

Dignity Denied

The Experience of Murder Victims' Family
Members Who Oppose the Death Penalty



Published by
Murder Victims' Families for Reconciliation

Dignity Denied

The Experience of Murder Victims' Family
Members Who Oppose the Death Penalty

Robert Renny Cushing and Susannah Sheffer



Cambridge, Massachusetts
Murder Victims' Families for Reconciliation

Published by Murder Victims' Families for Reconciliation

Copyright © 2002 Murder Victims' Families for Reconciliation

Permission is granted to quote from this document as long as the source is listed as *Dignity Denied: The Experience of Murder Victims' Family Members Who Oppose the Death Penalty*, written by Robert Renny Cushing and Susannah Sheffer and published by Murder Victims' Families for Reconciliation.

For information on ordering copies of this book, or to provide comments or feedback, contact:

Murder Victims' Families for Reconciliation
2161 Massachusetts Avenue
Cambridge, MA 02140
(617) 868-0007 voice
(617) 354-2832 fax
website: www.mvfr.org

First Printing: August 2002

Dedication

Dignity Denied is dedicated to the lives and memory of the victims of homicide whose survivors' stories have contributed to this publication.

Those loved ones, those victims, are not forgotten.

This work honors their lives and the lives of all those taken by homicide.

Table of Contents

Introduction.....	6
Dignity Denied Report.....	8
Policy Recommendations.....	19
Model State Legislation.....	24
Further Reading.....	25
Letter to John Gillis, Office of Victims of Crime.....	26
Letter to Marlene Young, National Organization for Victim Assistance.....	28
About MVFR.....	30
Acknowledgments.....	31
About the Authors.....	32

Ain't I a Victim?

Introduction by Renny Cushing, Executive Director,
Murder Victims' Families for Reconciliation

TWO SHOTGUN BLASTS took my father's life on June 1, 1988. He was killed in the hallway of his home, in front of my mother's eyes. When I arrived at the house, evidence of the murder was everywhere, and as the police were busy collecting what they needed, I was preoccupied with the question of how we were going to get my father's blood off the floor and walls.

I couldn't bring myself to wash that blood off myself, so I turned to the state Victim's Advocate for help. It was the hardest kind of help I ever had to ask for in my life, but I cannot overemphasize how much it meant to me that there was someone I *could* ask.

Such help was available to me because of the progress that the victims' movement had made. By the year of my father's murder, it was not unusual for states to have victim assistance programs, or victim's rights laws, or a basic awareness that victims deserve to be recognized as stakeholders in the criminal justice process. Though there was still plenty of work left to do (as there remains today), the movement had established the importance of victims being "informed of, present, and heard at critical stages of the criminal justice process," as its principle is commonly described. In the aftermath of my father's murder, I benefited from the work of victims and survivors before me who had demanded that their needs be recognized and their voices heard.

But in the years since, I have learned that these hard-won benefits are too often unavailable to victims¹ if they oppose the death penalty. Whether this is because victim's advocacy offices operate under the auspices of the prosecutor or because an assumption exists among advocates that all family members of murder victims will want the perpetrator executed, the result is the same. Too often, family members who oppose the death penalty are silenced, marginalized, and abandoned, even by the people who are theoretically charged with helping them.

In 1999 I took the job of Executive Director of Murder Victims' Families for Reconciliation (MVFR), a national organization of murder victims' family members who oppose the death penalty. Soon after I began the job, I joined several other survivors of homicide victims who were testifying before a legislative task force established to examine the death penalty in Illinois. The local Victim Witness Coordinator, who had organized another panel of victims' family members to testify in *support* of capital punishment, told me afterwards that by my position on the death penalty, I was preventing people from healing.

I wondered why a victim assistance provider would presume that healing happens in the same way for everyone and would not recognize – even if she herself did not hold this opinion – that some families feel an execution only adds to their pain and does not help them to heal from the original trauma.

Two years later, at a conference of the National Organization for Victim Assistance, I watched a videotape that serves as a training tool for people who will prepare victims' families to witness executions. Titled "Finding Resolution: Crime Victims as Witnesses to Executions," the tape shows Pennsylvania's Commissioner of Corrections saying, of the execution process, "We do this for victims." Hearing these words, a paraphrase of Sojourner Truth's famous question² ran through my

¹ As we discuss victims' rights and victim assistance here, we will assume that the term "victim" includes "close relative of homicide victim" or "co-victim of homicide." This is consistent with the definition of "victim" in many (though not all) state laws and in the vernacular of the victim assistance community.

