



McGeorge Law Review

Volume 33

Issue 4 Symposium: Leadership Issues in Criminal
Justice Policy

Article 5

1-1-2002

Victims' Rights and Services: A Historical Perspective and Goals for the Twenty-First Century

Aileen Adams

California State and Consumer Services Agency

David Osborne

California State and Consumer Services Agency

Follow this and additional works at: <https://scholarlycommons.pacific.edu/mlr>



Part of the [Law Commons](#)

Recommended Citation

Aileen Adams & David Osborne, *Victims' Rights and Services: A Historical Perspective and Goals for the Twenty-First Century*, 33
MCGEORGE L. REV. 673 (2002).

Available at: <https://scholarlycommons.pacific.edu/mlr/vol33/iss4/5>

This Symposium is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in McGeorge Law Review by an authorized editor of Scholarly Commons. For more information, please contact mgibney@pacific.edu.

Victims' Rights and Services: A Historical Perspective and Goals for the Twenty-First Century

Aileen Adams* and David Osborne**

TABLE OF CONTENTS

I. INTRODUCTION	673
II. THE HISTORY OF VICTIMS' RIGHTS AND SERVICES IN CALIFORNIA.....	675
A. <i>California's Pioneering Efforts</i>	675
B. <i>Programs Initiated to Respond to the September 11, 2001 Tragedy</i>	677
III. DEVELOPMENTS IN FEDERAL VICTIMS' RIGHTS AND SERVICES, 1982-2002.....	679
A. <i>President's Task Force on Victims of Crime</i>	679
B. <i>Crime Victims Fund</i>	680
C. <i>Violence Against Women Act</i>	680
D. <i>Expansion of Victim Service System</i>	680
E. <i>Oklahoma City Bombing</i>	681
F. <i>The Antiterrorism and Effective Death Penalty Act of 1996</i>	682
G. <i>New Directions from the Field</i>	683
H. <i>Proposed Victims' Rights Amendment to the United States Constitution</i>	683
IV. GUIDING PRINCIPLES FOR THE TWENTY-FIRST CENTURY	684
A. <i>Victims as Educators and Trainers</i>	685
B. <i>New Roles for Professionals Who Assist Victims</i>	685
C. <i>Partnership Services for All Victims</i>	686
D. <i>Enactment and Enforcement of Fundamental Rights</i>	687
E. <i>Support for Crime Prevention Programs</i>	688

I. INTRODUCTION

I remember the first time that I met a sexual assault victim. It was more than twenty years ago when I served as a volunteer legal counsel at the Santa Monica Rape Treatment Center. I had no idea at the time how that single meeting would change my life.

* Secretary, California State and Consumer Services Agency; B.A., Smith College (1966); J.D., Howard Law School (1973); While this article often reflects my personal experiences, Mr. Osborne contributed significantly to this piece.

** Communications Director, California State and Consumer Services Agency; B.S., Boston University (1991); J.D., Boston College Law School (1999).

Emma came to the Rape Treatment Center for counseling after being sexually assaulted by a bus driver. I listened in stunned silence as she described traveling on a bus from her job in downtown Los Angeles to the UCLA campus where she was a graduate student. She was the only passenger on the bus as it approached the campus. The driver suddenly pulled over into a secluded location. When Emma tried to get off the bus, the driver locked the doors. Emma ran to the back of the bus. As the driver followed and began to assault her, Emma described herself as being petrified, “frozen with fright,” unable to speak, to move, or to resist. After the bus driver raped her, he let her off the bus and drove away.

I went with Emma to the District Attorney's office to request that it file a sexual assault case. We were told that the case could not be prosecuted because California law required “resistance” by the victim. Emma, who was in a state of “frozen fright,” not uncommon in crime victims, had not resisted the attacker. Next we went to the Bus Authority. We were told that the driver would not be fired because the District Attorney refused to file a case.

I was incredulous. After many requests, we finally forced the Bus Authority to hold a hearing that resulted in the firing of the driver. We spent the next year in a long campaign to remove the victim resistance provision from the California rape law. Through our advocacy efforts, the California Legislature enacted such a law in 1980, ensuring that the cases of future victims who “froze with fright” could be prosecuted. The *Los Angeles Times* listed our law as one of the most significant pieces of legislation that year.

Since that time, I have had many different careers. I have worked as a prosecutor, a police reserve officer, an administrator of a model facility for child sexual abuse victims, the Director of the Office for Victims of Crime in the United States Justice Department, and now as a member of Governor Gray Davis's cabinet where I work closely with the State's Victim Compensation Program. In these various jobs, I have, above all, considered myself an advocate for expanded rights and services for crime victims. I have carried with me lessons that I learned from Emma's case—that crime victims should be at the center of the criminal justice system, instead of on the outside looking in, and that public policy which benefits many is often shaped by one courageous person who steps forward and takes a stand.

The purpose of this article is to look back at the history of the crime victims' field, both within California and around the nation, and to identify goals that would improve victims' rights and services in the twenty-first century.

