. If you have

questions about your rights as a person taking part in a research study, or if you would like to make suggestions or file complaints and concerns, you may call Ms. Tanta Myles, the Research Compliance Officer of the University at (205) 348-8461 or toll-free at 1-877-820-3066. You may also ask questions, make suggestions, or file complaints and concerns through IRB Outreach Website at <http://osp.ua.edu/site/PRCO>Welcome.html>. You may email us at participantoutreach@bama.ua.edu. You may print a copy of this consent form for your records.

Your Consent to Continue: If you freely choose to participate in this study, please indicate below after reading the next statement and agreeing that all information is true.

- I am 19 years old or older.
- I have read this full consent form and understand its contents.
- I understand that I have the opportunity to ask any questions about the study before I sign. If I had any questions, they were fully answered.

Interview

By signing below, I freely agree to participate in in this interview. I understand that I can end my participation at any time.

Printed Name

Signature

Date

Appendix C

Defense Attorney Perspective Interview:

1. When you think of victim-defense interactions, what is the first thing that comes to your mind?
2. From your own experience, how much interaction is there between defense attorneys and victims?
 - a. Can you expand on this?
3. Why/why not do these interactions take place between defense attorneys and victims?
4. Do you think interacting with victims has any impact on how you may proceed with a case?
 - b. Can you give some general examples?
5. From your perspective, do victims seem willing to interact with you?
 - a. If no: Can you expand on this? Why do you think victims may be unwilling to interact with you? Do you think this is common for other defense attorneys?
 - b. If yes: Why do you believe they are willing to? Do you think this is common for other defense attorneys?
6. What do the words “victim outreach” mean to you?
7. Can you describe an example or situation that you would consider victim outreach?
8. Under what circumstances would a defense attorney reach out to a victim?
 - a. Do you find that this causes positive results for you or the victim?
 - b. Do you find that this causes negative results for you or the victim?

9. There is a program being promoted out of Texas called Defense Initiated Victim Outreach or DIVO. This is a restorative justice program that promotes outreach initiatives by defense attorneys towards victims and alleged victims of crimes. The program offers training for defense attorneys on how to talk to victims and how to create positive interactions between both parties. This program would involve fluid interaction and contact between defense attorneys and victims, and possibly the defense and the victim. Have you heard of this program or a similar type of program?

a. Do you see this program as being more negative or positive for defense attorneys?

b. Do you think outreach is a common practice within this state?

10. If there was an opportunity for training in victim outreach for defense attorneys in your office, do you think many of the defense attorneys would partake in it?

11. How effective do you think this training would be in alleviating any problem aspects of victim-defense attorney interactions?

12. If you were in charge of a program that implemented victim outreach training, what would that program go?

a. What would be the main goal?

b. What would be covered in the program?

13. Why do you think victim outreach on behalf of defense attorneys appears to be such a new idea in the legal world?

14. Do you think victim outreach is necessary?

a. If yes: In what way? Examples?

b. If no: Could you explain why you think that?

15. Since you've started defending, has the nature of the job changed? How so?

[closing demographic questions]

16. How many years have you practiced as a defense attorney?

--ranges: 1 [1-3 years], 2 [4-6 years], 3 [7-10 years], 4 [11 or more years]

17. How many years have you practiced as a private attorney?

--ranges: 1 [1-3 years], 2 [4-6 years], 3 [7-10 years], 4 [11 or more years]

18. How many years have you practiced as a public defender?

--ranges: 1 [1-3 years], 2 [4-6 years], 3 [7-10 years], 4 [11 or more years]

19: What gender would you define yourself as?

--1 [male], 2 [female]

20: What ethnicity would you describe yourself as?

--1 [Caucasian, white], 2 [African American, black], 3 [Hispanic, Latino], 4 [Asian American, Asian], 5 [Pacific Islander], 5 [Native American, American Indian], 6 [Other]

21: What is your age?

--ranges: 1 [24-30 years], 2 [31-37], 3 [38-44], 4 [45-51], 5 [52 or older]

Appendix D

Table 1: General Demographics

Defense Attorney:	10% (7-10)	90% (11+)			
Private Attorney:	40% (never)	10% (1-3)	10% (4-6)	20% (7-10)	20% (11+)
Public Defender:	20% (1-3)	30% (7-10)	50% (11+)		
Gender:	70% Male	30% Female			
Ethnicity:	60% Caucasian	40% African American			
Age:	20% (31-37)	30% (38-44)	10% (45-51)	40% (58+)	

*types of practice percentages represent numbers of years practiced

Table 2: Major Categories of Victim-Defense Interactions

Major categories	Associated concepts
Client Benefit	Sentencing, sympathy, forgiveness, zealous advocacy
Prosecutors	Limit interactions, Act as a buffer, lack of interaction, contradictory
Interactions	Lack of interactions, Negative experiences, victim willingness, Victims' Rights
Victim Outreach	Uncommon within state, goals, transparency, ground rules, DIVO, idealistic, useful, skepticism

Appendix E

Office for Research

Institutional Review Board for the Protection of Human Subjects



February 17, 2015

Lauren Alexander
Dept of Criminal Justice College of Arts and Sciences Box
870320

Re: IRB # 15-0R-047, "Victim and Defense Attorney
Interactions in Federal Court: a Southern Perspective"

Dear Ms. Alexander:

The University of Alabama Institutional Review Board has
granted approval for your proposed research.

Your application has been given expedited approval according to
45 CFR part

46. Approval has been given under expedited review
category 7 as outlined below:

*(7) Research on individual or group characteristics or
behavior (including, but not limited to, research on perception,
cognition, motivation, identity, language, communication,
cultural beliefs or practices, and social behavior) or research
employing survey, interview, oral history, focus group,
program evaluation, human factors evaluation, or quality
assurance methodologies.*

Your application will expire on February 16, 2016. If your
research will continue beyond this date, please complete the
relevant portions of the IRB Renewal Application. If you wish
to modify the application, please complete the Modification of

an Approved Protocol Form. Changes in this study cannot be initiated without IRB approval, except when necessary to eliminate apparent immediate hazards to participants. When the study closes, please complete the Request for Study Closure Form.

Please use reproductions of the IRB approved stamped consent forms to obtain consent from your participants.

Should you need to submit any further correspondence regarding this proposal, please include the above application number.

Good luck with your research. Sincerely,

[edited to exclude signature for thesis submission]



358 Rose Administration Building
Box 870127
Tuscaloosa, Alabama 35487-0127
(205) 348-8461
FAX (205) 348-7189
TOLL FREE (877) 820-3066