² Sojourner Truth's question, addressed to the 1851 Women's Convention in Akron, Ohio, was, "And ain't I a woman?" A former slave, Sojourner Truth was challenging the members of the convention to consider the rights of Black women as well as the rights of white women. As a member of a distinct subgroup of women, arguing that those

mind: “Ain’t I a victim?” Even though I oppose the death penalty and would not find resolution in another killing, am I not a victim as well, with a loss as piercing as the losses of victims who do support the death penalty?

As Executive Director of MVFR, I regularly hear stories that reflect this widespread assumption that victims’ families want the death penalty. I have heard from and advocated for victims’ families whose opposition to the death penalty has prevented them from receiving the information, support, and opportunity to speak that are so important for victims during the criminal justice process.

From prosecutors, judges, police officers, policymakers, and the victim services community, victims’ family members who oppose the death penalty seek two things: awareness of our perspective and recognition that victims who oppose the death penalty are as deserving of respect and dignity as those who support it. Today, as MVFR publishes this account of silencing and discrimination against anti-death-penalty victims, *we are not aware of a single protocol in the office of any prosecutor in the United States* that alerts victim assistants to the possibility that some family members of victims may oppose the death penalty and that they are entitled to the same assistance as those who support it. Though we are a national clearinghouse for information on these issues, we are not aware of any laws or policies prohibiting discrimination against victims who oppose the death penalty, or mandating that services intended for survivors of homicide victims be provided equally to those who support the death penalty and those who oppose it. Discussion of how to assist victims who oppose the death penalty is absent from the curriculum of the National Victim Assistance Academy and from the programs of the colleges that currently offer degrees in victim services. We are therefore publishing this account both to highlight the need for such policies and to challenge the victim services community to develop a protocol that recognizes opposition to the death penalty as a valid response to the trauma of murder.

who advocate for women’s rights should advocate for *all* women’s rights, Sojourner Truth’s challenge to the broader community parallels the challenge that homicide survivors who oppose the death penalty are posing here.

Dignity Denied: The Experience of Murder Victims' Family Members Who Oppose the Death Penalty

VICTIMIZATION IS ABOUT powerlessness; victims' rights are about the reclaiming of power. Being victimized strips people of their dignity; victims' rights offer opportunities to restore dignity. Murder silences its victims; victims' rights let the surviving families have a voice in the aftermath of the trauma.

From their inception, the goal of victims' rights has been to establish a basic respect for victims and their perspective. The federal Victims of Crime Act begins by listing "the right to be treated with fairness and with respect for the victim's dignity and privacy." Congress has also passed laws urging the states to treat victims "with compassion, respect, and dignity throughout the criminal justice process." A central goal of victims' services has always been to see to it that victims do receive such treatment, and to create a space for victims to be heard.

Given these goals and this clear declaration of the federal government's belief about how victims of crime should be treated, the silencing of, discrimination against, or abandonment of any subgroup of victims is particularly egregious. Yet when victims' rights and services are linked – and subordinate – to prosecutors' offices, they are often granted and enforced only at the prosecutor's discretion.

Thus, the family members' willingness to cooperate with that office is critical to their being granted rights and services. When the prosecution is seeking the death penalty, victims' family members who don't want the death penalty imposed are automatically in conflict with the prosecution's agenda. It is too easy for such families to be relegated to the status of second-class victims. It is too easy for prosecutors to decide that such families are not really victims at all in the eyes of the law, and thus fail to grant them the rights and services that victims are supposed to receive.²

AN ASSUMPTION EXISTS in the United States that people who have had a family member taken from them by murder believe that justice is achieved only if the perpetrator is killed. This unquestioned assumption is so widespread that prosecutors and policymakers assume they are advocating for victims when they advocate for the death penalty. Yet some victims' family members feel differently.

Whatever their beliefs about the death penalty, survivors of homicide victims know a common grief and powerlessness. As they struggle to respond to the shock of the murder and the loss of their family member, families try to make meaning out of incomprehensibility and figure out how they will go on with their lives. "When Ray died," Yvonne Rivera-Huitron recalls of her 22-year-old brother, "I felt I had no choice in any part of this tragedy. Slowly, I began to realize that I *could* choose how I would live the rest of my life." For Yvonne, that included working to support victims and to oppose the death penalty.