When I went through training twenty-five years ago to become a prosecutor in the Los Angeles City Attorney's Office, and later a police reserve officer with the Los Angeles Police Department, there was no discussion of the rights of crime victims. Just three decades ago, there were no statewide coalitions, no Mothers Against Drunk Driving (MADD), no Parents of Murdered Children, no Crime Victims United, and no National Organization for Victim Assistance (NOVA). There was no vast network of crime victim assistance and compensation programs. But, California played a pioneering role in changing all of that.

II. THE HISTORY OF VICTIMS' RIGHTS AND SERVICES IN CALIFORNIA

A. California's Pioneering Efforts

In 1965, California became the first state in the nation to create a crime victim compensation program.¹ Every state now has such a program. California's victim compensation program is not only the oldest, but by far the largest. The California Victim Compensation Board paid out a record 124 million dollars in claims in fiscal year 2001-2002.

In 1972, California was among the first three states to initiate the first victim assistance programs in the United States when Bay Area Women Against Rape was founded in San Francisco.² Today, there are more than ten thousand victim assistance programs around the country.³

In 1974, in Fresno County, Chief Probation Officer Jim Rowland created the first victim impact statement.⁴ These statements help judges to begin to understand the true measure of a victim's loss and the significance of physical and psychological injuries.

Until 1980, there was no organized citizens lobby to address the leading criminal cause of death and injuries—drunk driving. It took the efforts of Candy Lightner, whose 13-year-old daughter was killed by a drunk driver, and other bereaved parents, to educate America that a loaded driver can be just as deadly as a loaded gun. The first MADD chapter was founded in Sacramento, along with a chapter in Annapolis, Maryland. Largely because of the efforts of MADD, which today has six hundred chapters across the country, drunk driving fatalities have decreased forty percent,⁵ and more than 2,300 pieces of DUI legislation have been passed since 1980.⁶

In 1982, Californians passed Proposition 8, the first victims' rights amendment to a state constitution.⁷ Today, thirty-two states have victims' rights amendments, and every state has a victims' bill of rights.⁸ These provide victims with

1. U.S. DEP'T OF JUSTICE, OFFICE FOR VICTIMS OF CRIME, NEW DIRECTIONS FROM THE FIELD: VICTIMS' RIGHTS AND SERVICES FOR THE 21ST CENTURY 325 (May 1998) [hereinafter OFFICE FOR VICTIMS OF CRIME I].

2. *Id.* at 149.

3. *Id.* at 153.

4. *Id.* at 149.

5. Mothers Against Drunk Driving, *MADD Says Nation Must Make The Drunk Driving Issue A Top Priority*, (Apr. 22, 2002) at <http://www.madd.org/news/printable/0,1068,4163,00.html> (Apr. 22, 2002) (copy on file with the *McGeorge Law Review*).

6. Mothers Against Drunk Driving, *Paving the Way: Annual Report 2000-2001* 2 (2002).

7. CAL. CONST. art. I, § 28.

8. National Center for Victims of Crime, *Statistics: State Legislative Summary*, available at <http://www.ncvc.org/STATS/sls.htm> (last visited May 28, 2002) (copy on file with the *McGeorge Law Review*). The states with victims' rights amendments are California, Rhode Island, Florida, Michigan, Texas, Washington, Arizona, New Jersey, Colorado, Kansas, Illinois, Missouri, New Mexico, Wisconsin, Alabama, Alaska, Idaho, Maryland, Ohio, Utah, Indiana, Nebraska, North Carolina, Connecticut, Nevada, Oklahoma, South Carolina, Virginia, Louisiana, Mississippi, Tennessee, and Oregon. Although Montana does not have a victims' rights amendment in its state constitution, Montana voters approved a constitutional amendment that broadened the purposes of the state criminal justice system to include restitution for crime victims. See MONT. CONST. art. II, § 28(1).

fundamental rights to notice of important proceedings; participation in those proceedings, including victim impact statements at the time of sentencing; and restitution.

In 1983, one of the first children's advocacy centers—Stuart House, which I helped to create—was founded in Santa Monica, California. It is a place where abused children can go to receive all of the services they need in one child-oriented location. All of the professionals who interact with these children, from police officers and prosecutors to mental health and medical professionals, work together as a team to help resolve each case. This coordinated approach grew out of viewing the system from the child victim's point of view. Previously, young children were commonly interviewed as many as a dozen times by different professionals who were not aware of actions by other agencies. Today, more than four hundred such multidisciplinary centers have been formed across the country to provide healing and justice for child victims.⁹

In 1984, California State University (CSU), Fresno became the first university to initiate a Victim Services Certificate program.¹⁰ By 1991, CSU Fresno began offering the first bachelor's degree program in victimology in the nation.¹¹ In 1984, McGeorge School of Law began operating the State of California's toll-free 1-800-VICTIMS line, which provides information and statewide referral services to victims, families, service providers, and others.¹² McGeorge has since expanded its Victims of Crime Resource Center to include publication of a newsletter, operation of a website, legislation monitoring, and participation in outreach activities.

