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## **Marsy's Law in Georgia: Are Domestic Violence Victims Actually Being Protected by the Law?**

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***Marsy's Law in Georgia: Are Domestic Violence Victims Actually Being Protected by the Law?***

An Honors Thesis submitted in partial fulfillment of the requirements for Honors in  
Criminal Justice and Criminology.

By  
Victoria Hannes  
Under the mentorship of Dr. Akiv Dawson

**ABSTRACT**

Marsy's Law, or the Victims Bill of Rights legislation, was first passed in California in 2008 and has been adopted by 13 states. In 2019, Georgia was added to the list of states that adopted the policy. While an important step for the victims' rights movement, little is known about how Marsy's Law impacts the landscape of victims' rights at the local level. Therefore, the current study endeavored to explore how Marsy's Law is shaping the landscape of victims' rights for domestic violence victims in Coastal Georgia. Guided by the *zero-sum* conceptualization of victims' rights, the study investigated the law's impact from the perspective of individuals whose work focuses on victims. The study involved eight semi-structured interviews with criminal justice practitioners, victim service providers, and victimologists in Coastal Georgia to address two research questions. The interviews revealed that the participants are knowledgeable about Marsy's law and supportive of the changes that should result from it. Thematic analysis of the interviews also showed that the participants believed that the law made a critical difference in the lives of domestic violence victims. At the same time, the participants who worked within the criminal justice system did not believe the law had much of an impact on how they did their jobs. The qualitative themes, implications for policy, and directions for future research are discussed.

**Key words:** *Marsy's Law, victims' rights, Georgia, domestic violence*

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### **Introduction and Background: What is Marsy's Law?**

The rights and protections for people accused of crime are written out explicitly in our nation's constitution, such as no excess bail and cruel punishment. However, there are no constitutional amendments that give protections and rights for crime victims. There is ongoing debate and hesitation when it comes to having a victim's rights amendment added to the constitution. Proponents of a victim's right amendment argue that it will give victims a voice in their case and protect them from their accuser. Opponents of a victim's rights amendment argue that it will infringe upon the rights of the accused and could end up harming crime victims. With no end in sight, the federal government acknowledged the need with the Crime Victim's Rights Act, which protects victims at the federal level. State and local governments have also acknowledged the demands of a growing Victim's Rights Movement by adding victim's rights amendments to their constitutions. This is how legislation, such as the progressively popular Marsy's Law, has become law in many states. It was first passed in California in 2008 and includes protections for victims, such as the right to notification and the right to be included in the court process.

Marsy's Law should be thought of as a part of the victim's rights movement. This movement began nearly 50 years ago due to the exclusion of the victims from their own case and negativity they faced. The victims of violent crimes have no little to no protections for them federally. Only a handful of states have a Victim's Bill of Rights Amendment in their state constitution. This leaves a lot of victims in the United States without protections from their offender. The Victim's Rights Movement started in the 1970s due to "...a perceived imbalance in the criminal justice system" (Cassell, p. 4). The

movement started small, but soon expanded to the whole United States. People all around the country were fighting for victims' rights, and it wasn't until 1982 when they would be heard.

In 1982, the President's Task Force on Victims of Crime was released to the public. The task force investigated claims that victims were becoming overlooked in the criminal justice system. They found that "... the criminal justice system has lost an essential balance..." and that "The victims of crime have been transformed into a group oppressively burdened by a system designed to protect them" (Herrington et al., 1982, p. 114). This finding proved what the Victim's Rights Movement was advocating for and subsequently reforms were being pushed onto the criminal justice system. A federal amendment was going to be difficult to pass, so reformers started working towards passing state amendments for victims' rights.

Marsy's Law was introduced to the California legislature and took effect in 2008. This law was created due to the stalking and murder of Marsy Ann Nicholas on November 30, 1983 by Kerry Michael Conley, her ex-boyfriend. A week after Marsy's murder, her mother stopped by a grocery store and met Conley after he posted bail. The family received no notification from the justice system about the release, and her murderer was released days after being arrested. This sparked a national movement for victim's rights, starting in California where the murder took place. Marsy's Law has passed in many states, some having their own rendition of the law. Most recently in Florida, the law was voted on and put into effect in late 2019. This law gives those who are victims of crimes their own protections against their perpetrator and the public.

While increased clarity for crime victims and considerable participation in the criminal justice process are deemed both necessary and positive by advocates of these laws, there are sound worries that it could harm victims in the process. Some have referred to Marsy's Law and laws alike as "...a very sickly sheep in wolf's clothing..." due to "...promising protections for victims and their rights while proposing amendments to our constitution that would limit the ability of victims to seek recovery in our courts" (Lewis, 2019). Opponents feel due to the wording of the law that it would be devastating to victims in states where the courts have a history of not cooperating with them. This uncooperative relationship would only further hurt the victim rather than helping them like the law intends to do. Others fear the law will ultimately inflict distress onto the accused while trying to protect the accuser. Those with this fear feel as if "...the push to give crime victims constitutional rights equal to those of criminal defendants could set up a clash over core aspects of the U.S. legal system, such as the accused person's Sixth Amendment right to due process and the right to be presumed innocent until proven guilty" (Quinton, 2018). Those accused have a constitutionally protected right to be presumed innocent until proven guilty, and opposers to Marsy's Law feel that victims may infringe upon this right. There is fear that the sixth amendment may be invalidated if the law passes on state and federal levels.

