

CONSERVATIVE AGENDAS AND CAMPAIGNS

VICTIMS' RIGHTS

The success of social movements very often depends upon their ability to capitalize on opportunities created by shifting political and social structures. The Victims' Rights (VR) movement has achieved enormous levels of success and stability because of its ability to take advantage of the social and political forces in the late 1960s and 1970s that helped create the war on crime. As a result, there has been a symbolic and rhetorical shift in the debate on crime—one that inevitably contributes to and justifies the State's law and order approach.

The VR movement's emphasis on individuals affected by violent crime shifted the State's burden from attacking the social causes of crime to simply responding to individual acts of crime. In the 1980s, the Right backed a VR campaign that allowed their supporters to introduce conservative tough-on-crime policies without appearing to be racist or opposed to individual rights and liberties. Politicians eagerly lauded the VR movement's goals and accomplishments while creating permanent funding for them. In fact, VR is the velvet glove that opens the door to the iron fist of mandatory sentencing, increased use of the death penalty, and "three strikes" laws. By passing victims' legislation or funding neighborhood watches, politicians could avoid dealing with issues such as poverty, education and drug abuse by appearing to be actively concerned about the issue of crime.

The role that the VR movement played in justifying harsher punishment was particularly ironic. Many victims had indeed been mistreated by the criminal justice system, including rape victims, domestic violence victims, and children abused by their parents. There was a genuine need for a VR movement, and one grew from the grassroots in the 1970s. But once adopted by the Reagan Administration's Justice Department, the mantle of VR was never extended to victims of police brutality or to those whose clothes, demeanor, or skin color earned them harassment or arrest from a habitual police practice of racial profiling. The profile of a victim promoted by this campaign became a White woman or man, victimized by a person of color who was associated with drugs—a highly selective slice of the wide range of victims of crime.

It is important to remember that the VR movement is comprised of many types of organizations—some conservative, some progressive and some apolitical. There are many organizations that simply provide a range of services such as counseling, support groups and other forms of assistance, which might be receptive to progressive activists. However, this section is primarily concerned with VR organizations that use VR to pursue and justify a law-and-order agenda.

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SECTION OBJECTIVE

This section discusses how particular sectors of the victims' rights movement strengthen the criminal justice system while furthering a "tough on crime" agenda.

IN THIS SECTION

- Profile, History, Positions and Analysis of the Victims' Rights Movement
- Various Victims' Rights Organizations
- Organizing Advice: Q&A with Murder Victims' Families for Reconciliation
- Organizing Advice: Q&A with Direct Action for Rights and Equality
- Additional Resources

THE VICTIMS' RIGHTS MOVEMENT

The Victims' Rights (VR) movement originated as a challenge to the criminal justice system and its treatment of victims of crime. However, over the past thirty years, it has evolved into an institutionalized movement whose goals often overlap with and are at times exploited by the Right. The diverse VR movement mobilizes around the goal of assisting and serving victims of crime. While some of its members and organizations pose little or no challenge to progressive criminal justice activists, several aspects of the movement are rather troublesome. For example, many sectors of the VR movement advance symbolic and rhetorical justifications for harsh law and order policies, advocate for legislation that threatens the due process rights of defendants, and ignore the social and institutional causes and consequences of crime. As a result, the mainstream VR movement supports more punitive responses to crime. Thus, victims present unique challenges to progressive activists because of the opportunity to maximize emotional leverage and diminish objective debate. By understanding the history and demands of the VR movement, progressive activists will be better able to respond and even collaborate with victims' advocacy organizations.

PROFILE OF THE VICTIMS' RIGHTS MOVEMENT

The Victims' Rights movement is made up of hundreds of grassroots organizations, dozens of national institutions, and numerous activists. At the most basic level, VR activists argue for increased support and rights for victims of crime. They claim that victims of crime are "revictimized" by the very same system that was designed to protect them. VR activists believe the government must do more to respect their emotional and social needs and to provide compensation for the losses they suffered. They also argue for the establishment of certain rights and safeguards specifically for victims of crime within the justice system. Criminals, they argue, receive a plethora of constitutional protections of their rights, but victims of crime are treated as glorified witnesses and disposed of in a bureaucratic fashion. Thus the VR movement, on the whole, is primarily concerned with both providing services to victims and lobbying government at both the state and federal levels to pass legislation that advances VR.

Specifically, victims are upset that the police, prosecutors and judges seldom consult them when criminal charges are filed or during a trial.¹ One study found that many victims, in fact, dropped criminal charges either because the system became such an ordeal or because they felt it did not sincerely care about them or the crime committed against them.² Another study found that 32% of respondents claimed that they would not get involved in the criminal justice system again.³

The VR movement primarily consists of these individuals, people who feel that their rights were further violated by the criminal justice system. These activists, however, are not necessarily representative of the average victim of crime. One survey reports that nearly 88% of victim advocates are White, female, middle-aged (the average age is 39), and over half of them have at least a college education.⁴ These advocates, then, do not represent the typical victims of crime. In addition, most VR activists are more conservative and favor more vindictive responses to crime than the average victim as well.⁵

ORIGINS OF THE VICTIMS' RIGHTS MOVEMENT

The origins of the VR movement are as diverse as the organizations and perspectives that define it. These origins, like the movement itself, can be divided into two categories: those advocating for the needs of victims and those focused on creating rights for victims. Within those two categories fall several pivotal movements during the 1960s and early 1970s that helped form it: the social welfare reforms of the 60s, the conservative “law and order” backlash of the late 60s and early 70s, and the women’s movement.

Addressing the Needs of Victims

In the beginning, the direction the VR movement took was more a product of the social welfare programs of the 1960s than a response to crime. Instead of blaming crime on immutable personal characteristics and choices of individuals, the then Democratically-controlled federal government emphasized the “social origins of crime—poverty, alienation, lack of education, discrimination—and sought to remedy those perceived causes.”⁶ They endorsed policies that “tried to provide opportunities to offenders, through jail based prisoner counseling programs, diversion programs, or community based correctional services.”⁷ Part of their socially liberal agenda regarding crime was the 1965 establishment of the nation’s first victim’s compensation fund in California.⁸ These programs were more focused on addressing the emotional, social and financial needs of victims, rather than enhancing an abstract rights agenda on behalf of victims.