Until 1990, no state had laws making stalking illegal. That year, California enacted the first anti-stalking law.¹³ By 1996, similar laws had been enacted in forty-nine states and the District of Columbia.¹⁴

During the past three and a half years in California, Governor Gray Davis has added to this distinguished legacy of leadership on behalf of crime victims. The accomplishments in the victim compensation area alone are considerable. First, benefits have been increased from forty-six thousand to seventy thousand dollars, which puts California among the top four states in terms of compensation benefits.¹⁵

9. The National Children's Advocacy Center, *The Birthplace of a Movement*, available at <http://www.ncac-hsv.org/give/history.html> (last modified Dec. 28, 2001) (copy on file with the *McGeorge Law Review*).

10. NATIONAL CENTER FOR VICTIMS OF CRIME, LANDMARKS IN VICTIMS' RIGHTS & SERVICES 1, 3 (Apr. 2002).

11. *Id.* at 4.

12. University of the Pacific, McGeorge School of Law, Victims of Crime Resource Center, *Welcome*, at <http://1800victims.org> (last visited June 6, 2002) (copy on file with the *McGeorge Law Review*).

13. CAL. PENAL CODE, § 646.9 (West 1999). See NATIONAL INSTITUTE OF JUSTICE, DOMESTIC VIOLENCE, STALKING, AND ANTISTALKING LEGISLATION: AN ANNUAL REPORT TO CONGRESS UNDER THE VIOLENCE AGAINST WOMEN ACT 4 (Apr. 1996) [hereinafter NATIONAL INSTITUTE OF JUSTICE].

14. NATIONAL INSTITUTE OF JUSTICE, *supra* note 14, at 4. According to the National Institute of Justice, Maine opted to apply its antiterrorizing statute. Maine also amended its protective order statute in 1993 to allow protective orders to be issued to enjoin stalking behavior. *Id.*

15. 1999 Cal. Stat. ch. 584.

Second, the Compensation Board reduced a twelve page application form into a single two-sided page, dramatically increasing applications and payouts. The new streamlined form was recently awarded a Clarity Award from the Governor's Office of Innovation in Government.¹⁶ Third, every effort is being made to integrate the voices of crime victims into the victim compensation process to make automated letters more customer-friendly and to institute needed reforms. Finally, the Board's backlog of nearly forty-thousand overdue compensation claims has been virtually eliminated, and processing times have been reduced significantly.

B. Programs Initiated to Respond to the September 11, 2001 Tragedy

Many new programs also were initiated after the September 11, 2001 tragedy to help more than 350 surviving family members who lost loved ones at the World Trade Center, the Pentagon, and the four airplane flights, all of which were headed toward our state. The diversity of victims with whom we have been in contact is remarkable—the parents of a brilliant young college student who had just graduated from Boston University and was returning home to look for her first job; the husband and daughters of a Muslim nurse who was fluent in six languages and whose daughter later remembered seeing one of the hijackers follow her mother onto the plane; the Japanese-American children whose father worked for a world peace organization; the family of a native of Ethiopia who came to the United States for his education, earned a medical degree from the University of Michigan, and planned to help pay for the schooling of all of his brothers and sisters; and the registered domestic partner of one of the flight attendants who was killed aboard American Airlines Flight 11. These victims truly represent the many faces of America.

Although no one was prepared for the magnitude of this kind of event, California responded quickly and effectively. On September 12, 2001, the Victim Compensation Board established a toll-free number to fast track claims of the victims of the attacks and assigned a case manager to each affected family. In addition, in one day, the Governor signed legislation that expanded victim benefits, provided mental health counseling for members of the California Urban Search and Rescue teams that went to New York, and transferred one million dollars to the New York Victim Compensation program.¹⁷

As we began talking with more and more victims' families, we recognized the need for other critical services, such as basic legal counseling to address the myriad of issues that confronted them. Many families were dealing with immediate financial crisis. They had lost their primary source of support and could not afford their taxes, mortgage and rent payments, and insurance premiums. Some had serious immigration issues. Their status in this country depended on their loved ones who had died, and the Immigration and Naturalization Service

16. Governor's Office for Innovation in Government, *Clarity Award Winners, Apr. 2002—Forms Category* (Apr. 2002).

17. 2001 Cal. Stat. ch. 346, sec. 2-4.

(INS) was threatening to deport them. Most needed assistance in evaluating the merits of a new federal victim compensation program that Congress enacted.¹⁸ Although the federal program would provide significant compensation to many families, the program was criticized for some of its provisions, including a payout based upon life expectancy and earnings, the lack of explicit recognition of domestic partners, and the requirement that victims waive all rights to pursue other civil litigation.¹⁹ Working closely with the State Bar of California, as well as with several local bar associations, we helped to train attorneys to provide volunteer legal assistance to all victims who requested it.

We felt that it was important for families to meet with one another and to interact with service providers in Sacramento. On October 8, 2001, many survivors met in Sacramento for the first time, and the next day they participated with the Governor in a statewide Day of Remembrance. Family members began to form bonds and develop a network of support. Many commented that this meeting was an important milestone in their on-going process to find justice and healing. Since that time, the program has established monthly regional support group meetings around the State with more than one hundred family members, as well as over one hundred and fifty urban search-and-rescue workers.

