commentaries
A better way to observe Victims’ Rights Week in Arizona

By Bill Hart and Richard Toon

It’s a safe bet that most Arizonans are happy to acknowledge National Crime Victim Rights Week, which begins April 13. And that virtually all would endorse its official intent “to promote victims’ rights, and to honor crime victims and those who advocate on their behalf.”

But chances are few of us have thought much about what impact Arizona’s victims’ rights movement has really had on victims’ experience with the criminal justice system.

It’s not that Arizona hasn’t taken the issue seriously. In 1990, we took the rare step of amending our Constitution to establish a Victims’ Bill of Rights. Its provisions include: the right to be notified about court hearings and other developments; the right to be heard by the prosecutor and/or judge at critical decision points; the right to refuse an interview by the defendant; the right to receive prompt restitution.

These are worthy measures, and they certainly have been welcomed by many victims. But neither our Victims’ Rights Amendment nor its supporting legislation gives victims what research suggests many of them truly want most: more real control over what happens in their cases — that is, over decisions to prosecute or not, to accept a plea, what sentence to impose, etc.

Last year, Morrison Institute for Public Policy surveyed hundreds of judges, prosecutors, crime victims, and others in a statewide research project on domestic violence, published as System Alert: Arizona’s Criminal Justice Response to Domestic Violence. One key conclusion, especially articulated by victims themselves, was that most domestic-violence victims are disappointed with their experience in Arizona’s criminal justice system.

Among their major complaints was the fact that, once they enter the system, they lose control of what happens. Their own, highly personal, life-changing event becomes the State’s business, not theirs.

In other words, Arizona law says crime victims must be notified and heard. It doesn’t say they must be listened to.

This is not to suggest that our criminal justice professionals never heed victims or are otherwise unsympathetic. But nobody denies that our system remains oriented towards punishing offenders rather than serving victims. As prosecutors readily acknowledge, a criminal case is brought on behalf of the state, not of the victim. And while domestic-violence victims frequently complain about their treatment by police and prosecutors, the latter routinely cite “victim reluctance” as the main obstacle to bringing batterers to justice.

Clearly, there are unsettled problems here. And resolution will not come easily. For one thing, defendants have rights, too. For another, giving victims too much control over prosecution would fundamentally alter a justice system that has served us well for centuries.

But it’s surely worth considering how the criminal system could better heed victims’ wishes, at least in matters such as domestic violence, a dauntingly complex social problem that even many system professionals agree is now poorly handled. Maybe so many domestic-violence victims are “reluctant” to prosecute precisely because no one’s listening closely enough to what they want.

It’s been 18 years since Arizona amended its constitution to enshrine our
laudable regard for the rights of crime victims. It may be time to step back and ponder how much our efforts have really helped victims and how we might do better. It’s hard to think of a more appropriate way to “promote victims’ rights and to honor crime victims.”

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