Interestingly, another major force behind the VR movement was the women’s movement. The first rape crisis centers, battered women shelters, and domestic abuse telephone hotlines were founded in the early 1970s by members of the women’s movement who felt that law enforcement and mental health services were too unresponsive to the needs of women. They also argued, like other victims’ advocates, that the criminal justice system revictimized women and that additional counseling was required to overcome the newly defined battered women syndrome and post-traumatic stress disorder from which many victims suffered. The majority of these centers were run by volunteers, many of whom were victims of rape or abuse themselves, and funded by small contributions. In addition to providing services for women, these organizations lobbied for legislative reforms that would change rape laws to increase convictions while protecting the victim’s privacy, such as laws that prohibit the woman’s sexual history from being used as evidence in a rape trial.⁹ By the mid-1970s these centers began to receive increased funding from state and federal organizations, in particular the Law Enforcement Assistance Administration (LEAA), a new independent agency established in 1968 within the Justice Department that was responsible for dispersing funds to local police departments¹⁰ and later the Victims of Crime Act.

Creating Victims’ Rights

As the policies of the Johnson Administration began to be perceived as ineffective at curbing rising crime rates, many citizens were presented with a political paradox; the liberal insistence on racial tolerance preventing them from confronting the socially perceived connection between race and crime.¹¹ In contrast, the Nixon Administration and conservatives adopted a “law-and-order” stance on the problem of crime, stressing that the permissive policies of the previous administrations and the Warren Court’s decision that protected the rights of criminal defendants were to blame for the rising crime rates.¹² They argued that crime was a personal choice—a manifestation of innate wickedness—and, consequently, efforts to deter or rehabilitate criminals was a waste of tax money. The only solution, then, was punishment and incarceration.¹³

The conservative “war on crime” used victims’ rights rhetoric and appeals in two ways. The first was to assert that not only do victims possess the right to have their offenders punished; they also have the right to seek an increase in conviction rates by securing better cooperation from other victims of crime and from the courts.¹⁴ This was accomplished primarily through the LEAA. By 1980, the LEAA funded some 400 witness protection agencies in order to increase witness collaboration. In 1979 the LEAA founded the National Organization for Victims Assistance (NOVA), a national umbrella organization that trains victims’ advocates, social workers, and lobbies for victims’ legislation.

In addition to lobbying for victims’ rights and assistance in order to increase witness cooperation, the Right also used the VR movement to humanize and justify their tough on crime approach. Combined with appeals that the movement could help balance the scales of justice, the VR movement and conservative politicians effectively identified and promoted the crime victim as a sympathetic, innocent individual deserving of empathy. Further, such victims deserved the right to seek retribution and harsher punishments for their assailants. Essentially, not only did the Right manage to elicit support for the victim and anger at the offender, they also successfully implied that the crime committed against a victim was akin to an attack on the community as a whole.¹⁵ Such emotional appeals are still used to justify the curtailment of the defendants’ rights and the establishment of a myriad of victims’ rights with tremendous success.¹⁶

Contemporary Victims’ Rights

While the movement grew and flourished during the 1970s, it was dealt a severe blow from the dissolution of the LEAA, the major source of funds for victim advocacy organizations. VR organizations responded by lobbying at the state level for funding and victims’ legislation. In 1980, Wisconsin became the first state to pass the “Basic Bill of Rights for Victims and Witnesses,” the first of many “victims’ bills of rights” passed that ensured funding and support of the movement.¹⁷ In 1982, the creation of the President’s Task Force on Victims of Crime added legitimacy to legislative efforts by compiling mostly anecdotal evidence on the phenomena of “revictimization” and even went as far as to suggest an amendment to the U.S. Constitution to recognize the rights of victims. In 1984, partly due to the task force’s report, Congress passed the Victims of Crime Act (VOCA) which established the Office for Victims of Crime (OVC), an organization within the Justice Department that channels funds from federal criminal fines into victims’ programs.¹⁸ The passage of VOCA and the subsequent creation of the OVC solidified the movement’s success for the next quarter century, as millions of dollars are now annually

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The Law Enforcement Assistance Administration (LEAA) was initiated by the Johnson Administration, first as the Office for Law Enforcement Assistance in 1965, to fund local police departments by providing block grants for different programs, special task forces, and new hardware. In 1974, LEAA began funding a new unit called Citizen’s Initiative which was responsible for getting citizens more involved in the “war on crime” and for fostering greater consideration for victims, witnesses, and jurors. The LEAA, after establishing that the lack of victim and witness cooperation was a major factor in low conviction rates, launched the Crime Victim Initiative in 1974 to fund victims and witness programs in prosecutors’ offices around the nation. In a similar effort, the LEAA funded programs for social workers that trained them to better deal with the emotional and social impacts of victimization and, eventually, founded the National Organization for Victims Assistance (NOVA) to further that cause. The LEAA was eventually disbanded in 1981 because of the inefficiency caused by its substantial bureaucracy and overextended resources. In its short span, however, it helped cement and institutionalize the VR and Community-Based Crime Prevention movements.

available for victims' advocacy organizations. Today many organizations are involved in two simultaneous campaigns: to provide services to victims in an attempt to meet their needs and to lobby on behalf of victims' rights which often takes the approach of lobbying against the rights of defendants.

POSITIONS AND STANCES OF THE VICTIMS' RIGHTS MOVEMENT

Many policies advocated for by VR advocates may seem benign, but they threaten the rights of the accused and contribute to the Right's war on crime. The movement's most prominent legislation is a proposed amendment to the U.S. Constitution that is similar to laws and amendments passed at the state level. The VR movement has been extremely successful in legislative campaigns; today, every single state has some form of VR legislation and 33 states have passed constitutional amendments on behalf of victims.¹⁹

The VR movement advocates the following policies.

The Victims' Rights Amendment: The proposed Victims' Rights Constitutional Amendment and the many state-level VR policies and amendments share many similarities. They all call for some form of the following:

- The right to be protected from the accused;
- The right to be informed of any public proceedings involving the crime or of the defendant's release or escape from prison;
- The right to be included in any such public proceeding;
- The right to be heard during any public proceeding regarding the release, plea, or sentencing of the accused;
- The right to confer with the prosecutor in the case;
- The right to restitution;
- The right to a trial free from unreasonable delay;
- And the right to be treated fairly and with respect for the victim's dignity and privacy.²⁰

While the amendment appears innocuous enough, the opposition to the amendment is both broad and ideologically diverse. In addition to progressives and civil rights advocates, groups as varied as prosecutors, conservative pundits, and even some victims' rights organizations also oppose it.²¹ Some claim it threatens the due process rights of defendants, and others argue it represents a frivolous alteration of the Constitution.²² Of course, conspicuously absent from the list of victims' rights is the right not to be a victim.²³

Preventive Detention: Preventive detention is the practice of incarcerating the defendant before trial under the assumption that he or she may attempt to flee prosecution, or is potentially dangerous and should be removed from society. The language used to propose and defend preventive detention often characterizes the concept as "the right to be protected from the accused." Proponents of the practice justify it both by citing the risk that the defendant poses to the victim or the public if freed and that, without it, there would be a widespread perception of an injustice

being committed by releasing the accused on bail.²⁴ Allowing a defendant to go free on bail, these advocates claim, violates the rights of victims.