#### *Purpose and Need for the Current Study*

The purpose of this honors thesis is to examine the implementation of Marsy's Law in Georgia. Special attention is given to understanding what impact, if any, Marsy's Law has made in terms of how criminal justice officials and other stakeholders respond to victims of domestic violence. Previous reports from the Georgia Coalition Against

Domestic Violence suggest that domestic violence is an on-going problem in the state. However, there is a concern comparing the statistics from before and after Marsy's Law passed. There was a large interruption due to several historical events during the year 2020, the year right after the law passed and the year of COVID-19. COVID-19 made data collection difficult and ultimately led to a situation where Marsy's Law is crucial. Statistics from 2020 show that in Atlanta comparison of the first 31 weeks of 2018 and 2019, there was an increase of domestic violence crimes in 2020 (Evans et al., 2021). It should be noted that trends showed that 2020 was on pace to have a similar count of domestic violence as in 2019. When the shelter in place order was put into place during weeks 12-13 of 2020, domestic violence spiked tremendously. It only went down during week 18 due to the shelter in place order being lifted. During 2020, there was reportedly a 42% increase in domestic violence 911 calls with only 2% of those calls being repeat offenses (Evans et al., 2021). With this evidence, there is logical sense to say that first time offenses of domestic violence occurred during this time. This can be due to couples and families facing struggles they've never experienced. Therefore, it may be more important now than ever before to understand the extent to which Marsy's Law is having its intended effect, specifically regarding how the criminal justice system is responding to the needs of domestic violence victims.

### **Literature Review**

#### **What is known about the impact policy has on domestic violence?**

Policy has been identified as an important factor in combating domestic violence. For those who are domestic violence victims, victims' rights amendments and laws are impactful to them and their families. However, the evidence regarding its effectiveness at

changing the landscape of domestic violence offenses is mixed. Much research has focused on the impact of mandatory arrest laws on domestic violence related homicides. Since the mid-1980s, research has suggested that mandatory arrest laws have a positive impact on reducing domestic violence. Most notable among these studies was The Minneapolis Domestic Violence Experiment conducted by Sherman and Berk (1984). The study changed the landscape of domestic violence policy with its finding that not arresting offenders for misdemeanor domestic violence offenses was associated with a high probability of recidivism from the perpetrator. According to Sherman and Berk (1984), "The arrest treatment is clearly an improvement over sending the suspect away, which produced two and a half times as many repeat incidents as arrest". Comparatively, Jolin (1983) observed that mandatory arrest laws in Oregon were associated with a 10% decrease in domestic violence homicides. Likewise, Chin and Cunningham (2019) observed that states that gave police officers discretionary powers to conduct warrantless arrests in domestic violence incidents were associated with a 35% decrease in the rate of intimate partner homicides. Mandatory arrest laws, while not significant, had negative effects on intimate partner homicides (Chin & Cunningham, 2019).

Contrastingly, other research suggests that mandatory arrest laws may place victims in more danger (Iyengar, 2007, 2009; Sherman & Harris, 2015). Iyengar (2007) observed a 60% increase in intimate partner homicides in states that have mandatory arrest laws. According to Iyengar (2007), "these results may be due to changes in the reporting behavior of victims in response to certainty of arrest" (p. 3). Similarly, Iyengar (2009) reported a 54% increase in intimate partner homicides in states that have mandatory arrest laws. Down this same vein, Sherman and Harris (2014) observed that

arresting domestic violence offenders was associated with premature deaths among domestic violence victims in Milwaukee, Wisconsin. The effect was most pronounced among African American victims.

Moving beyond just mandatory arrest laws, Dugan (2003) examined several types of domestic violence statutes (i.e., mandatory arrest laws, gun confiscation and felony violation of protection order) to estimate the influence they have on the likelihood that a household suffers from family and intimate partner violence. Using data from the National Crime Victimization Survey from 1992 to 1998, Dugan (2003) found that domestic violence statutes do reduce the chances of family and intimate partner violence, however it did not impact police involvement or arrest rates.

#### [What is known about the impact of Marsy's Law?](#)

While the findings from the studies above are insightful, there's limited empirical research that investigates the impact of Marsy's Law specifically. Existing research on Marsy's Law has privileged the parole process in inquiries into how the law affects victims' rights (Beck, 2010; Friedman & Robinson, 2014; Russell, 2009; Young, 2013;2016). For example, Friedman and Robinson (2014) investigated the influence of Marsy's Law on parole reconsideration decisions in California. Researchers used 103 random parole hearings conducted in California during the year of 2011 and coded all of them by hand. The study found that Marsy's Law increased female offenders' odds of getting a lower deferral period significantly. The identity of the commissioner also played a role when it came to how long a deferral period would be, with some commissioners giving out remarkably shorter or longer deferral periods. Their findings concluded that unwarranted considerations, such as gender and commissioner identity, may be an

influence on the length of deferral time under Marsy's Law (Friedman & Robinson, 2014). With this study being one of the few empirical studies done on Marsy's Law, a large concern may be that Marsy's Law is not being implemented fairly in California and other states. At the same, the results of the study point to a recognition under Marsy's Law that women make up a considerable share of victims who may be unduly prosecuted and convicted as aggressors. With these considerations in mind, Friedman and Robinson (2014) recommended that new guidelines should be added, specifically that address the deferral phase of the parole process. Similarly, Young (2016) focused on Marsy's Law and parole outcomes in California. Specifically, the study addressed the role the law and crime victims and their families should play in parole hearings. The study utilized a qualitative research design with 25 in-depth interviews with parole commissioners and duty commissioners from 2011 to 2013 (Young, 2016). Overall, the interviews revealed a unanimous belief that victim's presence in parole hearings had no effect on commissioners' decisions, some believed victim presence is good for the process and that it kept victims' perspectives at the forefront in commissioners' minds (Young, 2016).