We also helped to organize a meeting with Kenneth Feinberg, Special Master of the federal Victim Compensation Program, to hear directly from him about the details of the federal program and, just as importantly, to give him an opportunity to hear from victims about their concerns and special issues. In addition, through an Executive Order, the Governor requested that the Special Master of the federal compensation program give every consideration to compensating registered domestic partners who lost their loved ones during the attacks.²⁰

Finally, we reached out to another category of victims. Almost immediately following the terrorism attacks, hate crimes against Arab Americans began to rise dramatically. Within days, the Department of Fair Employment and Housing (DFEH) received dozens of complaints from school children who were verbally assaulted to employees who were harassed in the workplace to shop keepers whose stores were vandalized. As a result, we held a press conference at a mosque to condemn hate crimes and ensure vigorous enforcement. DFEH held meetings with Arab-American groups around the state, established a toll-free number for complaints, and developed a special case management process to handle these hate crimes. More than 250 calls were received on its hotline. These and other efforts by DFEH to reach out embodied Governor Davis' call for tolerance in the wake of the attacks. "[W]e must resist the urge to focus our anger or seek vengeance on any group or person," Governor Davis said. "Instead, let us

18. Air Transportation Safety and System Stabilization Act, tit. IV, Pub. L. No. 107-42 (Sept. 22, 2001).

19. Final Rule, September 11th Victim Compensation Fund of 2001, 28 C.F.R. pt. 104 (2002).

20. Governor's Exec. Order No. D-54-02 (Apr. 3, 2002).

as Californians and Americans focus our energies on the values of compassion and tolerance that are the hallmarks of what it means to be an American.²¹

As new crimes stemming from acts of terrorism occur, the State is trying to stay at the forefront of providing comprehensive victims' rights and services.

III. DEVELOPMENTS IN FEDERAL VICTIMS' RIGHTS AND SERVICES, 1982-2002

While many advances were being made in California to increase victims' rights and services, revolutionary change also was taking place at the federal level.

A. *President's Task Force on Victims of Crime*

In 1982, President Ronald Reagan issued an Executive Order that established the President's Task Force on Victims of Crime.²² The group, chaired by California attorney, Lois Haight Herrington, who later became an Assistant Attorney General at the United States Department of Justice, held public hearings around the country and issued a landmark report that raised national awareness of crime victims' issues.²³ The report described the plight of crime victims and offered sixty-eight recommendations for addressing many of the problems identified. The recommendations proposed changes at the federal and state levels and called upon various professional groups, including law enforcement, prosecutors, the judiciary, parole boards, medical practitioners, ministers, attorneys, educators, and mental health professionals, to improve the ways in which they assisted crime victims.

Among the key recommendations, the report suggested that Congress enact legislation to provide federal funding to assist state crime victim compensation programs, as well as to support victim assistance programs.²⁴ These recommendations ultimately led to the passage of the federal Victims of Crime Act (VOCA) in 1984,²⁵ which provided for the first time a base of federal funding to states for victim compensation and assistance and the development of the Office for Victims of Crime (OVC) within the United States Department of Justice to administer those federal funds and to advocate on behalf of crime victims.²⁶

21. Press Release, Office of Governor Gray Davis, Governor Davis Urges Tolerance in Wake of Terrorism (Sept. 12, 2001) (on file with the *McGeorge Law Review*).

22. Exec. Order No. 12,360, 47 Fed. Reg. 17,975 (1982).

23. PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME, FINAL REPORT (Dec. 1982).

24. *Id.* at 37-48.

25. Victims of Crime Act, § 1402, 42 U.S.C. § 10601 et seq. (1984).

26. *Id.* § 1411, 42 U.S.C. § 10605.

B. Crime Victims Fund

VOCA mandated that certain criminal fines, penalty assessments, and forfeited appearance bonds be placed in a Crime Victims Fund within the United States Treasury.²⁷ Most of the funds are distributed by formula to the states to support victim compensation and assistance programs, with the remaining amounts set aside to fund earmarked programs, including services for victims of federal crimes.²⁸

In its first funding cycle in Fiscal Year 1985-86, OVC distributed \$68.3 million in VOCA funds. During my tenure as the Director of the Office for Victims of Crime, the Fund reached a then unprecedented \$528.9 million due to extraordinary fine collection efforts by U.S. Attorneys around the country. In 2000, Congress passed a law capping the amount of funds that could be distributed to state crime victims programs. The current cap is \$550 million.²⁹

C. Violence Against Women Act

Another legislative breakthrough occurred in 1994, when Congress enacted the first comprehensive Violence Against Women Act (VAWA).³⁰ Among other things, VAWA authorized more than one billion dollars in funding for programs to combat violence against women and established a Violence Against Women Office at the Justice Department, headed by a Presidentially-appointed director. VAWA was reauthorized in 2000 and will provide an additional \$3.3 billion in funding through 2005.