The first justification, while intuitively appealing, rests on two unfair assumptions. The first assumption is that the actions of a minority of defendants who have harassed victims or committed crimes while out on bail justify preventive detention for all defendants. It is typically considered a violation of individual rights if sanctions are levied against a person simply because several other people in similar situations committed crimes. Advocates of the policy may counter, however, that the defendant surrenders their rights when they are accused of violating the rights of another. This is, of course, the second assumption that effectively treats all accused, whether eventually found innocent or not, as being both guilty and wicked; it labels them as criminal. By definition the defendants have not been found guilty of any crime. Because the accused has yet to be tried and found guilty, it is hypothetically the equivalent of incarcerating any individual, without provocation or crime, because they are deemed dangerous or a threat to society.

The second justification for the policy, however, appeals to notions of justice as perceived by the victim and the public. The truth of the matter is that defendants who are incarcerated before a trial are more likely to plead guilty and seek a plea bargain because of the enormous pressure and discomfort they experience in prison. Although illegal, such tactics are used by law enforcement officials eager to produce a confession,²⁵ violating the defendant's right to a fair trial. As a result, the public's perception that freeing a defendant before trial is unjust is not only irrelevant but is also incorrect. Incarcerating a defendant before trial actually increases the chance of an actual (not merely a perceived) miscarriage of justice taking place.²⁶

It is clear that the claims made by VR advocates are as follows: the victim of a crime has the right to have the accused imprisoned without determining first whether he or she is guilty. Simply put, VR advocates that a victim should have the right to punish another individual without a process to assess guilt.

The Exclusionary Rule: The Supreme Court case *Mapp v. Ohio* (1961) extended the use of the exclusionary rule, which prohibits the use of illegally obtained evidence in court, to state courts. For many decades, the Right has been calling for the abolishment of this rule. The Right argues that the rule allows murderers and criminals to go free on mere technicalities and that it is an insult to victims of crime and their families. The President's Task Force on Victims of Crime officially called for the abolishment of the rule, saying it denies justice to the victims of crime and violates their rights. It even goes as far as to imply that any reversal of *Mapp* is a violation of the rights of past victims and those who may be victimized in the future by the hypothetical criminal gone free.²⁷

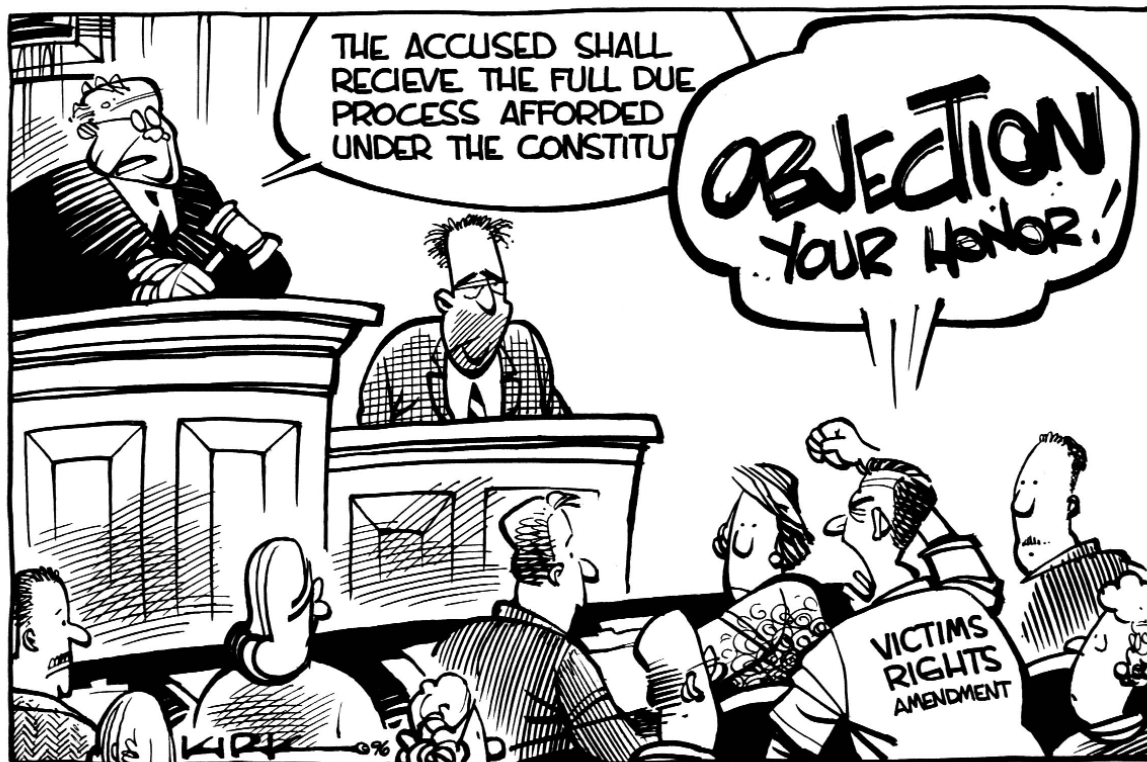
The truth, however, is that both the report and VR advocates overstate the consequences of the rule. In reality, very few cases are actually overturned because of the exclusionary rule. Proponents of the rule maintain that it is an essential safeguard against unchecked police repression. Given that few guilty individuals are actually acquitted because of it, one has to determine whether protection against unchecked police control is more important than the additional incarceration of a minimal number of criminals.

Finally, it must be remembered that the arguments against the exclusionary rule are founded on the assumption that victims of crime have a right to the conviction and incarceration of the accused and that this particular right should be the primary concern of the justice system. Such statements assume that there is consensus on what role the justice system has in adjudicating

cases and that the justice system is effective in assessing guilt. Furthermore, while one purpose of the justice system may be to hold the guilty accountable, a competing goal is the protection of rights. Procedural safeguards for the accused were established to do just that.