Other scholars have noted victims' rights laws can help to prevent the revictimization of victims in the criminal justice system. For example, Bazelon and Green (2020) analyzed the history of victims' rights laws and how sexual assault victims are treated in court. This study found that most victims' rights laws do protect the victim from their offender and others, but not from the criminal justice system. They mentioned that a restorative justice process would better allow for protections of the victim from revictimization at the hands of the criminal justice system. Similarly, Otanot (2020) investigated the revictimization of victims in the criminal justice process analyzed with a

focus on the different interests of the defendant, victim, and prosecution. Overall, they found that the criminal justice system itself protects defendants from the stress of the process, however victims are not guaranteed these same rights (such as the right to a speedy trial), making them susceptible to revictimization. Therefore, Onanot (2020) recommended adding the "The Victim's Right to Proceedings Free from Unreasonable Delay" to 18 U.S.C 3161 so that victims have the right to a speedy trial. Along these same lines, Bazelon and Green (2020) recommended that the United State rethink their approach when it comes to alternative justice so that victims are less likely to be revictimized by the criminal justice system.

Other studies provide legal analyses of Marsy's Law. These inquiries have investigated the language of the law as well as the rights enumerated by Marsy's Law. For example, Sant (2012) and Roberts (2021) investigated the use of the word 'victim' in victim's rights laws and in Marsy's Law. Sant (2012) investigated the definition of 'victim' in Marsy's Law and broke down how it can be interpreted in the criminal justice system and those within it. He found that there is a slight issue with the definition of victim in Marsy's Law due to an alternative interpretation that would create contrary results (Sant, 2012). Roberts (2021) focused primarily on the definition of 'victim' and how it has impacted the criminal justice system. Researchers found that the writers of victim's rights laws need to be careful in their choice of language, because the definition of victim changes in the criminal justice system and this can end up hurting those it is trying to help (Roberts, 2021). While useful, it should be noted that these studies only looked at the definition 'victim' and could be interpreted and not how it is being interpreted. Cassell and Garvin's (2017) study deconstructed the Florida Constitutional

Victims' Right Amendment (Marsy's Law) and compared it to other victims' rights laws across the country. The study found that there are 8 common values across different victim's rights laws, and that Marsy's Law had all 8. Similarly, Cassell and Garvin's (2020) study deconstructed Marsy's Law after it had passed and found that there were 9 new, specific rights given to crime victims in the state. These studies indicate that there should be alternative terms in legal context and different training programs for defenses, judges and prosecutors to help with the reform of the alternative terms, so that all victims can benefit from victims rights laws (Roberts, 2021). This will require Sant's (2012) recommendation to change the wording of Marsy's Law to include both direct and indirect victims of crimes.

While the literature discussed above is useful, it does not come without limitations. The inquiries that do exist are overwhelmingly focused on implementation in Florida and California. Other studies have focused on the impact of Marsy's Law on offenders' parole outcomes or provided legal analyses of the rights, protections, and overall language of the law. Studies focused on implementing Marsy's Law in Florida and California have produced interesting results concerning the impact of the policy on the landscape of victims' rights in these two states. While these studies suggest that the overall roll out of Marsy's Law in these states has been successful, there is still much to learn about what impact it may have in different states. Furthermore, studies on the impact of domestic violence policies in general, and Marsy's Law specifically, have studied the relationship between policy and domestic violence primarily using quantitative research designs. These studies often rely on crude measures of domestic violence such as arrest and intimate partner homicides. The studies have also focused

primarily on one type of domestic violence law, arrest laws, and have concluded with mixed results regarding their effectiveness. Studies on the impact of Marsy's Law have focused on how the law impacts the parole process. While the parole process is important, it is arguably the furthest step in the line of victim notification. More research should investigate how Marsy's Law is impacting victims' rights at the front end of the criminal justice system such as police officers and prosecutors. These stages are important in understanding if the right to be notified is happening during the most critical parts of the process such as arrests, release on bond, and plea bargaining. This is imperative to prevent the second wound of revictimization that is sometimes experienced by victims as they navigate the criminal justice system (Karmen 2015).

Thus, the current study contributes to the research literature in three notable ways. First, it addresses the gaps in the literature by investigating the influence of Marsy's Law on the landscape of victims' rights at the local level from the perspective of people on the front end of victim rights. Second, the perspectives of these individuals can shed light on how Marsy's Law is impacting the landscape of victims' rights from an intermediary level using a qualitative research design. Third, the current study brings much needed attention to the implementation of Marsy's Law in Georgia.

### **Theory: The Zero-Sum Model**

The current study is guided by the zero-sum model of victims' rights. This model has three categories that describe the ways victims' rights can be recognized: rights gained at the expense of offenders, rights gained at the expense of the criminal justice system, or both offenders and the system.

*Rights gained at the expense of offenders*

There are advocates who believe that victim's rights should be gained at the expense of offenders. Offenders in this context are defined as "...arrestees, defendants, convicts, inmates, probationers, and parolees..." (Karmen, 2015). Proponents of this approach argue that there has been too much regard for criminals in the system. Therefore, "...victims need rights that can match, counter, or even trump the rights of offenders" (Karmen, 2015). This is a heavily debated topic since some believe that victims will have more rights than the offender and will push a bias against them. However, despite the criticism that it receives, there are ten victim's rights gained at the expense of offenders. These rights are denial of bail, protection from further harm, defenses, privacy, evidence, offender's age, restitution, appeals, notoriety for profit, and abuser's tax. All of these protect the victim from the offender, not necessarily the criminal justice system.