For Bud Welch, whose 23-year-old daughter Julie Marie was killed in the bombing of the Oklahoma City federal building, the decision to oppose the death penalty was part of his own journey toward healing and his desire not to be consumed by a hatred that, in the months immediately following the bombing, he felt was destroying him. It was a personal struggle and a personal decision, which he only later decided to make public. And when Azim Khamisa, another

² In fact, some states explicitly grant prosecutors the right to determine who shall be considered a victim of a crime. In Maine, for example, the Victims' Bill of Rights states, "A person who is certified *by the prosecutor* to be a victim shall be considered a victim." In Oregon, the state Constitution defines "victim" as "any person *determined by the prosecuting attorney* to have suffered direct financial, psychological or physical harm as a result of a crime." [emphasis added]

grieving father, joined with the grandfather of the boy who had shot his son and formed a foundation whose mission was “to stop children from killing children,” it was a way of making some positive meaning out of the loss and working to prevent such a tragedy from happening to others.

Victim’s service providers know that responses to trauma vary and that it is critically important to respect and honor each person’s way of grieving and responding to the violent loss. Just as responses to trauma vary, so do attitudes toward the death penalty, and these may vary not just among victims’ family members but within each family member over the course of time.

It is reasonable to expect that the motto of the medical profession, “First, do no harm,” be observed by members of the victims’ services community as well, since the job of assisting people in the aftermath of a murder is, like the job of medical doctor, primarily about promoting healing. Harm *is* done to victims’ family members who oppose the death penalty when they suffer systemic bias against them, and such bias is pervasive. It manifests itself in three main areas, all of which advocates hold to be important: getting the right to speak and be heard throughout the criminal justice process; getting information about that process; getting help from victim assistants and advocates.

The Right to Speak and be Heard

VICTORIA LAMM AND Janet Mesner were murdered in a Quaker Meeting House in Lincoln, Nebraska in 1980. They were murdered by a man named Randy Reeves, who was the adoptive cousin of Janet Mesner. Reeves was sentenced to death, and from the beginning the Mesner family were outspoken in their opposition to his execution. Gus Lamm, Victoria’s husband, did not initially involve himself in the case; his focus was on raising their young daughter Audrey, who was only 2 at the time of the murder. But when the Mesners called Gus in 1998 and told him that it looked as if Reeves’s execution date was finally drawing near, Gus and Audrey both decided they were ready to speak out. They traveled to Nebraska from their home in Oregon and spoke before the state legislature. “It pains me to think that in some indirect way, my mother’s death could cause another person to lose his life,” said Audrey, now 21 years old. “Killing another person doesn’t do any honor to her memory.”

In early 1999 the Nebraska Board of Pardons met to consider holding a hearing about the possibility of granting a commutation of death sentence to Randy Reeves. Three family members of Victoria Lamm asked to present testimony to the Board of Pardons, but only one was allowed to do so. Gus and Audrey Lamm were denied the right to speak or to present written testimony, but Victoria’s sister, who supports the death penalty, was allowed to have her views read into the record of the meeting.

In Nebraska, as in 31 other states, the state Constitution had been amended to give rights to victims, including the right to “be informed of, present at, and make an oral or written statement at sentencing, parole, pardon, commutation, and conditional release proceedings.” When the Lamms were denied that right, they filed suit against the Nebraska Board of Pardons, charging that they had an equal right to speak to the Pardon Board and that they had been silenced simply because of their views on the death penalty.

The district court ruled against the Lamms. The judge found that “the Lamms are not victims, as that term is commonly understood.” *Not victims?* Had they not in fact lost their wife and mother to murder? It appeared that, because the Lamms wanted to speak at the clemency hearing in support of the defendant, they could not be considered victims. Victims, the judge’s ruling effectively said, are those who oppose the defendant and support the state’s efforts to impose the death penalty. In fact, the judge went so far as to characterize the Lamms as “agents of Randy

Reeves.”

Gus Lamm observed that “What began with an event that marginalized my life to a certain extent – the murder of my wife – was now turning into a situation where I was marginalized even further by the state of Nebraska.” The Lamms refused to accept the implication that they were not victims, or were somehow bad victims, because they opposed the state’s decision to execute Reeves. They appealed the decision to the Nebraska Supreme Court, and MVFR joined them by filing an amicus curiae brief in support of their claim.

