



Seeking Parallel Justice

A New Agenda for the Victims Movement

**National Press Club Luncheon
December 15, 2000**

Presented by

**Susan Herman
Executive Director
National Center for Victims of Crime**

Seeking Parallel Justice

A New Agenda for the Victims Movement

I am honored by the invitation to address the National Press Club and to propose a new agenda for the victims' movement.

My hope today is that I can bring the voices of real people to you. People across America who have been victims of crime.

For the past 25 years I have worked on behalf of victims in many different settings: from teaching self-defense in a rape crisis center, to running emergency housing and day care for battered women and children, to helping victims in the precincts of the New York City Police Department.

Now, every day at the National Center for Victims of Crime we receive dozens of calls on our 800 line (1-800-FYI-CALL) from people around the country who don't know where to turn, who feel isolated and can't find help, many feel ignored, and disrespected by our government.

Over the years, I've learned that victims are far from unanimous about what should happen to offenders, but all victims want to feel safe, recover from the trauma they've suffered, and regain control of their lives.

Let's think for a moment about who crime victims in America are.

In 1999, almost 30 million people [update??] in America became victims of crimes. While victims are people of all races, all ages, all walks of life, we know that victims of violent crime are disproportionately young (12 - 24 years of age), male, black, and poor.

Let me put it in very simple terms.

At our current rate of crime, during the next hour we are together:

- 120 cars will be stolen
- 240 burglaries will be committed
- 2 people will be murdered
- 78 women will be raped
- 240 women will be battered
- 84 new cases of stalking will be reported, and
- 360 children will be reported abused or neglected

All in the next hour.

Behind these numbers are real people, real families, and real communities. All of us have been touched by crime.

Some victims move on with their lives fairly easily, but many suffer continuing trauma without the services and support they need. Victims often suffer lowered academic performance, decreased work productivity, and severe loss of confidence. Mental illness, suicide, and drug and alcohol abuse are far more common among crime victims than the general public. Research comparing battered women to women who haven't been abused shows they are 5 times more likely to attempt suicide, 15 times more likely to abuse alcohol, 4 times more likely to abuse drugs, and 3 times more likely to be diagnosed as depressed or psychotic.

...victims want to feel safe, recover from the trauma they've suffered, and regain control of their lives.

Although we tend to think of the damage caused by crime in terms of individual victims, there is also an enormous toll on families, communities, and society-at-large. When a significant portion of the 30 million people who become victims of crime each year—remains psychologically, physically, and financially unstable—there are real consequences. We all suffer.

Fortunately, over the past 30 years, significant progress has been made recognizing and responding to victims' many needs. Our social service, health care and private sector responses have all improved. The number of shelters for battered women has gone from one in 1976 to almost 2,000 today. Several jurisdictions now give priority for public housing to victims of domestic violence.

When a significant portion of the 30 million people who become victims of crime each year remains psychologically, physically, and financially unstable, there are real consequences.

It's now more common for doctors and nurses to recognize and respond to underlying problems, not just injuries. They are learning to see gang members and abused children, not just gunshot wounds and broken arms.

Even some businesses have come to realize that to be successful, they must help employees cope with crime-related emergencies. They understand that crime not only

has an impact on individual health and safety, but ultimately, on productivity.

During this period, the criminal justice system changed as well. It is now far more common for victims to be informed about the status of their case, consulted regarding plea negotiations, present during critical stages of the case, and heard in open court, reading victim impact statements.

Many police departments, district attorneys offices and courts have established victim services to guide victims through the criminal justice process. Restitution is considered far more frequently. Orders of protection are granted routinely.

Hundreds of victims' rights statutes have been enacted and 32 states have passed crime victims' rights amendments to their state constitutions.

While we have made enormous progress developing greater sensitivity to victims, we have also accepted the status quo. New initiatives have been created within existing service delivery systems. And primarily we have asked, how can we improve the experience of victims within the criminal justice system?

Unfortunately, in my view, we have merely tinkered with a system that was created for very different purposes and hoped it would meet the needs of victims. But this is largely wishful thinking. First of all, most victims don't get a chance to participate in the criminal justice process because their offenders were never arrested or prosecuted. Second, even if victims of crime had maximum opportunities to participate and be heard in the criminal justice system—it's inevitable that many would remain profoundly disappointed because the clear focus of the criminal justice system is the offender, and not the victim.

...we have merely tinkered with a system that was created for very different purposes and hoped it would meet the needs of victims.

Our response to victims of crime continues to be horribly incomplete because we fail to ask a fundamental question: How should society respond to victims of crime? We fail to ask, What is justice for victims?

We don't usually think about victims in our conception of justice. Justice is what happens to an offender. Was the offender treated fairly, were his rights respected, did the sentence make sense? What happens to offenders, however, does not necessarily address the needs of victims.

While victims appreciate that justice is served if the criminal justice system is fair and the outcomes are appropriate, surely justice for victims is more than the arrest and adjudication of offenders.