*Rights gained at the expense of the criminal justice system*

Rights gained at the expense of the criminal justice system include victim's rights that require changes to how the criminal justice system operates and how criminal justice actors do their jobs as it pertains to victims. For example, a prosecutor of a case keeping the victim updated on the status of their case and their offender's status. Proponents of this approach argue that the criminal justice system has long neglected the victim and therefore "...is obligated to minimize suffering and to help injured parties recover and become whole again through government intervention, even if offenders cannot be caught or convicted" (Karmen, 2015). There have been several victims' rights gained at the expense of the system. These rights are general rights (being read their rights when they report a crime), case status, court appearances, secure waiting areas, employer

intercession, creditor intercession, suspect out on bail, negotiated plea, sentence and final disposition, work release, parole hearings, pardon, release of a felon, prison escape, return of stolen property, restitution, and compensation. These are rights gained for victims by the criminal justice system due to the neglect they received for so long and how they were left stranded with no knowledge about their own case.

*Rights gained at the expense of the offender and criminal justice system*

Rights gained at the expense of offenders and the criminal justice system both rectify the constitutional imbalance by providing complementary rights to victims and empower victims to exercise those rights within the criminal justice system, even if it changes the way criminal justice actors have to do their jobs. These are the rights that are seen as the most audacious by advocates. Advocates argue that if a victim does not like the way something is being handled in their case, then they can step in and have a say in what is happening. They no longer want to be passive in their case, they want to be active. This can be seen as a positive and a negative by the system. The victim "...can be seen as allies of the government and as junior partners on the same side as the police and the prosecution in the adversarial system" (Karmen, 2015) and can be used to strengthen the arrest, prosecution, and punishment of the offender. On the other hand, if victims are given power and do not agree with the actions taken on their case, this "...might provoke resistance from criminal justice professionals who fear that their agency's mission will be compromised and its budget strained, and that their personal privileges and discretionary authority will be jeopardized" (Karmen, 2015). There are no specific rights gained by this course of action, however, it is a combination of the rights by the offender and system alone.

### Zero Sum and Passing Marsy's Law in Georgia

On January 1, 2019, SB 127 and SR 146 became effective in the state of Georgia.

These are also known as Marsy's Law, which successfully allows for protections for crime victims within Georgia's state constitution. It was added to the rights provided to crime victims by the Georgia Crime Victims Bill of Rights, which was enacted through the Georgia Legislature in 1995 (Crime Victims' Bill of Rights). Specifically, Marsy's Law for Georgia gives victims equal rights as offenders in terms of the criminal justice process. There are many rights enumerated in the law (Georgia Crime Victims Bill of Rights - Prosecuting Attorneys' Council of Georgia, 2020). These rights are important for victims to not only heal from their trauma, but to also be seen and protected by the criminal justice system.

Furthermore, victims are connected to community-based programs that can help them recover from their experience. In respect to community-based programs, there are countless programs that can be used to help those who are elderly, young, victims and more. There are a reported 64 organizations in Georgia that provide domestic violence assistance to some degree (Georgia Domestic Violence Help, Programs and Statistics, 2021). One of the programs is the Georgia Coalition Against Domestic Violence (GCADV). This program is Georgia's state leader in the action to end intimate partner violence (Georgia Coalition Against Domestic Violence, 2020). The GCADV has a large staff made up of allies, volunteers, and partners that are well educated and trained on how to respond to domestic violence. The program certifies safe, broad, accessible, and sympathetic assistance to survivors and their children, and their staff is trained through community outreach, collaborative projects throughout the state, and advocacy (Georgia

Coalition Against Domestic Violence, 2020). The GCADV also posts annual statistics on domestic violence in the state of Georgia and specific information on how many victims were sheltered and how many were turned away due to lack of space. This specific program and others are important sources of information for domestic violence victims, and they can have full access to them due to Marsy's Law.

However, the law was not passed without opposition. Some believe that Marsy's Law will end up harming the victim due to the criminal justice system not aligning with the needs of victims. Others believe that Marsy's Law will give victims too many rights and infringe upon the constitutional rights of the offender. This opposition largely reflects the conflict that exists between the rights of victims, offenders, and the criminal justice system broadly, specifically the notion of victims' rights as a *zero-sum* endeavor.

### *Research Questions*

The current study addresses two research questions:

- Are victims' rights advocates, criminal justice officials, and other stakeholders knowledgeable about Marsy's Law and its significance for the plight of domestic violence victims?
- Has Marsy's Law changed how victim's rights advocates, criminal justice officials, and other stakeholders respond to domestic violence and those affected by it?

These questions relate to the zero-sum model outlined above. Specifically, they center around the notion of Marsy's Law as a victim's right gained at the expense of the system. Marsy's Law gives victims the right to receive information about their offender and the status of their case, while also giving them a voice at parole hearings and to appeal their

case. All of these rights are gained at the expense of the system and of the offender. Table

1. details the rights and protections provided by Marsy's Law in Georgia.