The Lamms’ attorneys charged that “The district court’s callous declaration that [Gus and Audrey Lamm] are not victims does not obviate the loss they have endured. Rather, the ruling...adds insult to injury when their public plea not to desecrate the memory of their loved one by the taking of another life is met with a legal pronouncement that they are persona non grata under the Nebraska law. ...If the district court is correct in its findings and conclusions, then the Victim’s Bill of Rights in Nebraska means that the state helps victims only when the victims are willing to help the state. ...To shut out of the process people who are not willing to do the state’s bidding as victims further victimizes people who have suffered a terrible loss.”³

Despite these arguments, the Nebraska Supreme Court chose not to rule on the matter of victim discrimination. Instead, the court’s decision focused on the fact that the victims’ rights amendment of the state Constitution requires that the legislature enact laws for implementing and enforcing those rights. The legislature had not yet done so, and so the Court ruled that such laws should now be enacted. To date, this has not taken place.

THE ENACTING OF victims’ rights laws and the passage of constitutional amendments during the past 25 years represent significant milestones for the victims’ rights movement. Yet the power of these achievements is severely limited when the rights are difficult to enforce, either because no mechanism exists (as in Nebraska) or because the very people who are supposed to enforce the laws are the ones who are failing to carry them out. And the power of such laws is limited even more severely for those whose opposition to the death penalty appears to place them outside the definition of “victim.”

The Lamm case marks the first time that murder victims’ family members mounted a court challenge over the fact that their opposition to the death penalty led to their exclusion from a legal proceeding. At another level, the case illustrates how incomprehensible the notion of an anti-death-penalty family member of a murder victim is to many of the people who make decisions about how victims’ families will be treated. The district court judge, ruling that the Lamms were not victims “as that term is commonly understood,” seemed unable to imagine that this father and daughter opposed the execution of Randy Reeves *on their own behalf* and on behalf of the deceased victim.

In an adversarial system, victims’ family members who don’t want the murderer executed apparently seem so closely allied with the defendant as to have, in effect, crossed to the other side. But this is a false dichotomy and a failure of understanding about why some survivors oppose the death penalty, and it should not be used to justify discrimination.

OTHER SURVIVORS OF homicide victims have been silenced even as they aided the prosecution by testifying at the offender’s trial. One striking example is the experience of SueZann Bosler. It is difficult to imagine anyone failing to recognize her right to speak, since she herself was repeatedly

³ State of Nebraska ex rel. Gus Lamm and Audrey Lamm v Nebraska Board of Pardons et als 620 North Western Reporter, 2nd Series. 763

stabbed in the head during the attack that killed her father and came very close to losing her own life. Yet because of her opposition to the death penalty, she too was silenced during the criminal proceeding against her attacker.

SueZann was 24 in 1986 when a man named James Bernard Campbell broke into the Miami home of her father, the Reverend Bill Bosler, and attacked both father and daughter. SueZann watched her father die and managed to survive only by holding her breath so that the attacker would believe she was dead as well. After Mr. Campbell was apprehended, the state sought the death penalty.

Determined to honor her father's opposition to the death penalty, SueZann tried to state this view when she was called as a witness during the penalty phase of Mr. Campbell's third and final trial. The judge interrupted her, saying, "There will be no discussion about the death penalty, period, and I'm advising you right now that if you violate my order, you will be in direct criminal contempt, and you face six months in county jail and a \$500 fine."

A videotape of this scene in the courtroom shows SueZann Bosler on the witness stand, crying as she replies, "I don't know what to say. I feel like if I say one word I'm going to go to jail. I don't want to go to jail. That's not my purpose here." Years later, speaking at an MVFR conference,⁴ SueZann commented about this moment: "I was wondering who was a criminal in that courtroom. They were treating me like I was the bad one."

It is not only when they are denied the opportunity to present oral or written testimony that people like SueZann feel they are being "treated like they are the bad ones." The question of whether one is being heard during a criminal proceeding takes many forms. When a crime has resulted in multiple victims (as in the case of the Oklahoma City bombing, for example), and the surviving families differ in their beliefs about the death penalty, do survivors receive equal attention from the prosecution and from victims' advocates, regardless of their beliefs about the death penalty? When victim impact statements are solicited in a particular case, are they solicited from all the victims' family members, both those who oppose the death penalty and those who support it? When victims' families try to obtain information about a case, do their beliefs about the death penalty affect the kind of response they receive?