Think of it this way—crimes are violations of communal norms. When offenders are brought to the bar of justice, they are held accountable by the state for harms suffered by individuals. There is a societal response to the offender that says, "You violated the law and we will hold you accountable, punish you if it is appropriate, isolate you if needed, and offer you services to help reintegrate you into the community."

The individuals who have been harmed—the victims of crime—have no comparable experience of a societal response to them. There is no statement that says, "What happened to you was wrong." No response that says: "We will help you rebuild your life."

The same event produces both an offender and a victim. Yet, so far, we have only created a path to justice for offenders. We must begin to pursue justice for both parties.

Of course, we should still advocate for fair and respectful treatment of victims within the traditional criminal justice system for at least two reasons. First, victims, and the public at large will have greater trust and confidence in the system if victims' views are heard, regardless of the outcome. Second, participation and fair treatment in the process of determining what happens to an offender is often an essential part of what victims need in the aftermath of crime.

...we need to separate the pursuit of justice for victims from the administration of justice for offenders.

But we must ask whether the criminal justice system provides the best opportunities to address victims' needs. When only one in five crimes reported to the police results in an arrest, is criminal court really the best place to provide a "communal response" to victims? Why should victims of crime need to have their offenders apprehended to be acknowledged? Can

we provide a way for victims to be heard, and to ask for help, outside our current justice system?

In my view, we need to separate the pursuit of justice for victims from the administration of justice for offenders. We need to create two distinct visions of justice. One for victims and one for offenders. We need to establish a system of "Parallel Justice."

Let's imagine a world in which society responds to victims' immediate needs at the time of the crime, not just at the trial or later. Imagine a world in which there is a Red Cross for crime victims, just as there is for hurricane and flood victims. Imagine we responded to all victims, every individual victim of any crime, with the commitment we brought to Columbine.

Imagine a world where police feel it is their responsibility to restore safety for victims, not just collect evidence, where the department of social services offers emergency housing, not just to battered women, but to all crime victims who need it—to victims of gang violence, sexual assault, or burglary—to intimidated witnesses who can no longer live in their neighborhoods without fear.

Imagine that each community provides a forum for victims to express their needs. Imagine that local governments made helping crime victims a priority. Imagine a society that felt that justice required that every effort be made to help all victims of crime.

Imagine a society that felt that justice required that every effort be made to help all victims of crime.

Let's think about how this might work.

What should we do for the woman who has been mugged, now too afraid to leave her home to buy food or go to work? Should she be offered counseling, should we try to organize transportation for her? I think so.

How should we help the man who's been shot who can no longer use his hands to perform his old job? Should we help him learn how to earn a living a new way? I think so.

What can we say to the elderly victim of a telemarketing scam who lost his entire life savings and can't earn it back? Should we offer emergency financial assistance? I think so.

What can we offer the battered woman who wants desperately to leave her violent home but will need a job, day care, and new housing to do it? Can we make her a priority? Yes.

What do we say to the young victim of sexual assault, incest or child abuse, who has begun to use drugs to numb the pain? Can we give him priority access to drug treatment? I think we should.

...the first principle of parallel justice is that we marshal government resources to help victims feel safe and get back on track.

So the first principle of parallel justice is that we marshal government resources to help victims feel safe and get back on track. Quite frankly, we need to reintegrate victims as well as offenders.

Let me be clear that I also believe there is a role for offenders in this process. Offenders who are apprehended should make restitution. If victims want more information about the crime (some do, some don't), offenders can give them a more complete understanding of

...in a system of parallel justice, there is a role for society at large, represented by the state, in repairing the harm.

what happened and why. If they acknowledge responsibility, they can also contribute to a victim's well-being in ways nobody else can. They can offer apologies and remorse.

But, in a system of parallel justice, there is a role for society at large, represented by the state, in repairing the harm.

Only the government can marshal the many resources needed to address victims' long-term, complicated problems. The health care, the job training, or the relocation needs of victims—usually cannot be addressed by offenders alone. Society as a whole should be asked to play a role.

While offenders should be asked to do as much as they can, society at large has a separate obligation to help victims return to productive, communal life.

All victims should be offered a variety of services from counseling and psychotherapy to practical assistance, such as new locks for their doors and new glass for broken windows. And services should go beyond crisis intervention to address ongoing needs. A crime may last only moments, but its impact can be felt for a lifetime. So our first principle is to restore safety and then make every effort to repair the harm.

Second, all victims should be eligible for victims' compensation. Under our current system, compensation is limited to victims of violent crime. If you are mugged on the street, you may get compensation for lost wages and medical bills. The victim of burglary, however,

who also lost wages and is terrified in her own home typically gets no support. We don't offer help to the victim of identity theft who can't get a mortgage—who has lost her good name and good credit rating. We don't provide financial resources to victims of fraud left destitute.

Under some state laws, even victims of violent crime may be denied compensation if they are deemed unworthy. Recently, a woman who'd been raped and badly beaten for hours, was denied compensation because she used cocaine in the past. A man who suffered horrendous physical injury was denied compensation because he had been indicted, not convicted, for using drugs.