**Table 1. Victims' Rights and Protections provided by Marsy's Law in Georgia**

<b>Rights Enumerated</b>	
I.	The right to reasonable, accurate, and timely notice of any scheduled court proceedings or any changes to such proceedings
II.	The right to reasonable, accurate, and timely notice of the arrest, release, or escape of the accused
III.	The right not to be excluded from any scheduled court proceedings, except as provided by law
IV.	The right to be heard at any scheduled court proceedings involving the release, plea, or sentencing of the accused
V.	The right to file a written objection in any parole proceedings involving the accused
VI.	The right to confer with the prosecuting attorney in any criminal prosecution related to the victim
VII.	The right to restitution as provided by law
VIII.	The right to proceedings free from unreasonable delay
VIII.	The right to be treated fairly and with dignity by all criminal justice agencies involved in the case
X.	The right to file a motion in the criminal case within 20 days of a court proceeding requesting to be heard if the victim has properly requested notification and is not given notice of said court proceeding

## **Data & Methods**

### **Participants**

The current study was approved by the Institutional Review Board at Georgia Southern University. Participants were selected using purposeful sampling and snowballing. Purposeful sampling is when researchers use a sample population that they have thought intently about that does not exactly represent the greater population (Jordan, 2021). The population only represents those that the researchers feel like need to be reached. Initial participants were selected for their expertise, specifically individuals that worked with domestic or interpersonal violence victims or had knowledge about how

these victims are handled by the criminal justice system. Potential participants were identified using internet searches for victim's services providers, district attorneys, police officers, and researchers whose work centers around victims in the coastal Georgia service area. All the participants worked in Coastal Georgia. Coastal Georgia consists of 10 counties: Bryan, Bulloch, Camden, Chatham, Effingham, Glynn, Liberty, Long, McIntosh, and Screven. Coastal Georgia has a largely diverse economy which includes agriculture/agribusiness, tourism, government and military work, and port-related work (*Coastal - Region 12 / Georgia Department of Economic Development, n.d.*). Participants were contacted by email and phone to recruit them into the study. At the conclusion of the interview, participants were asked to pass along the information about the study to other people in their professional networks. The current study involves eight participants. Most participants are females (n=7). Most participants identified as white (n=6). The average age of the participants was 45 years old. On average, the participants had 18 years of experience in the field. Table 2. shows the demographic and professional information of the participants.

Table 2. Demographic and Professional Profile of Participants.

Participants	Gender	Race	Age	Years of Experience	Role
Jackie	Female	White	64	26	Domestic Violence Victim service provider
Lynette	Female	White	32	9	Police officer-Domestic Violence Unit
Bree	Female	White	52	34	Prosecutor
Karen	Female	White	53	14	Prosecutor

Linda	Female	Black	30	6	Domestic Violence Victim service provider
Doris	Female	White	47	25	Prosecutor
Cynthia	Female	Black	44	21	Prosecutor
John	Male	White	39	9	Victimologist

### Interviews

Data collection began with participants signing and returning an informed consent. Participants were then scheduled for a virtual interview. All interviews were conducted and recorded using Zoom. Zoom is a cloud-based program that allows users to communicate through audio and video meetings, where you can also utilize live-chat and screen-sharing (*What is Zoom? A comprehensive guide to the wildly popular video-chatting service for computers and smartphones*, 2020). Zoom has emerged as an important tool for qualitative research, especially that which involves interviews. Additionally, the platform provides a safe approach to conducting research in the wake of the global COVID-19 pandemic (Fortune Editors, 2021). Participants were informed of their right to ask any clarifying questions regarding the study before, during, and after the interview. Then the participants were informed that the interview was beginning and that the recording was starting. The study uses a semi-structured approach to interviewing participants. This means that some of the questions asked during the interview were predetermined and others were not. Interviews ranged from 7 to 34 minutes. At the conclusion of the interview, the mp4 file of the interview was saved, given a file name, and saved in a password protected folder. Then, the audio files were used to transcribe verbatim transcriptions of the interviews. The interviews were transcribed and cleaned by

the principal investigator and the research advisor. This research was approved by the Institutional Review Board at Georgia Southern University (H22178).

### Data Analysis

All data analysis was conducted using Nvivo 12. Nivio is a program that is used to analyze quantitative and mixed-media research. It is used in the analysis of unstructured audio, text, video, and imagery (*LibGuides: Statistical & Qualitative Data Analysis Software: About NVivo*, n.d.). The interview transcripts were uploaded into an Nvivo project. The transcripts were coded using a grounded theory approach and thematic analysis. Grounded theory is a theory that is 'grounded' in data and in turn, the development of theories comes after data is collected (Glaser & Strauss, 1999; Stephanie, 2021). Thematic analysis involves reading transcripts of interviews or going over data to identify a pattern. The study utilizes the codebook approach to managing and organizing codes. In qualitative research, codes refer to information being categorized to establish thematic ideas. It follows the six stages of thematic analysis (Kiger & Varpio, 2020). The six stages are familiarizing yourself with the data, coding, creating themes, reviewing themes, defining and naming themes, and writing up (Caulfield, 2022). The research advisor assisted with an iterative and repetitive process.

### Results

Overall, the participants were knowledgeable about Marsy's Law in Georgia and other states. Three distinct themes about how the participants view the impact of Marsy's Law developed from careful thematic analysis.