Victim Impact Statements: The majority of VR amendments, organizations, and advocates support victim impact statements both during the sentencing of the trial and at parole hearings. VR groups argue that being allowed to publicly describe to the offender the emotional and psychological damage that resulted from the crime can be a therapeutic experience. While there is mounting evidence that suggests such testimony has little to no influence on the proceedings,²⁸ some argue that victim impact statements may unfairly bias the jury against the defendant and thus infringe on his or her due process rights.²⁹

While restorative justice supporters might agree with the concept of impact statements, VR advocates' insistence that the impact statement be made during the sentencing and parole hearings reveals the retributive intent behind the procedure. It seems that many VR activists believe that ensuring harsher punishment for the offender is a way of regaining closure for the victim. Parents of Murdered Children, for instance, has an entire project dedicated to blocking the parole of convicted murderers. This also conceptually reinforces the asserted right of a victim to have an offender punished and consequently ignores the criminal justice system's goal of protecting all rights, including the rights of the accused. Victim impact statements also ideologically strengthen the "zero-sum" idea that VR can only be realized by punishing and incarcerating offenders.



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ANALYSIS OF THE VICTIMS' RIGHTS MOVEMENT

THE ABUSE OF VICTIMS' RIGHTS

The politically active VR movement presents many challenges to progressive activists. The highly emotional nature of the VR movement only reinforces the Right's tough on crime approach. Even many of the groups and advocates who provide services such as counseling may end up, whether intentionally or not, strengthening and supporting conservative approaches to crime. Not surprisingly, State resources continue to be channeled to those VR organizations that support tough on crime policies and implicitly agree that seeking revenge is necessary for "victim healing." Still, it is important for progressive activists to differentiate between the VR groups that provide services and those groups who opportunistically use VR as a cover to justify the growth of the current criminal justice system.

There are many reasons for progressive activists to be critical of the mainstream VR movement, no matter how well-intentioned its goals may seem. The following section will provide an analysis of the limitations and contradictions present in the current VR movement.

- **Focus on Punishment Instead of Prevention:** The primary goals of the VR movement are to provide services and legal rights to victims of crime. The VR movement largely ignores a discussion of the social causes of crime while simultaneously supporting harsher sentences and fewer procedural protections for defendants. By focusing almost exclusively on responses to victimization, the VR movement ignores the most fundamental right in question: the right not to be a victim in the first place.³⁰
- **Narrowing the Definition of Victims:** The VR movement narrows the definition of a crime victim in two important ways. First, despite the fact that White, middle-class individuals are least affected by crime, the movement and the examples of victims it uses to advance its cause consist primarily of people from that group. Secondly, the movement focuses only on victims of violent crimes, ignoring victims of corporate crimes, State violence, human rights abuses, and environmental racism.³¹ By focusing solely on White victims of violent crimes, the VR movement not only loses out on an important opportunity to address real societal harms, but further skews our perception of crime, its impacts, and its causes.
- **Justifying Vengeance:** The VR movement uses its considerable emotional leverage to justify policies that have little to do with the psychological well-being or rights of victims of crime. Since the early '70s, advocates such as Frank Carrington, one of the "founding fathers" of the VR, and politicians like Richard Nixon described the legal system as a "zero-sum" game in which any leniency or rights afforded to the accused come at the expense of victims and their rights. Victim advocacy groups thus coined the phrase "balancing the scales of justice" when discussing the rights of defendants compared to victims of crime.³² The result has been a justification for harsher sentencing and fewer procedural rights for defendants, neither of which is intrinsically attached to the well-being or rights of a victim. Instead, these justifications are more closely related to ideas of vengeance.
- **Past and Future Victims and the War on Crime:** The VR movement expertly uses the concept of past and future victims to advance their goals and simultaneously

provide symbolic and rhetorical support to the Right's War on Crime. Victims' advocates, many of whom were either themselves a victim or a family member of a victim, are able to use personal tragedies and their identity as a victim to gain the sympathy of policy makers and the public. These past victims are held up as examples of innocent people preyed upon by strangers and criminals without a conscience. Their stories are used as warnings for future victims or potential victims.³³ By engaging the public's empathy with past victims and their rage over the acts committed against them and then connecting it to our fear of crime and violence, the Right creates a powerful wedge to split the "us," or average, law abiding civilians, and the "them," or the criminals. This division bears stark resemblance to the longstanding divisions in our society between socioeconomic classes and race.³⁴

The movement's symbolic and rhetorical influences are powerful. As stated above, the "victim" has been a pivotal symbol in the Right's war on crime to justify law and order policies. The Right has successfully transformed empathy for the victim into rage against the offender, not just in an effort to punish the offender but to simply "eliminate him" and all those like him.³⁵ This transference of righteous anger and the desire to prevent future victimization is manipulated by the Right to justify harsher sentences and policies for crimes that are "victimless." For example, even though drug possession offenses are not interpersonal crimes and thus lack a victim, the VR movement can justify a harsh response by both characterizing the offender and the crime as social threats that may lead to future victimizations.³⁶ Thus, the VR movement stigmatizes groups of people, labeling them as potential victimizers, and justifies harsh punishments—all in the name of victims.

IS IT REALLY ABOUT VICTIMS?

The previous sections outlined the VR movement's overlap with the Right's law and order agenda. Whether the overlap is intentional or not, disturbing realities indicate a willful cooperation between individuals and organizations of the two movements. Murder Victims Families for Reconciliation have outlined some of these connections, which are summarized below.³⁷

Victim Activists versus All Victims: The majority of victim activists are White, middle-class, and female, which is far from representing the average victim of crime. These women are more likely to believe that the punishment of the offender is their "right," the death penalty is justified, and that punishments are often too lenient. Typical VR activists are more supportive of police, prosecutors, and judges than the average victim.³⁸ The demographic and ideological differences between typical victims' advocates and typical victims of crime lays the groundwork for a movement that represents the race and class bias that permeates conservative law and order policies rather than the actual needs of victims.