D. Expansion of Victim Service System

The expansion of funding through VOCA and VAWA helped to strengthen dramatically the victim service system around the country and at the federal level. For example, OVC funded major trainings for FBI and U.S. Attorney representatives on victims' issues, expanded victims' programs in Indian Country, helped communities replicate "promising practices," and developed a national crisis response capacity.³¹ The latter would be widely used following the Oklahoma City bombing and the September 11, 2001 terrorist attacks.

27. *Id.* § 1402, 42 U.S.C. § 10601.

28. *Id.* § 1404, 42 U.S.C. § 10603.

29. U.S. DEP'T OF JUSTICE, OFFICE FOR VICTIMS OF CRIME, OVC FACT SHEET: VICTIMS OF CRIME ACT CRIME VICTIMS FUND 1, 2 (Jan. 2002).

30. Violent Crime Control and Law Enforcement Act of 1994, title IV, Pub. L. No. 103-322 (Sept. 13, 1994) (codified as amended at 42 U.S.C.A. §§ 13931-14040 (West 1995)).

31. Office for Victims of Crime, Notice of FY 1995 Discretionary Program Plan, 60 Fed. Reg. 85 (May 3, 1995).

But long before these two tragedies, it was clear that crimes traumatizing whole communities had to be responded to in new ways.³² With the help of NOVA, MADD, and other organizations, OVC began funding federal crisis response teams comprised of trained specialists who were available to travel to the scene of a crisis and help provide counseling, debriefings, training, and logistical support for communities in crisis. Early OVC-supported response teams assisted in a variety of community crises, ranging from an episode of gang violence in 1994 that killed thirteen people in the Chicago Housing Authority's Robert Taylor Homes in one weekend, to an eight-fatality drunk-driving crash that traumatized the Ramah branch of the Navajo Nation.³³ The lessons learned in responding to such tragedies helped improve the response to the Oklahoma City bombing in 1995 and the September 11, 2001 attacks.

The additional funding also enabled OVC to work with various professional organizations to help them look at their roles differently. Probation and police officers, clergy, social workers, juvenile justice practitioners, and others were trained extensively in victims' issues and taught that they too had a role to play in a larger, integrated service system. These training programs had a dramatic impact upon the provision of victim services at the end of the twentieth century.

E. Oklahoma City Bombing

Perhaps nothing focused greater attention on the need for rights and services for crime victims in the federal system than the Oklahoma City bombing on April 19, 1995. That blast, which killed 167 people, devastated the surrounding community and the nation, but it also greatly strengthened victims' rights and services within the federal system.

The impact of the bomb was far-reaching. Thirty children were orphaned. Two hundred nineteen children lost a parent. An estimated 7,000 people were left without a workplace—the bomb damaged 324 buildings, including 25 with major damage, causing \$652 million in property damage. An estimated forty-one percent of the surviving victims were believed to have diagnosable mental health conditions. As many as twenty percent of the more than twelve thousand rescue workers and volunteers who participated at the site were believed to need mental health care. An estimated 360,000 people knew someone who was killed or injured.³⁴

The sheer numbers of victims provided the federal system with one of its greatest challenges. Attorney General Janet Reno was adamant that the federal response to this tragedy would be highly coordinated and effective. The same

32. DR. MARLENE YOUNG, COMMUNITY CRISIS RESPONSE TEAM TRAINING MANUAL (1994).

33. OFFICE FOR VICTIMS OF CRIME I, *supra* note 1, at 156.

34. U.S. DEP'T OF JUSTICE, OFFICE FOR VICTIMS OF CRIME, RESPONDING TO TERRORISM VICTIMS: OKLAHOMA CITY AND BEYOND 1, 19 (Oct. 2000) [hereinafter OFFICE FOR VICTIMS OF CRIME II] (citing Oklahoma Department of Mental Health and Substance Abuse Services, *A Report on Project Heartland, Oklahoma's Crisis Counseling Services for Those Affected by the Murrah Federal Building Bombing on April 19, 1995* (May 31, 1998)).

day, OVC worked with NOVA to dispatch the first of three crisis response teams to assist with notifications, debriefings of thousands of secondary victims, such as emergency responders, clergy, and school children, and trainings for mental health practitioners. Extraordinary steps were taken to educate surviving family members and victims about their rights and available services. Regular briefings were set up by the U.S. Attorney's Office prosecuting the case to keep victims informed of the status of the investigation and later the prosecution. When the trial was moved to Denver, Colorado, for the first time in a federal case, a closed circuit television link was established to enable victims in Oklahoma City to watch the proceedings. A safe haven was organized in Denver so that victims had a place to go for counseling and repose. A massive organizational effort ensured that as many victims as possible attended the proceedings on a rotating basis. The federal government paid for their transportation. Finally, OVC worked closely with the American Red Cross, the Federal Emergency Management Agency, and the Executive Office for United States Attorneys to develop a Memorandum of Understanding to ensure mutual cooperation and information-sharing during future large-scale crimes. The Oklahoma City bombing, while one of the worst terrorist acts in our nation's history, brought out the best in the criminal justice system in terms of victims' rights and services. Never had the federal system responded to the needs of crime victims in such a comprehensive way.