**“Taking it a step higher<sup>1</sup>:” Solidifying Victims’ Rights and Marsy’s Law**

Participants did not view Marsy's Law in terms of zero-sum despite it requiring more accountability from CJ practitioners in terms of the rights of victims. As noted in the theory section, proponents of adding constitutional protections for victims often cite constitutional imbalance as a reason for giving victims formal rights. The participants in the study often framed their support for Marsy's Law from this perspective. The participants placed Marsy's Law within the context of an enduring struggle to protect victims and give them a voice in the criminal justice system. Linda said about Marsy's Law “...I definitely think it's a way to give them [victims] their power back.”<sup>5</sup> Even though she thought it was a way to give victims their power back, Linda also mentioned how victims need to be equipped with more than just a law to help them navigate the criminal justice system. She said “... I think even with the survivors being able to have a voice in this process having someone, to you know, to equip them with what they need so when they are, you know, going before the judge or having to face that person they can be confident in what they're gonna say...”<sup>5</sup>. By having a victim advocate at their side along with Marsy's Law, victims would be well equipped to handle and navigate the criminal justice system. Participants also felt that victims need to have similar rights to those of the accused. For example, Cynthia said “...the accused are entitled to certain constitutional rights that victims of crime have rights as well in the criminal justice system and I think that the codification of Marsy's law makes that a realization for everyone that comes to the courthouse steps”<sup>7</sup>. With Marsy's Law being in the Georgia Constitution, it requires CJ practitioners to practice the law even if they don't agree with

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<sup>1</sup> Lynette

it or didn't practice it before. To this point, Cynthia said "I think that you know Marsy's law, if it did anything, it was to take something that you know like that might have been considered a voluntary custom and made it mandatory..."<sup>7</sup> In Bree's interview, she said "...they made it a constitutional law meaning that any of your state law has to align with that constitutional law there's no if ands or butts about that yeah it's definitely been a benefit to those victims..."<sup>3</sup>. With Marsy's Law, participants felt that victims have a voice in the criminal justice system and they now have their rights solidified by having the law in Georgia's Constitution.

#### [We're already doing that here: Localized perspectives of honoring victims' rights](#)

On the other hand, the participants seemed to view Marsy's Law through a more symbolic than material lens. As described earlier, the participants viewed the law as important for domestic violence victims to have a voice in the system and have their rights recognized. However, they often invoked two accounts: (1) "We're already doing that here" and (2) "We had the Georgia Crime Victims Bill of Rights" that made the law seem unnecessary.

The first account describes how the participants perceived Marsy's Law to be impacting their work. The second account developed from how participants responded to the question of whether Marsy's Law was necessary. The story told in their accounts have important implications for policy. Collectively, these accounts indicate that the criminal justice system was already honoring the rights of victims both at the local and state levels through local criminal justice actors and state legislators. These accounts contrast sharply with the participants' earlier viewpoint that the plight of the victim was not prioritized in the criminal justice system. For example, Jackie said "...we were

already trying to have that comprehensive network...”.<sup>1</sup> Another participant said “...it hasn't really changed anything about the way I was doing things prior to you because I've always attempted to make sure I see the contact with all my victims regardless...”.<sup>4</sup> Both statements imply that they were already doing Marsy's Law before it even passed in Georgia, and that their workload has not changed since the law passed. Doris in her interview said “It [Marsy's Law] really hadn't changed much because we already did those kinds of services...”.<sup>6</sup> Similarly, Cynthia said “...it's always been part of the process as I've known it from so not only does it seem like the right thing to do we've been we've been doing it consistently before we were required to do it and I'm proud that you know that we kind of led the effort in that..”.<sup>7</sup> All of these statements contradict the fact that they viewed victims as not being prioritized in the criminal justice system. However, participants maintained the fact that they were caring for victims before Marsy's Law passed.

Similarly, the participants often referred to Georgia Crime Victims' Bill of Rights in their accounts about Marsy's Law. This was often done in the context of explaining that they were “already doing it” and that the Georgia Crime Victims' Bill of Rights was already providing the necessary guidance for how victims should be handled. Most participants believed that they were recognizing and honoring the rights of victims within the framework of the Georgia Crime Victims' Bill of Rights and that Marsy's Law did not change much in that regard. The common sentiment seemed to be that Marsy's Law added to what was already occurring. For example, when asked if Marsy's Law protects domestic violence victims, Karen said “...the Georgia crime victims Bill of Rights is very thorough so as far as Marsy's law it doesn't really protect them anymore than the crime

Bill of Rights...”.<sup>4</sup> Similarly, Lynette said that Marsy's Law did not change much, only that it “...it reinforced the fact that you have to offer all these services to the victim, you have to notify them to make them aware upon release...”.<sup>2</sup> Both statements agree that Marsy's Law was not entirely different from the Georgia Crime Victims' Bill of Rights and that it did not add anything substantial to the rights victims already had.

**“The education piece<sup>2</sup>:” Marsy's Law and the Public**

Participants viewed Marsy's Law as important. They thought it was necessary to spread the word about Marsy's Law. They supported the idea of more public dissemination of information about Marsy's Law so that the public understands the rights that victims have available to them. Participants agreed with having students learn about Marsy's Law as early as primary school. For example, Lynette said “...I think it would be an important class that children of high school age are made aware of when it comes to domestic violence specifically and Marsy's law...”.<sup>2</sup> Another way participants thought was a great way to educate the public on Marsy's Law was by word of mouth. For example, Karen said “...I think the only way you can really get it out is by word of mouth...”.<sup>4</sup> Linda also said “I'm a huge fan of word of mouth...”.<sup>5</sup> Similarly, Doris said “You don't hear it publicized through news outlets like it should be and a lot of times if it isn't by word of mouth through law enforcement people don't know about it...”.<sup>6</sup> One participant felt that it was important to have access to information about Marsy's Law at