Government Funding: Government funding has played a critical role in the survival and success of the VR movement. Unsurprisingly, that funding is not distributed to organizations that challenge the current system. The LEAA, whose major purpose was to increase cooperation between victims and the police, routinely funded organizations that stressed victims' services and ignored those that criticized police, prosecutors, or judges.³⁹ The Victims Fund, created by the Victims of Crime Act, is similarly biased. Since its main source of revenue comes from fines, not taxes, assessed to those convicted of federal crimes, there is little incentive to fund organizations that call for the decriminalization of drugs (since drug offenses account for the majority of federal prisoners) or for social solutions and prevention of crime.⁴⁰ Predictably, then, the Victims Fund

only funds organizations that provide compensation or services to victims and is prohibited by law from supporting those that attempt offender rehabilitation or crime prevention.⁴¹ Thus, the government, the major source of VR funding, works to ensure that the movement does not challenge the legal system or its law and order policies.

Police Support: Given that a major force behind the movement's origins was to increase cooperation between victims and the police, it should be expected that police unions are major supporters of the VR movement. Many police and correctional officer unions and organizations support VR initiatives and some donate considerable sums of money to victims' organizations.⁴² The California Correctional and Peace Officers Association, for example, provides funds for 78% of the Doris Tate Crime Victims Bureau's budget (which was a major force behind California's adoption of the "three strikes law") and 95% of Crime Victims United budget (a conservative, tough on crime Political Action Committee).⁴³ The ties between criminal justice professionals and victims advocates further demonstrate the movement's ties to the system and its unwillingness to pose a substantive challenge to it.

The Death Penalty and Victims' Rights: Observing various perspectives on the death penalty provides a clear example of how the VR movement favors conservative ideology. Prominent VR organizations either prohibit the discussion of capital punishment, as is the case with Parents of Murdered Children, or only feature the views of those who support the death penalty. In addition to those who critique the justice system, victims' advocates who oppose the death penalty are also among the organizations that the government refuses to fund, regardless of the services and counseling provided to victims. Finally, victims or the families of victims who oppose the death penalty are often denied the right to give impact statements during the trial, not provided information about trial proceedings, and receive less or no advocacy and assistance from the government. This happens because it is prosecutors, who are expected to uphold VR, often ignore those victims opposed to the death penalty.⁴⁴ So, despite its claims, the VR movement does not advocate on behalf of all victims; instead, most VR groups and the government ignore or discriminate against those victims who do not share their law and order ideology.

VR ideology is often covert and intertwined with subtle emotional appeals, making it difficult for progressive activists to confront. While a coherent critique of the movement's symbols and rhetoric exists, progressive activists might choose to challenge the policies the VR movement supports rather than the entire movement itself.

Endnotes Available Online!

All citations and references are available at www.defendingjustice.org or by contacting PRA.

PROFILES OF VARIOUS VICTIMS' RIGHTS GROUPS

Parents of Murdered Children

Parents of Murdered Children (POMC) was designed to help survivors of a homicide victim as well as offer assistance in dealing with the criminal justice system. It is a national organization with 60 local chapters in over 25 states. It facilitates a network of homicide survivors, provides individual counseling and advocacy, and offer training services for professionals interested in learning more about the impacts of murder.

The focus of POMC programs is the emotional wellbeing of the survivors. Some programs have broader goals, like the elimination of murder as a subject of entertainment media. The Parole Block Program aims to provide victims with “a sense of control” and a “positive outlet for the anger, frustration and disillusionment with the criminal justice system.”⁴⁵ Petitions are circulated that request the Parole Board block the parole of the inmate in question, thus ensuring he or she serves out the sentence.

Crime Victims United

Crime Victims United is a victims' advocacy organization active in California and Oregon. About 95% of the California branch's budget is funded by the conservative California Correctional Peace Officers Association (the prison guard union).⁴⁶ Both “chapters” aim to influence state legislation relating to VR and the criminal justice system, and both generally adopt a law and order mentality with their advocacy. The California chapter, for example, consistently advocates for longer sentences, against parole, for the monitoring of offenders upon their release, and generally for harsher treatment of offenders.⁴⁷ The Oregon chapter similarly advocates for the expansion of victims' rights at the expense of the defendant's procedural rights, for harsher sentencing, pretrial incarceration, and three strikes legislation.⁴⁸

National Organization for Victims Assistance

Founded in 1975, NOVA is the oldest national Victims' Rights advocacy organization. NOVA has four major purposes: to engage in national advocacy for victims' rights; to provide direct services to victims; to train and assist victim advocates and allied professionals; and to compile and connect a network of over 4,500 organizations and individuals. It has been a part of the successful adoption of numerous victims' compensation laws, makes some 60,000 contacts with victims each year, and has organized 28 national conferences.⁴⁹

National Center for Victims of Crime

The National Center for Victims of Crime was established in 1985 with the mission of helping victims and families of victims of crime. They provide direct services and resources to victims such as fact sheets or counseling, advocate on behalf of victims' rights, and train organizations or individuals who come into contact with victims of crime.⁵⁰ The NCVV is a major proponent of Parallel Justice, or a system of justice where the offender and victim are addressed via separate channels of the justice system. One holds the offender accountable for his or her crime and the other responds to the victim's needs, safety, and attempts to assist him or her in any way necessary.⁵¹ The NCVV is also affiliated with the National Crime Victim Bar Association, which is an organization that helps crime victims to find attorneys and assists in filing civil suits against offenders.⁵²

ORGANIZING ADVICE: Resisting the Politics of Revenge

Q & A WITH MURDER VICTIMS' FAMILIES FOR RECONCILIATION

Murder Victims' Families for Reconciliation represents an important voice within both the death penalty abolition movement and the victims' rights movement. As an organization of murder victims' family members who oppose the death penalty, the group challenges the common assumption that all murder victims' family members support the death penalty and that the death penalty is the way to achieve justice for victims or vindicate their rights.

Founded in 1976, Murder Victims' Families for Reconciliation is a national organization of family members of both homicide and State killings who oppose the death penalty in all cases. MVFR supports programs and policies that reduce the rate of homicide and promote crime prevention and alternatives to violence. The word "reconciliation" in the name refers to the process of coming to accept that you cannot undo the murder but you can decide how you want to live afterwards. MVFR supports programs that address the needs of victims, helping them to rebuild their lives. MVFR is a non-religious organization that includes people of a wide variety of faiths and belief systems and people who are geographically, racially, and economically diverse.

PRA: What do you share with other victims' organizations and what differentiates you from other victims' organizations?