F. The Antiterrorism and Effective Death Penalty Act of 1996

In 1996, OVC worked with Congress to pass the Antiterrorism and Effective Death Penalty Act.³⁵ It allowed OVC to establish a reserve fund to support assistance to states in cases of mass violence and domestic terrorism. It also set aside funding to support American victims of terrorism abroad. This law was critical in providing support not only to the victims of the Oklahoma City bombing, as the case entered its trial phase, but in future critical incidents. OVC later used the emergency reserve funds to provide supplemental support to victims of bombings in Oklahoma City, Khobar Towers in Saudi Arabia, Pan Am Flight 103, and the United State embassies in Kenya and Tanzania.³⁶ Following the attacks on the embassies, for the first time, the FBI director personally met with surviving family members of mass violence. Reserve funds also were used in the aftermath of the Columbine High School shootings, where twelve students and one teacher were murdered and twenty-one others were wounded by two students who also took their own lives.³⁷

35. Antiterrorism and Effective Death Penalty Act, 42 U.S.C. § 19693(b) (1996).

36. OFFICE FOR VICTIMS OF CRIME II, *supra* note 34, at 23.

37. *Id.*

G. *New Directions from the Field*

In 1998, OVC published *New Directions from the Field: Victims' Rights and Services for the 21st Century*.³⁸ This comprehensive report, the result of more than three years of work and input from over one thousand individuals in different professions, examines the status of victims' rights and services and recommends goals for the twenty-first century. The report presents more than 250 recommendations, highlights "promising practices," and serves as an update to the 1982 *Final Report of the President's Task Force on Victims of Crime*.

H. *Proposed Victims' Rights Amendment to the United States Constitution*

The 1982 President's Task Force on Victims of Crime proposed amending the Sixth Amendment of the United States Constitution to provide certain victims' rights.³⁹ During the next fifteen years, crime victim advocates focused their legislative attention at the state level and helped push for the enactment of victims' rights amendments to more than thirty state constitutions. By the mid-1990's, national victims' organizations began advocating for a victims' rights amendment to the United States Constitution.

In 1996, California Senator Dianne Feinstein worked with Arizona Senator Jon Kyl to introduce Senate Joint Resolution 52 in the United States Senate. Congressman Henry Hyde introduced a similar measure, House Joint Resolution 174, in the House of Representatives. The current version of the Feinstein-Kyl victims' rights amendment, Senate Joint Resolution 35, was re-introduced this legislative session. Congressman Steve Chabot introduced a similar measure in the House, House Joint Resolution 91.

The proposed Victims' Rights Amendment⁴⁰ would establish the following rights: (1) reasonable and timely notice of any public proceeding involving the crime and of any release or escape of the accused; (2) not to be excluded from such public proceeding and reasonably to be heard at public release, plea, sentencing, reprieve, and pardon proceedings; and (3) adjudicative decisions that duly consider the victim's safety, interest in avoiding unreasonable delay, and just and timely claims to restitution from the offender.

Support for a federal Constitutional amendment goes beyond crime victims and victim advocates. In April 1996, President Bill Clinton endorsed the victims' rights amendment during a Rose Garden Ceremony. The victims' rights amendment also was supported in the Republican and Democratic Party platforms that year.⁴¹

38. OFFICE FOR VICTIMS OF CRIME I, *supra* note 1.

39. Specifically, the Task Force Final Report proposed amending the Sixth Amendment by adding one sentence: "Likewise, the Victim, in every criminal prosecution shall have the right to be present and to be heard at critical stages of judicial proceedings." PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME, FINAL REPORT at 114-15.

40. S.J. Res. 35, 107th Cong. § 2 (2002).

41. Senator Jon Kyl, *Protecting the Rights of Crime Victims*, at <http://kyl.senate.gov/issues/victrts.htm> (last visited May 27, 2002) (copy on file with the *McGeorge Law Review*).

The National Governors Association voted in favor of the amendment in 1997.⁴² The current Senate joint resolution has twenty-five co-sponsors and was endorsed by President Bush on April 16, 2002.⁴³ The House joint resolution has sixteen co-sponsors.⁴⁴

The work of major national crime victims' organizations has been key to the development of pro-victim legislation, including the proposed constitutional amendment. Without the advocacy of such groups as NOVA, MADD, the National Center for Victims of Crime, Parents of Murdered Children, Crime Victims United in California, and others, victims' rights legislation and funding for victim services certainly would not have come as far as they have without such organizations.

IV. GUIDING PRINCIPLES FOR THE TWENTY-FIRST CENTURY

As we look to the future—to victims' rights and services in the twenty-first century—how will we meet the new challenges, including the escalating number of cases involving mass victimization, as well as the continuing challenge of providing comprehensive rights and services for *all* crime victims? I would suggest that we try to attain at least five goals that were set forth in many of my speeches as OVC Director.