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<sup>2</sup> Bree

<sup>3</sup> Jackie

<sup>4</sup> Karen

<sup>5</sup> Linda

<sup>6</sup> Doris

<sup>7</sup> Cynthia

<sup>8</sup> John

large events. Bree said "...you can have your just normal citizens that are coming in and checking out what's at the National Night Out you know they have a festival or whatever that would be something to have a booth set up and have just informational packets have one someone there to answer questions...".<sup>3</sup> Many people attend National Night out and by having information about victims rights there, the public would be able to learn about the rights they have if they do become a victim. Lynette said by having the public aware of what rights they have as a victim, "... I think it would be essential to make people aware so then if they are exposed to it or if they're a victim to it they know the resources that they can reach out to when they're ready...".<sup>2</sup> Linda brought up a great point by saying "...I think if there were more widespread knowledge it might make it easier for victims to come forward...".<sup>1</sup> Another point made was that if we expand the knowledge on Marsy's Law to the public, we can expand the amount of resources available for victims. Cynthia said "...for the victims sake and for our community sake I think we just need to do a better job of marketing and telling people about Marsy's law and also you know once we expand that we can also expand what services we bring to bear when it comes to helping victims..".<sup>7</sup> One participant believed that we should look social media to spread awareness about Marsy's Law. John said "...I think getting the word out especially with something like a policy is to use social media and just explain what it is like give me two or three sentences that if someone read it they'd say oh that makes sense that sounds important...".<sup>8</sup> This would make the information easier to digest to the public and people of all ages would understand what rights they have if they were to become a victim. Participants also believed that it was important to disseminate more information about Marsy's Law in rural areas to better inform domestic violence victims of their

rights and the services available to them. For example, Doris said “ [a small coastal] county is a very rural and very underprivileged county so a lot of the services they don't get unless they travel somewhere else and it is like it's a bad handicap to have...”.<sup>6</sup> The coastal counties of Georgia are pretty rural in some areas, requiring a lot more effort get out of a violent or abusive situation. This could mean driving for upwards of an hour trying to get help. Participants all agreed that victims in these small counties need access to what rights they have and what options are available to them.

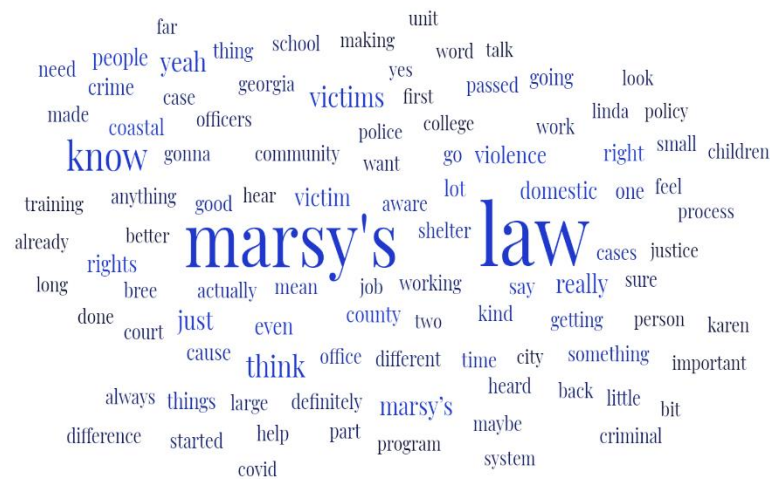


Figure 1. Word Cloud Displaying Frequently Used Words in Semi-Structured Interviews

### **Discussion: A Zero-Sum Paradox?**

The current study investigates the ways in which Marsy's law has impacted the landscape of victims' rights in Georgia. Eight semi-structured interviews were conducted with criminal justice practitioners, victims' service providers, and victimologists about their perceptions of Marsy's Law and its impact in Coastal Georgia and the state broadly. To my knowledge, no prior work has done this. Thus, the current study adds to the sparse research literature about Marsy's Law. The study was guided by the zero-sum model of victims' rights. Overall, the themes suggest that a "zero-sum paradox" exists regarding

how the law was viewed by people working in or closely to the criminal justice system. The accounts shared by the participants both confirmed and conflicted with the zero-sum conceptualization of victims' rights. Despite the law requiring more from the system as far as notifying victims and keeping them informed, most participants did not construct Marsy's Law as being "gained at the expense of the system". Many were proponents of passing Marsy's Law. They viewed the law as rectifying a constitutional imbalance and "giving victims a voice" in the system. Furthermore, they thought the law was making a critical difference in the lives of victims and believed the system should do more to inform the public about victims' rights.

The "Taking it a step higher" theme often shone through in discussions about why they chose their profession, with some participants having had their own experiences with domestic violence. The participants recognized that the criminal justice system can be difficult to navigate and that victims need help so that they don't fall through the cracks. Even though Marsy's Law is technically an example of rights gained at the expense of the system, those who work closely with domestic violence victims don't construct it that way. This might be hopeful for domestic violence victims since these individuals are in the best positions to help them navigate the system. Similar to Otanot (2020), the participants remarks indicate that the system has to recognize the rights of victims in order to protect victims from being revictimized by the criminal justice system. By contrast, the participants' remarks shed light on the problems associated with the bureaucratic nature of the criminal justice system and how it handles victims. Since victims are the direct consumers of criminal justice services, making sure their rights are being respected should be one of the system's priorities. Most of the participants shared

that they also believed that this should be a priority for the system and stated that they were hopeful that Marsy's Law is making a difference in the lives of domestic violence victims.