The Right to Information

THE INCLUSION OF "being informed" among the rights that should be granted to victims reflects a recognition of how important information, and ultimately truth, is to those who have been victims of crime. Overwhelmed by enormous and perhaps unanswerable questions – "Why did this happen to us?" "How could a person decide to take someone else's life?" – a survivor of a murder victim will find it especially helpful to get whatever information *is* available. Yet the specter of the death penalty, and a survivor's opposition to it, can mean that the right to information is denied.

Like other state crime victim laws, the Bill of Rights for Texas Crime Victims includes "the right to be informed of relevant court proceedings" among several rights that are to be extended to victims of violent crime and close family members of deceased victims. Yet Jeanette Popp discovered that once she had made her opposition to the death penalty known, the district attorney's office cut off communication with her and would not inform her of upcoming court hearings involving her daughter's murderer.

Jeanette's 20-year-old daughter Nancy DePriest had been raped and murdered in a Pizza Hut in

⁴ "Healing the Wounds of Murder," the first national gathering of murder victims' families who oppose the death penalty, held in conjunction with Boston College, June 2001.

Austin, Texas in 1988. Two men were convicted and sentenced to life in prison, and it was not until twelve years later that they were proven innocent and released. Investigations by the University of Wisconsin-Madison's Innocence Project revealed that one of the convicted men had been threatened with the death penalty and coerced into confessing to Nancy's murder and implicating his roommate as well. The Innocence Project also discovered that another man, serving a life sentence for an unrelated crime, had been mailing letters to authorities for several years, confessing to the murder of Nancy DePriest. DNA testing confirmed the truth of his confession.

Because truth is so fundamental to the healing process, a wrongful conviction impedes that process and makes a survivor's desire for accurate information even more acute. Once the truth about the murderer's identity was discovered, Jeanette Popp sought further information by arranging to meet in prison with the man who had confessed to the murder.⁵

During their meeting, Jeanette told the man who committed the murder and his attorney that she and her daughter had always opposed the death penalty. She also said that if the district attorney's office sought the death penalty, she would make her opposition known.

When the district attorney's office learned that Jeanette Popp opposed the death penalty for this defendant, they began withholding information from her and her family. She was no longer told about upcoming hearings or other details of the court proceedings. The prosecution has made it clear that they disapprove of Jeanette's outspoken stance against the death penalty, and with the case still in progress, Jeanette now finds herself relying on the defense attorney for information about upcoming court dates. As in the case of Gus and Audrey Lamm, it is as if the legal rights of victims do not apply.

As in many states, the district attorney's office is among those who are supposed to enforce crime victims' rights in Texas (though the law adds that they are not liable for failure or inability to do so). Without an independent mechanism for enforcing those rights, and without a policy or protocol specifying that victims' opinion about the death penalty should not affect their ability to exercise those rights, it is too easy for victims to be denied precisely what the laws were intended to secure.

SOMETIMES THIS DENIAL is made explicit, as when members of a district attorney's office warn families that if they advocate against the death penalty the office will no longer communicate with them. At other times, the office may communicate with the family but do so in a way that is incomplete, inaccurate, or misleading. When the attorney prosecuting the murder of a 6-year-old boy in Louisiana in 1993 told the boy's mother⁶ that sentencing the defendant to death would be the only way to keep him off the streets, the mother did not have enough information to understand otherwise, and so she kept silent about her opposition to the death penalty. In fact, life without the possibility of parole *was* an available sentence in that state, and remained so when the case came to trial again nine years later (the original sentence had been overturned on a technicality). This time, the boy's mother was better informed, and in a meeting with the same district attorney she made a point of asking about sentencing alternatives. The district attorney replied, "I don't know what you're talking about."

What makes this incident especially noteworthy is that Louisiana's victims' rights law includes the right to "meet with the district attorney and be told about the disposition of the case and the

⁵ The desire for such a meeting is not uncommon. Hunger for information about what happened during a loved one's final moments, sometimes accompanied by a desire to explain the impact of the loss, leads some family members of murder victims to seek out a dialogue with the person who committed the crime. Some states, recognizing how important a part of the healing process this dialogue can be, offer victim-offender mediated dialogue as part of their services to victims. However, not all victims who seek out such dialogue oppose the death penalty.