First, the voices of crime victims must become an even more valued part of the criminal justice system. Victims' issues should be included in trainings for all criminal justice and other relevant professionals, awareness programs for children, and in college and graduate courses for all professions that interact with crime victims. Second, many people working in the criminal justice system should re-define their roles to become more victim-oriented and provide services in collaboration with other professions. Third, *every* victim should receive comprehensive, coordinated services in victim-oriented settings to ensure justice and healing. Fourth, every victim should have the fundamental rights in the criminal justice system to be informed, present, and heard, guaranteed by a federal constitutional amendment. Victims should have rights in juvenile, military, and tribal justice systems, as well as in administrative proceedings. Finally, all of America's children must be provided with the opportunities and support they need to become productive adults through the funding of effective prevention programs.

42. *Id.*

43. Office of the Press Secretary, *President Calls for Crime Victims' Rights Amendment*, available at <http://www.whitehouse.gov/news/releases/2002/04/20020416-1.html> (Apr. 16, 2002) (copy on file with the *McGeorge Law Review*).

44. National Victims' Constitutional Amendment Network, *Legislative Action*, available at <http://www.nvcn.org/home.htm> (May 22, 2002) (copy on file with the *McGeorge Law Review*).

A. Victims as Educators and Trainers

First, we must make every effort to integrate the powerful voices of crime victims into every aspect of the criminal and juvenile justice systems, from community education programs to police officer trainings, from programs to help rehabilitate juvenile delinquents to victim impact panels that provide training for all relevant victim service providers. No one should become a cop, a prosecutor, a corrections officer, or a judge without quality training from crime victims and their advocates. They are our most important teachers about the shortcomings in our system and how to provide needed services.

Victim impact panels can provide an important educational function in schools to teach children about victimization and in colleges and graduate programs to train all relevant professions, including lawyers, doctors, and the clergy. These panels also should be a critical part of educational programs in correctional facilities. Putting a human face on crime is an important crime prevention and rehabilitative strategy. These panels have been used with great success by MADD in their programs to rehabilitate drunk drivers and by the California Youth Authority to help wards understand the impact of their actions.

Service providers, including police, prosecutors, and victim compensation programs, should regularly distribute customer satisfaction surveys to victims and analyze their experiences. This is particularly important in cases of mass victimization, since these are relatively recent phenomena and there is a need for written protocols in how to respond. Many victims find helping to improve the system therapeutic and an important part of the healing process.

B. New Roles for Professionals Who Assist Victims

Second, partnership models that redefine traditional criminal justice roles and incorporate the “team approach” into the provision of victims’ services should be widely utilized. One of the most important things that is happening in the victims’ field today is that people in the system—law enforcement, prosecutors, judges, corrections officials, and others—are re-defining their roles to enhance victims’ rights and services. It is exciting to travel across the country to witness the revolution that is taking place in victims’ services—the new partnerships that are being formed. For example, throughout New York City, you can see a law enforcement officer respond together with a social worker to domestic violence calls. They refer to each other as “partners.” Correction officials who once defined their roles only in terms of offenders now describe one of their major functions as providing services to crime victims—keeping victims informed of the status of their offenders, soliciting their views at parole hearings, and making them part of the decision-making process. Instead of using expensive doctors, many victims now use specially-trained nurse practitioners to conduct sexual assault exams in settings designed specifically for them. This approach helps victims avoid busy hospital emergency rooms. Across professions, there is an

effort to see the system through the eyes of the “customer” and to be more responsive to their needs.

New technologies can play an important role in improving the ability of professionals to undertake new roles that benefit crime victims. Automated systems can advise victims of the upcoming release of offenders, such as the Victim Information and Notification Everyday (VINE) System in Kentucky. Automatic notifications by telephone were implemented there after a woman was killed on her twenty-first birthday. Her assailant, an ex-boyfriend, was released from jail without the warning that she had requested, even though he had threatened her life. Technology can help ensure access to proceedings by victims in other states, as was done through a closed circuit television system that was available to victims of the Oklahoma City bombing. Through video links, a doctor in one state can supervise child abuse exams on a remote reservation in another part of the country, a technique pioneered by Dr. Astrid Heger in Los Angeles. Technology in the twenty-first century will undoubtedly become a critical tool in ensuring rights and services to crime victims.

C. Partnership Services for All Victims

Third, just as there is a paradigm shift in the way in which professionals view their roles, so too is there a shift in the way effective services are being provided. Cutting-edge victim service programs today are “partnerships,” where everyone collaborates to provide better services for victims and where those services are delivered in a highly coordinated fashion. For example, at the more than four hundred children’s advocacy centers around the country, governmental agencies work together to reduce the number of interviews and coordinate cases in a child-friendly facility. The co-location of diverse professionals improves services to victims. Through nearly five hundred TRIAD programs, law enforcement representatives meet regularly with senior citizens to help them respond better to their needs. In one community, the officers hired a bus to help seniors shop safely, and the seniors crocheted sweaters for teddy bears for the officers to give to sexually abused children. The growing number of community policing and prosecution programs are fostering important collaborations with constituency groups, which ensure greater responsiveness to community concerns.