In North Carolina, many battered women were denied compensation because they had been living with, but not married to, their abuser. Fortunately, after substantial press attention, many of these decisions were reversed. But, some states still routinely deny compensation to any victim with a criminal record. In a system of parallel

justice, a victim of crime is a victim of crime, and all deserve some level of reimbursement for their losses.

...a victim of crime is a victim of crime, and all deserve some level of reimbursement for their losses.

Of course, the government could never fully reimburse some victims for the catastrophic losses they have suffered. We will always have caps on what is possible and private insurance will continue to cover many losses. But in extreme cases, why not at least give victims access to interest-free loans to help them get back on track? We do it for flood victims, why not for victims of crime?

In our search for parallel justice let's examine how other countries respond to victims. In Australia, there's a separate administrative hearing, where victims can appear in person or submit a written statement. The purpose is to allow victims an opportunity to voice their needs, and the government, an opportunity to respond. Australians can have the "day in court" victims so desperately want because this forum is about victims—all victims, with or without an identified offender.

In America, victim compensation covers funeral expenses, missed days of work, medical bills for physical injuries, and lost wages. Some states include crime scene clean-up and relocation expenses. But no state in America recognizes and provides significant compensation for the pain and suffering of crime victims.

In several other countries—including Australia, Sweden, the United Kingdom, and France — victims are given a predetermined award by the government to acknowledge the pain and suffering they've experienced. This is in addition to reimbursement for specific financial losses. In Germany and Belgium, courts have the authority to award victims damages as part of the criminal trial—same judge, same trial.

There are many systems to examine and many lessons to learn—but let us at least begin by

expanding our current system of compensation to include all victims of crime and let's create real, local authority to marshal government resources on behalf of victims.

I'm sure by now some of you are wondering how we can afford all this. For a moment let's consider the enormous social costs of not helping victims.

Every year millions of Americans become victims of crime. Many change their lives dramatically. They stay home at night. They restrict themselves to certain neighborhoods. They abuse drugs and alcohol to cope with their pain. Some lose jobs because they have crime-related disabilities or because they missed work to attend court. Some victims learn violent behavior and grow up to become criminals themselves—all of these constitute enormous losses to society.

And let's look at some of our criminal justice budget items. Since 1994, Congress has appropriated over \$5 billion to hire new police officers and over \$2 billion for state prison construction.

***...we call upon our leadership
to enact a new Victim of
Crime Act.***

Last year, state and federal governments spent \$2.1 billion on programs such as halfway houses, work release centers, house arrest, electronic monitoring, parole transition centers, parole/work furlough, and alcohol/substance abuse and sex offender treatment—all efforts to get offenders

back on track. Now it's time for Congress and the states to find more funding to help victims get back on track.

What does the federal government currently do for victims? Not much. Under the 1984 Victims of Crime Act, last year, the federal government gave states \$450 million for victim services and victim compensation. This money was all from offender fines and penalties; none of it was appropriated from general tax revenues. While offenders absolutely should contribute to the effort, there is something fundamentally wrong with committing tax dollars to fund every aspect of our response to crime—except helping victims.

Of course, there are some exceptions. Most notably, since 1994, Congress has appropriated over \$1 billion under the Violence Against Women Act. We supported this Act and worked hard to get it reauthorized. These funds helped thousands, if not millions, of women across America, receive the counseling, the housing, the support they needed, to escape violence.

To create parallel justice though, we must forge a national commitment to help all victims of crime, not just battered women and rape victims, and we must commit tax dollars to the effort, not just rely on offender fines to accomplish the task.

In this season of political transition, with a new president and a new Congress taking office next month, we call upon our leadership to enact a new Victims of Crime Act. This legislation would expand the scope of compensation to include all victims of crime. Local leaders would be challenged to assess the needs of victims in their community, establish a process for

meeting those needs, and combine federal and local resources to make parallel justice a reality.

The justice we seek will also produce a safer society.

In a forthcoming study by the National Council on Crime and Delinquency, our partner in a special project on teen victims, the NCCD looked at data collected by the National Adolescent Health Survey and determined the single greatest factor in predicting criminal behavior on the part of teenagers—the most significant risk factor—was not teenage pregnancy, or drug use, or truancy—but whether they had been a victim of crime.

Surely this should serve as a wake-up call. It is in our interest as a nation to help victims of crime not only because it's the right thing to do—not only because our country would be healthier and more productive—but because helping victims may turn out to be one of the most effective ways to prevent further crime and violence.

It is in our interest as a nation to help victims of crime. The justice we seek will also produce a safer society.

We have made a lot of progress recently—crafting new approaches to justice for offenders. We now speak of solving problems, not just processing cases. We now have community courts, drug courts, domestic violence courts, and soon we will have re-entry courts.

Our concept of justice for victims must evolve as well. Every school child in America knows the Miranda warnings. They know if they are ever accused of violating the law, they will have certain due process rights. In the future, every child in America should also know—that if they become the victim of a crime, they have a right to be heard, and that our country will help them rebuild their lives.

They should know they not only have rights to participate in the system of justice for offenders—but they also have their own system of parallel justice.