The two seemingly oppositional accounts presented in the "We're already doing that here" theme suggest that criminal justice practitioners view their roles from localized rather than structural levels. This allows them to recognize and critique how victims of domestic violence were handled by the criminal justice system, while at the same time not viewing their local jurisdictions as a part of the problems. While this could result in better treatment for victims in the Coastal Georgia service area, it could also produce the unintended consequence of limiting the law's effectiveness in terms of its goal to promote cultural change in how victims are treated by the system. Cultural change requires systematic introspection, which ultimately relies on local criminal justice practitioners viewing themselves as a part of a larger broader system. The cultural change towards recognizing and honoring the rights of victims begins at the local level. The necessary introspection will not happen if local practitioners do not believe it's needed, because they are "already doing it".

This perspective is important for several reasons. To begin with, it suggested that criminal justice practitioners are well-positioned to adjust to the new guidelines for victims' rights provided by Marsy's Law. However, for the most part this perspective did not articulate the nuances of what Marsy's Law adds to the Georgia Crime Victims' Bill of Rights, which is constitutional protection and enforcement of victims' rights in Georgia. Only two participants constructed Marsy's Law as a *constitutional right*. Recognition of formal rights has been a long sought-after goal of the victims' rights

movement, therefore having these rights codified in the constitution of the state of Georgia represents a fundamental change for victims' rights in the state. Despite the practitioners being knowledgeable about Marsy's Law, the participants' responses suggested that criminal justice practitioners may not be receiving guidance from the legislature regarding how to handle victims within the guidelines and new constitutional protections for victims provided from Marsy's Law. If criminal justice practitioners are not fully aware of what is expected of them in the context of Marsy's Law, the effectiveness of the law will, in turn, be limited. This will make it increasingly difficult to move Marsy's Law from paper to practice and improve the lives of domestic violence victims in the state of Georgia. To that end, it is recommended that practitioners develop objective evaluation metrics to measure the impact of Marsy's Law on victim satisfaction. The instrument will help practitioners identify the needs of victims that are being met and those that need improvement.

In the "The education piece" theme the participants constructed education and victims' rights in two ways. First, they emphasized the importance of informing victims of their rights as their cases are processed through the system. Second, the participants offered recommendations regarding how the public can learn about Marsy's Law and the rights of victims in Georgia without having to be victimized. Both facets of education stand to benefit victims in Coastal Georgia and bodes well for the future of Marsy's Law in Georgia. To the extent that the goal of the victims' rights movement is victim empowerment (Karmen, 2015), a well-educated public is critical for shifting the manner in which people exercise their rights in the system. Furthermore, education is important for normalizing victims' rights within our society. Therefore, it is recommended that all

victims should be provided with the Georgia Crime Victims' Rights Notification Card.

The card was developed by the Prosecuting Attorneys Council of Georgia (PAC) and the Marsy's Law for Georgia Advisory Committee. It is a printable card that can be customized to inform victims of their rights and local and state resources available to them under Marsy's Law. According to PAC (2022), "The card is intended for use by prosecutors, law enforcement, victim advocates, and victim assistance organizations to help educate crime victims on their rights as well as connect them with valuable resources." This resource will be beneficial for victims as well as normalizing victims' rights among the public.

#### *Limitations and Directions for Future Research*

While important and well-conducted, the current study is not without limitations. The first limitation is related to conducting virtual interviews. The interviews were conducted virtually using Zoom, as has become common practice during the COVID-19 pandemic. While this technology provided a safe alternative to in-person interviews, there were some issues related to Internet instability that sometimes interrupted the participants or distorted their words. While these issues were overcome through patience from the participants, future researchers should keep this in mind if planning to do interviews through Zoom or similar online platforms. The second limitation relates to the demographic profiles of our participants. While their accounts provided important insight into the implementation of Marsy's Law and the rights of domestic violence victims in Georgia, it is worth noting the majority of the participants are women. Though this was not a requirement of the study, it may reflect a preference of women in criminal justice to work in units that handle domestic violence or other gendered types of violence. This was

certainly expressed by the participants. However, future researchers should include more perspectives of men working in criminal justice. This is important given that most people working in criminal justice are men (i.e., police officers, prosecutors, judges, and correctional officials), and therefore most criminal justice practitioners that handle victims are also men. Their perspectives may vary from women in the field and therefore should be further interrogated. The third limitation is related to the scope of the study. The current study only included participants who work in the coastal Georgia region of the state. Majority of the region is made up of rural counties. The answers to the research questions may look different with participants serving in more urban locations such as counties in the metro-Atlanta area. Future research should incorporate participants from these areas as well. Furthermore, while informative, the perspectives offered in the current study may not reflect how victims think of their own experiences within the context of Marsy's Law. Thus, future studies should incorporate the perspective of victims.

### Conclusion

Bearing in mind these limitations, the current study makes three notable contributions to the research literature on Marsy's Law and similar legislation. The study adds an important inquiry, by focusing on Marsy's Law in Georgia where most existing studies focus overwhelmingly on California and Florida. The current study also contributes to this literature by using a qualitative as opposed to a quantitative approach to investigating the impact of Marsy's Law or similar legislation. The qualitative approach allowed for participants to provide context about how they perceive the law to be working as opposed to using crude measurements of effectiveness such as arrests or

police calls (Dugan, 2003). The current study brings much needed attention to crime victimization and the landscape of victim rights in rural areas, an important avenue for future research. Overall, the themes included in the current study indicate that Marsy's Law has the potential to make a positive impact on the landscape of victims' rights and the handling of domestic violence victims in Coastal Georgia.

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