Some communities, like Jacksonville, Florida, have developed victim service centers—places where all victims can go to receive needed services in one location. Unfortunately, even today, across the country these kind of partnership programs are the exception rather than the rule. That must change in the twenty-first century.

It is crucial that comprehensive services be provided for all victims, regardless of age, race, capability, or geographic location. An example of a comprehensive program for underserved victims is the Seattle Abused Deaf Women’s Advocacy Services (ADWAS), established by a deaf victim for whom there were no services when she was raped as a child. This program provides

comprehensive assistance to deaf and deaf-blind victims who began reporting crimes in greater numbers after ADWAS was founded.

One important lesson of these successful partnerships is that their catalyst can be virtually any professional within the system. The first children's advocacy center was initiated by a district attorney in Huntsville, Alabama. The TRIAD program was created by a sheriff in St. Martin Parish, Louisiana. In other communities, social workers, doctors, or nurses have provided the leadership in establishing comprehensive victim services.

D. *Enactment and Enforcement of Fundamental Rights*

Fourth, victims' rights must finally become a reality in the twenty-first century. State victims' bills of rights and constitutional amendments have created a patchwork quilt of rights that vary from state to state. A federal constitutional amendment would establish a baseline of fundamental rights to be present, to be informed, and to be heard—rights that would apply to every victim whether they are attacked in New York, Iowa, or California.

Today we know through anecdote and research that state statutes often remain ignored and unenforced.⁴⁵ Even in states with strong laws, victims report that some judges have told them that they do not have time to listen to their victim impact statements. All too often a woman is killed because no one has informed her that her assailant was being released from jail. Victims are excluded from the courtroom routinely. I will never forget the comments of Roberta Roper, who joined President Clinton in the Rose Garden in 1996 when he announced his support for the federal victims' rights amendment. Roberta's daughter, Stephanie, was kidnapped and murdered. Roberta, who was not a witness to the crime, described how she had been excluded from the hearing and tried to listen through the courtroom door to the most important proceeding of her life.

A study by the National Center for Victims of Crime confirmed that "even in States where legal protection is strong, some victims are not afforded their rights. In other words, enactment of State laws and State constitutional amendments alone appears to be insufficient to guarantee the full provision of victims' rights in practice."⁴⁶ The study pointed out that more than one in four victims from the two strong-protection states surveyed were very dissatisfied with the criminal justice experience. Almost fifty percent of them were not notified of the sentence hearing, and many were not informed of plea negotiations. Many victims in both the strong- and weak-protection states surveyed were not notified of other important rights and services.⁴⁷

45. Dean G. Kilpatrick, et al. *The Rights of Crime Victims—Does Legal Protection Make a Difference?* NATIONAL INSTITUTE OF JUSTICE, Dec. 1998, available at <http://www.ojp.usdoj.gov/nij> (copy on file with the *McGeorge Law Review*); U.S. DEP'T OF JUSTICE, OFFICE FOR VICTIMS OF CRIME, *THE CRIME VICTIM'S RIGHT TO BE PRESENT* 1-2 (Nov. 2001).

46. Kilpatrick, *supra* note 45, at 1.

47. *Id.* at 2-7.

A victims' rights constitutional amendment would ensure fundamental rights for victims across the country and help improve enforcement efforts. Victims also should have fundamental rights in juvenile justice proceedings, especially those involving violent crimes, as well as in tribal justice, military, and administrative proceedings. In addition, consideration should be given to extending these rights to white collar crime victims, who often suffer greatly. These would include elderly victims who lose their life savings to unscrupulous telemarketers or fraudulent home improvement contractors,⁴⁸ as well as victims of investment scams.

E. Support for Crime Prevention Programs

Fifth, we must stand up for crime prevention programs. As someone who has worked as a victim advocate for three decades, what victims most often say to me is: "If I could have one wish, it is that the crime would have been prevented in the first place." Prevention is perhaps the most fundamental challenge that we face. Some years ago, a father from East Los Angeles whose sixteen-year-old son was shot down in the street by gang members, said to me in words I'll never forget: "I did everything for my own son. I helped him study every evening. He was first in his class. We played sports together every day. He was a star athlete. But I forgot one thing. I forgot about all of the other kids." One of the most important things that we can do to fight crime is to remember "all of the other kids" and support prevention programs that will give them a chance to thrive and to learn and to be the best that they can be.

For those of us who work with crime victims, we often confront the worst in people, who have committed unthinkable criminal acts. But every day in our work, we meet the most extraordinary heroes, people like Emma and countless others, who teach us about courage, about commitment, and about caring. People who are able to turn their agony into activism to help others. It is indeed an honor to work with and learn from these remarkable human beings.

48. A study by the House Select Committee on Aging reported that older Americans were victims in ninety-nine percent of home improvement scams. OFFICE FOR VICTIMS OF CRIME I, *supra* note 1, at 167.