MVFR: Our members share with other survivors of homicide victims a common experience of pain. We all know the devastation of losing a family member to murder and the feelings of anger and powerlessness that accompany that experience. We share with other victims' organizations a desire to reduce the rate of homicide in this country and to advocate for victims' needs, particularly their right to be informed about the proceedings in their case (When is the next court date? Has the defendant filed an appeal?) and to participate in the process in the specific ways that the law allows (for example, delivering victim impact statements).

We differ from other victims' organizations in our assumptions about and positions on the death penalty. Most other victims' organizations, whether or not they take an official position on the ques-

tion, assume that victims are in favor of the death penalty and that advocating for victims includes advocating for death sentences. As a death penalty abolition organization whose members are survivors of homicide victims, MVFR takes a different view. We recognize that victims are as diverse in their beliefs about the death penalty as they are in race, religion, geography, and socioeconomic class, and we represent the voices of victims who oppose the death penalty. That means that our victims' advocacy takes the form of helping victims prepare statements of opposition to the death penalty (to judges or pardon boards, for example). It means making sure that victims are not discriminated against within the criminal justice system because of their beliefs about the death penalty. It means challenging victims' advocates and victims' service personnel to recognize the needs and rights of all victims, not only those who support the death penalty.

PRA: Why do you oppose the death penalty?

MVFR: Most criticisms of the death penalty focus on how it affects the defendant, the person on death row. MVFR's primary concern is how the death penalty affects the rest of us in society. Our opposition to the death penalty is rooted in our direct experience of loss and our refusal to respond to that loss with a quest for more killing. Some of our members' opposition to the death penalty is embedded in their religious beliefs. Others come to their position from a critique of a flawed system that unfairly targets minorities and the poor. Some of our members had a clearly formed opposition to the death penalty before the issue hit home personally; others had never thought much about the issue *until* it became personal. In either case, they reject the idea that an execution is the way to honor a murdered family member, despite how widespread this assumption is. People ask, "If you really loved your mother, father, son, daughter, wouldn't you want the killer to get the ultimate punishment?" MVFR members say, "We honor them not by replicating the violence that killed them but by working to *reduce* violence in our society, and by celebrating their lives. In some cases, our family member may have explicitly opposed the death penalty; in other cases, we simply know that this is not the way we ourselves want to respond to the loss."

PRA: What do you believe is an appropriate response to murder? What do you advocate for instead of the death penalty?

MVFR: As an organization, MVFR's focus is on abolition of the death penalty, and we do not take an organizational position on other criminal justice issues (such as life without parole). Individually, MVFR members differ in their beliefs about what specific punishment is appropriate or necessary for the crime of murder, but they do generally share the belief that murderers need to be held accountable and that society needs to be safe from people who are at risk for committing further violence. Many of our members focus their efforts on violence prevention in one form or another and believe that this is the most appropriate response to murder. MVFR founder Marie Deans says, "If we truly cared about victims, we would put all our knowledge and resources into saving them. Crime prevention, not retaliation, should be our number one goal."

Victims' family members have many needs in the aftermath of a homicide. There are financial costs ranging from expenses directly associated with the murder to expenses resulting from the loss of work time or loss of the family member's earnings. Victims' family members may want to seek counseling or other forms of help in the aftermath of the trauma. They may want help understanding and navigating the criminal justice system. The millions of dollars now spent on the death penalty could be redirected toward these needs of victims and toward efforts to prevent further violence.

PRA: What kind of response do you get from politicians?

MVFR: Taking a public stand against the death penalty is often politically risky for a politician. MVFR demonstrates that it is possible to be anti-death penalty and pro-victim, which can provide lawmakers and other politicians with the "political cover" that they need to take this stance.

PRA: What about other VR organizations? How do they respond to MVFR?

MVFR: There are a broad range of victims' rights, victims' service, and victims' studies organizations in this country. Some make an effort to understand MVFR and our membership in order to be prepared to meet the needs of all victims. Some of the large national victims' organizations have taken explicitly pro-death penalty positions in the past, thus put-

ting them in direct disagreement with MVFR. We do what we can to engage in a dialogue with such groups and to educate them about the needs and experiences of victims who oppose the death penalty.

PRA: How do prosecutors respond to victims who oppose the death penalty?

MVFR: It varies. Some certainly respect the views of victims who oppose the death penalty; others view such victims as, in effect, "bad victims" because they don't support what the prosecution wants. This can then mean that when family members make their opposition to the death penalty known, victims' rights laws are not enforced on their behalf. Because prosecutors have access to information and make decisions about who will testify on behalf of the State, they can decide to withhold information from victims or prevent them from participating in the trial. As well, because victims' rights offices are usually part of the prosecutor's office, we find that State-appointed victims' advocates will fail to advocate for victims who disagree with the prosecutor's agenda. As an organization, MVFR stands with such victims and argues that a right should not be revoked simply because the victims disagree with the State about the imposition of the death penalty.

PRA: What do you wish the death penalty abolition community would understand about victims who oppose the death penalty?

MVFR: We work closely with local and national death penalty abolition (and reform) groups on all sorts of strategic efforts, and we certainly view these groups as collegial organizations, sharing MVFR's goal of abolishing the death penalty. We also recognize that much anti-death penalty work and discussion focuses on the offender, and we are often in the position of inviting—sometimes, challenging—the abolition community to recognize and incorporate the victim experience as well. Because the assumption that victims are pro-death penalty is so firmly entrenched in our society, the MVFR message can be hard for anyone to understand or to internalize fully, and abolitionists are no exception. We continue to work in myriad ways to spread the message that victims should not automatically be assumed to favor the death penalty, and that victims are not the enemy of those who are working for criminal justice reform.

ORGANIZING ADVICE: Facing Victims' Rights Groups

Q & A WITH DIRECT ACTION FOR RIGHTS AND EQUALITY (DARE)

Organizations that are working to promote an approach towards public safety that moves away from the punitive measures of the criminal justice system will inevitably encounter the Victims' Rights (VR) movement and its messages. The following interview outlines Direct Action for Rights and Equality's (DARE) experiences confronting such messages in Rhode Island as well as their efforts to expand the dialogue around effective responses to violence.

DARE is a grassroots, membership-based organization located in Providence, RI. DARE organizes in low-income, communities of color and has a membership base that is primarily Black and Latina/o. The organization formed in 1986 and has worked on a variety of issues and campaigns throughout the years.

PRA: How does DARE view the criminal justice system?