⁶ Because this case is still pending, the victim prefers that her name not be used.

use of sentencing alternatives.” This district attorney’s dismissive and obviously disingenuous reply was apparently intended to confuse the victim and dissuade her from discussing her opposition to the death penalty.

SOMETIMES, AWARENESS OF how easily their rights may be revoked leads victims’ families to silence themselves. One woman whose brother had been murdered⁷ told MVFR that she had wanted to be present at the trial – a common desire of surviving family members. She lived in a state that provided financial assistance (as part of the victim’s compensation program) for victims’ family members to attend court proceedings, but, aware that the prosecutor was seeking the death penalty in this case, she was reluctant to reveal her own opposition to it, lest that render her ineligible for assistance. Without a policy that would ensure equitable treatment, she feared the discrimination that she knew others had faced.⁸

The Right to Assistance and Advocacy

ALONGSIDE THE BELIEF that victims deserve to be informed, present, and heard throughout the criminal justice process is the determination that they should not have to go through that process alone. The roots of this idea can be traced to the early days of the victims’ movement in the 1970s, when volunteers from rape crisis centers began to accompany victims throughout criminal proceedings and were available to answer questions, explain procedures, help prepare testimony, and generally try to prevent further trauma to the victim during criminal justice process. In 1984, the federal Victims of Crime Act provided funding for states to establish offices of victims’ advocates, and today such offices are common.

Victims who are being marginalized or silenced might seem particularly able to benefit from the existence of advocates. Yet instead, a victim’s opposition to the death penalty can mean that assistance and advocacy are *withdrawn*. SueZann Bosler reported that during the first two trials of her father’s murderer, the victim witness advocate “held my hand, got coffee for me...[but] on the third trial, when I wasn’t doing what they wanted, they wouldn’t talk to me or sit next to me or look at me. They wouldn’t have anything to do with me.”

It appears that, like the judge in the Lamm case, some advocates see victims who oppose the death penalty as more closely identified with the defendant than with their own status as victims, thus rendering them ineligible for (or undeserving of) advocates’ help. As we have said, such a view disregards the possibility that survivors may oppose the death penalty for their *own* reasons, not because of sympathy for the murderer. It also disregards the prevalence of murders in which the deceased victim and the offender knew one another, rendering the surviving family’s allegiances less distinct than the system presumes. Nowhere is this more vivid than in cases of intrafamilial murder, where the relatives of the victim and relatives of the offender are one and the same.

A recent case in Delaware involved a man who was sentenced to death for the murder of his wife. No advocate from the state system was present to assist the couple’s 14-year-old son⁹ through the process or comfort him after the execution was carried out.

⁷ Because this case is still pending, the victim prefers that her name not be used.

⁸ In fact, the section of the federal Victims of Crime Act dealing with eligibility for victims’ compensation says that a crime victim compensation program is eligible for federal funding if, among other things, it “promotes victim cooperation with the reasonable requests of law enforcement authorities.” When the prosecution is seeking the death penalty, it is possible that a victim’s failure to support that agenda could be viewed as a refusal to cooperate with the law enforcement authorities.

⁹ To protect the privacy of this juvenile, we do not use his name here.

It was members of MVFR who stepped in unofficially to support and assist this boy. Likewise, it was members of MVFR who accompanied the victims' family throughout the court proceedings when Texas was seeking the death penalty for Andrea Yates, charged with murdering her five children. The family members – indisputably relatives of the children as well as of their mother, and thus “victims” under Texas law – did not want the death penalty imposed. At one point during the trial, no seats were reserved for the Yates family, and they did not receive any acknowledgment or help from the victim assistant's office about this or any other aspect of the proceedings.

“Can you imagine the family of the victims having to worry about getting a seat at a huge trial like this?” Rusty Yates (the children's father) asked MVFR Executive Director Renny Cushing after reporting this difficulty. “That's the last thing we need to worry about. I can't help but think that if we supported the prosecution we'd have a front-row-center seat.” Given that “being present in the courtroom” is widely recognized as central to victims' rights, one would ordinarily expect the state's victim advocate to see to it that the right was granted. Because that help was not provided, MVFR was the de facto advocacy organization to which Rusty Yates was forced to turn.

MVFR ALSO SERVED as an unofficial victims' advocate for the surviving family of Linda Gilreath, who had been murdered by her ex-husband Fred Gilreath in Georgia in 1979. Just before his execution date in 2001, he had filed a request for clemency, and the Gilreaths' grown children, Felicia Floyd and Chris Kellett, wanted to testify before the Board of Pardons and Paroles in support of commuting the sentence to life without parole.