DARE: It is helpful for us at DARE to look back historically at the roots of the modern day prison system to reinforce our understanding of the criminal justice system as a form of modern day slavery. Similar to the Black Codes of yesteryear and Jim Crow laws, the criminal justice system today is designed in a discriminatory way that funnels more people of color into its cages. We believe the disproportionate rate of incarceration of Black men and poor people are not coincidences. It's clear that prisons are not set up to increase public safety but rather to disenfranchise whole communities and preserve political and economic power in the hands of a select few.

The vast majority of people locked up in prison are serving time for non-violent offenses that are frequently the result of poverty. We do not believe punishment is a just response because it does not get to the root of the problem. We also believe that prisons are not an effective response to violence either. Violence will only decrease when people feel a connection and responsibility towards each other. We absolutely need systems and methods in place to hold each other accountable and everybody deserves to feel safe. However, prisons

do not foster healing and accountability but rather isolation and fear. We need to challenge individuals as well as institutions that are causing harm while building collective responsibility.

We are repeatedly told that the criminal justice system and incarceration in particular, are necessary measures to maintain order and safety. DARE challenges this belief. Ultimately we believe that safety can only be achieved through an equitable distribution of both power and resources.

PRA: How do you turn that analysis into campaigns? What is DARE currently working on?

DARE: As an organization, DARE maintains that although our day-to-day work involves fighting for short-term gains, we also need to struggle against the systems of oppression that are responsible for the day-to-day problems in our communities. The majority of our work is currently focused on making connections between the shortage of money for education, healthcare and jobs and the growth in spending for law enforcement and incarceration. We are working with a coalition to divert money that is currently being used to incarcerate people for specific "crimes" back into communities that are highly impacted by incarceration. Quite a few states have been taking measures to reduce incarceration rates by shortening sentences or diversionary sentencing. In those cases, the money that is saved is usually folded back into the state's general revenue. We are trying to reserve that money and link it to a community process to redistribute that money back into the communities that have been hit the hardest by the impacts of incarceration.

PRA: What is your interaction with the VR movement?

DARE: We have primarily come in to contact with VR groups at the state house during the legislative session. Every year in addition to legislation that DARE is trying to pass, we end up devoting a fair proportion of our time trying to make sure other legislation, often put out by proponents of VR, does not pass. We have debated about whether this is a good use of our resources and whether so much of our time should be spent in a defensive mode, rather than putting our energy into getting our own legislation passed. Often times the proposed legislation is so detrimental to our community that we

simply cannot ignore it. The type of legislation we generally feel compelled to fight against would expand the scope of punishment for perpetrators of crimes. It is important for us to fight this type of legislation because of our fundamental belief that incarceration is not a deterrent to crime or even an effective way of dealing with it.

PRA: What are the VR groups advocating for in Rhode Island?

DARE: Most of the legislation proposed by VR organizations aims to increase sentencing and punishment for various crimes. The 2004 legislative session, which also coincided with an election year, saw a particularly large number of these types of bills introduced. One specific bill proposed to make life in prison without parole a mandatory sentence for a person convicted of first-degree murder. This bill was proposed as a just response to a tragic act of violence. The bill was meant to hold the perpetrator accountable and deter others from committing similar acts of violence.

However, one size fits all solutions don't work. Imposing mandatory sentencing is a dangerous avenue that does not allow for the examination of individual circumstances and situations. A mandatory life sentence denies the ability of a person to grow, change, atone and come to terms with the pain their actions have caused. Murder and other acts of violence need serious responses and a system in place that allows victims to heal and feel safe and the people that committed the crimes to be held accountable for their actions. Simply locking someone up and throwing away the key does not make the problem go away, nor does it revive the life that has been lost. We need to examine the roots of violence more deeply and begin to dismantle the problem in a more complete and holistic way.

PRA: Who are the VR groups in RI and who else is behind the legislation?

DARE: Consistently this legislation has been introduced by the same handful of legislators: conservative Democrats and Republicans, many of whom are retired law enforcement officials. In addition to these legislators, the support for these types of legislation has come from the state's VR group, The Rhode Island Victims' Advocacy and Support Center (RIVASC), The Rhode Island Brotherhood of Correctional Officers, and the victims of a few high profile crimes that have occurred in recent history.

The Rhode Island Coalition Against Domestic Violence (RICADV) is also sometimes involved. In some cases, it is difficult to tell if the legislator sought support of allies or if the allies proposed the legislation. At other times it is very obvious. For example, it was very clear that legislation regarding car-jacking was the crusade of a woman whose daughter was killed during a car-jack.

PRA: How did DARE respond to the legislation?

DARE: During the 2004 legislative session, there were about a dozen pieces of legislation all proposing longer and more severe punishment for certain crimes. The similar tone of these bills made our job somewhat easier because we could use the same testimony for nearly all of the bills, with minor adjustments to address the specifics of the legislation. Our testimony generally consisted of a basic argument that covered a range of reasons why this type of tough on crime legislation is ineffective as a deterrent to future crime and did little to nothing to make Rhode Islanders any safer and proposed an exploration of alternative measures that could begin to deal with the root causes of violence.

For better or for worse, we found that the most compelling arguments for the legislators were usually regarding finances and the cost of longer imprisonment rather than our other arguments regarding the effectiveness of imprisonment as a tool for achieving safer communities.

PRA: How did the proposed VR legislation affect DARE's organizing strategy and tactics?

DARE: Even though we continued to make principled arguments against these policies based on their purely punitive nature, budgetary and cost arguments were our best defense against increased prison terms. This realization created a tension within our organization between choosing "winnable" strategies and strategies that build power. Just because the cost argument is particularly persuasive to legislators, it is not the most important point we want to make. This brings up questions about how we win, not just doing this work to "win" through shortcuts.

PRA: Do people and advocates from your own community support some of the legislation?

DARE: Generally speaking, no. The main exceptions to this though have been politicians and legislators—most other individuals, unless organized, do

not have the same level of power or access to power. For instance, consider the case of a former Black legislator from Providence who represented the Southside, one of the poorest communities in the state. Overall, she had been a fairly progressive legislator and champion for poor people and people of color. However, after her son was murdered, she began a crusade to reintroduce the death penalty to Rhode Island. Just this year, a Latino legislator introduced a bill to greatly expand an existing zone in which drug dealing or possession carries an elevated sentence. When confronted with the fact that this legislation would most likely impact the Latino community the hardest, he agreed, but said he felt like he was left with no other alternatives for defending his community and addressing crime. He admitted that he would rather deal with the safety of his community by building more schools, community centers and the creation of jobs, but resources are not available for those things. A Black councilwoman, again representing the Southside, has said on more than one occasion that she wants to deal with the problem of drug dealers in her community by rounding them all up and pushing them off the end of a pier.

DARE's membership has also struggled with this issue. As an organization we have collectively agreed that law enforcement and incarceration are not effective means to deal with crime in our community. Despite this, there have been individual members that have expected the organization to facilitate intervention in conflicts they were having with neighbors by getting the police to respond to their complaints. It is people in poor communities of color that are suffering from the highest concentration of interpersonal violence. It is no surprise that these attitudes are prevalent in these communities, especially when other options and resources are not available as an alternative means for dealing with this violence.

PRA: What is it like coming up against the VR groups?

DARE: We have generally been met with accusations that we are insensitive to the desires and needs of the victims. RICADV has been very disappointed that we have not supported efforts that they believe will ultimately “save women’s lives” and prevent acts of violence. This happens despite the fact that we intentionally and sincerely acknowledge the pain and loss of the victim and

that central to the presentation of our arguments against incarceration is the idea that we believe there are other actions that can be taken that would truly achieve the safety that they are seeking, prevent future acts of violence and possibly be more healing to the victim and greater community. The reductive summarization of our position as “insensitive” is an intentional manipulation and effort to steer the dialogue away from a rational realm and into an emotional realm, which is the cornerstone of the VR movement and is relied on to trump all other concerns.

PRA: What’s wrong with what they’re saying? Aren’t they speaking their truth?

DARE: The framing of VR has become increasingly narrow over the years. The idea of honoring or “doing service” by the victim has become synonymous with imprisonment, or war in the case of honoring the victims’ of 9/11. We are told that anything short of this response is disrespectful to the victim. The only response that is seen as valid is one that is based in revenge and punishment, rather than healing and reconciliation.

The Right has succeeded in popularizing the idea that the roots of violence in our communities stem from individual actions and choice alone. Thus, the VR movement has had the most support from policy makers when it has advocated meting out punishment. Looking at the root causes of individual violence would lead to a picture in which the State and the failing of its institutions and policies would be in part to blame. It is much more convenient to condemn individuals and make the claim that they are inherently bad people and innately prone to acts of violence. We need to broaden the lens around the causes for violence to include poverty, war, racism and social conditions. Reshaping the dialogue to focus on State violence, rather than individual responsibility, would lead to a greater breadth of solutions that should be explored.

PRA: Have you tried to work with VR groups? Is there a way to build relationships with them?

DARE: DARE has not been proactive to this date with building relationships with VR organizations. This has been a mistake on our part that comes partially out of shortsightedness and partially out of a lack of resources. DARE’s relationship with VR groups has primarily been limited to polarized exchanges at the statehouse. DARE has, however,

done some relationship building with RICADV around the relationship between poverty and domestic violence and they were allies during our living wage campaign.

DARE has recently decided that it is a priority for the organization to devote time and energy into building these relationships. In particular, DARE is focusing on having conversations with SOAR, Sisters Overcoming Abusive Relationships, about ways that we can move closer to a joint vision on acceptable responses to domestic violence. Members of DARE's prison project will be joining members of SOAR's leadership program for a roundtable discussion as a first step in building this relationship and trust.

In another example, DARE has supported legislation to reduce the waiting time before someone could have their record expunged. The bill received considerable opposition from domestic violence organizations and ultimately did not pass. This year meetings have been held between all these parties, in advance of the legislative session, with the hopes that greater understanding around the bill can be achieved.

PRA: Are we fighting a losing battle against VR? What has to change for your ideas to gain support? What is your advice to other activists who come up against them?

DARE: In building these relationships it is essential that abolitionists do not just critique the use of law enforcement to deal with violence but also offer real alternatives and solutions. This would involve major economic and social reforms and transforming the conditions that allow violence and abuse to happen. Additionally we have an obligation to take part in building other means of community-based accountability to deal with interpersonal violence more immediately.

This is a difficult process. Recent incidents have caused DARE to think more seriously about what alternatives we are willing and able to offer as an organization. We have begun to have conversations with our membership about what kind of support would need to be in place for people to feel like they had a real alternative method of resolving conflicts that did not involve the police. As conflicts have arisen between members and their neighbors, we have made it clear that DARE staff and other members are available to come to the person's aid and try to mediate the problem. For example, an

elderly woman told the organization that she was having problems with tenants that lived above her. She suspected that they were dealing drugs. They were extremely loud and when she asked them to move out, they physically threatened her. Her original request was that we help her to get them arrested. We explained to her that we could not do that but talked her through some other ways of dealing with the problem. It was decided that several DARE members would go over to the house and have a conversation with the tenants about the impact that their activities were having on this woman. After both sides had the opportunity to explain things from their perspective it was agreed that it would be best for them to move out. We acknowledge that not all situations are as simple to resolve as this one and that we need to develop a variety of responses to deal with more difficult situations.

The statistical data is available to support the idea that prisons do not make our communities safer. We need to figure out how to have that data heard in a way that doesn't diminish recognition of peoples' suffering and pain. Conversations about responsibility for crime need to happen not when someone has recently been violated and is in the midst of their pain, but on an ongoing basis that builds trust in each other rather than putting all of our faith in a system that does not have our best interests in mind.

Additional Resources

Generation Five

2 Massasoit Street
 San Francisco, CA 94110
 Phone: 415-285-6658
<http://www.generationFIVE.org>

Generation Five brings together diverse community leaders working to end child sexual abuse within five generations. G5 programs provide leadership training to community members, activists and agency professionals and promote national strategy and information exchange on child sexual abuse. G5 is not a direct service organization; rather, it works in collaboration with service providers to ensure that affordable, culturally-relevant support is available to survivors, offenders, and affected families.

Murder Victims' Families for Reconciliation

P.O. Box 2173
 Albuquerque, NM 87103
 Phone: 617-868-0007
<http://www.mvfr.org>

MVFR is a national organization of family members of both homicide and State killings who oppose the death penalty in all cases. MVFR supports programs and policies that reduce the rate of homicide and promote crime prevention and alternatives to violence. MVFR advocates for programs that address the needs of victims, helping them to rebuild their lives.

Progressive Books/Reports

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Endnotes Available Online!

All citations and references are available at www.defendingjustice.org or by contacting PRA.

All of the content in this publication,
 plus additional information, can be downloaded
 from the *Defending Justice* companion website:
www.defendingjustice.org.