Georgia's Board of Pardons and Paroles had proudly announced a new Office of Victims' Advocacy three years earlier. In a press release they explained that, having been “already recognized as one of the nation's leaders in responding to victims' needs, the Board” would now “further empower citizens and crime victims with a slate of services and programs designed to simplify communication with the agency.” One might therefore expect that help would be available for Linda Gilreath's surviving family members, but when her children prepared to appear before the Pardon Board, no one from the Office of Victims' Advocacy made contact with them. No official victims' advocate explained the procedure in advance, helped them prepare testimony, or offered any other kind of support. Though the advocate was present at the pardon hearing, she did not sit with the family or in any other way give the impression that she was there to assist them or to represent their concerns.

What caused this discrepancy between the stated mission of this Office of Victims' Advocacy and the help actually provided to these particular victims? Again it was apparently their opposition to the death penalty, compounded by their relationship not only to the victim but also to the offender seeking a commutation of his sentence, that caused the problem. Members of the Pardon Board must surely have noted the advocate's dissociation from these victims. It is not unreasonable to imagine them concluding that these surviving relatives were somehow not victims in the usual sense of the term and that the usual standards of recognition and responsiveness need not apply.

Witnessing Executions

WHEN COURT PROCEEDINGS are completed and an execution date is scheduled, victim advocates begin to assist those victims' family members who want to witness the event. Only within the past few years has the victim services community come to recognize the importance of involvement during this final phase of a capital murder case. In 1998, the first national symposium on “Crime Victims as Witnesses to an Execution” was held in Pennsylvania. Out of this gathering came a written protocol to guide victim assistants as they supported families through the execution

process. The protocol covers all stages, from sentencing to pre-execution briefing and support through the actual execution and subsequent debriefing and follow-up.

In his introduction to the protocol, National Organization for Victim Assistance Deputy Director John Stein explains that “as homicide survivors began asserting that they wanted to witness executions, and as their assertions began to be honored, either as a matter of policy or law, the community of victim advocates appreciated the gravity of that event in the victims’ lives. Unquestionably, the execution itself had great potential for bringing crisis upon the victims, and the help of a victim advocate could make a major difference in whether the experience was positive or negative.”

The protocol, developed under the leadership of Pennsylvania Department of Corrections Victim Advocate Mary Achilles, itemizes the ways that an advocate can provide information, support, and opportunities for debriefing at various stages of the process. Throughout, it reflects a sensitivity to the potential volatility of the event, a belief that a victim advocate can offer critical help to the families during this time, and an implicit assumption that despite the volatility and the potential for evoking difficult feelings, *the execution is something that the surviving family wants done*. With no mention of the possibility of family members’ holding an opposite view and no discussion of the potential needs or feelings of such families during the time of the execution, the protocol reads as though anti-death-penalty victims do not exist.

Perhaps it is assumed that families would have no reason to want to witness an event of which they so strongly disapproved. But even if it were universally true that such families did not want to be *present*, they might still benefit from assistance and debriefing around the time of the execution. If the protocol recognizes that the event has “great potential for bringing crisis upon the victims,” it might additionally recognize that that potential is severe for those who have fought to prevent the execution from happening and have stated that it would only make them feel worse. Given that some anti-death-penalty victims will have already made clear that an execution would represent a significant challenge to their healing process, victim assistants cannot logically conclude that help and support are unnecessary when the execution does take place.

But it is also true that some survivors who oppose an execution *do* have reasons for wanting to witness it. In the case of intrafamilial murder, survivors may want to witness the execution because of their dual allegiance to the victim and to the person being executed, as in the case of Linda and Fred Gilreath’s son Chris, who wanted to witness his father’s execution but was denied the right to do so. In other cases, witnessing may be the surprising culmination of a journey of dialogue between the victim and offender, an outcome that neither could have predicted at the start. Such was the case for both Johnnie Carter in Oklahoma and Ron Carlson in Texas.

WHEN JOHNNIE CARTER witnessed the execution of Floyd Medlock in Oklahoma in 2001, no victim advocate prepared her, accompanied her, or helped her debrief afterwards. Indeed, casual observers would have had no reason to conclude that Johnnie *was* a family member of the murder victim, since she was made to sit on the inmate’s side of the witness booth, a partition separating her from other family members of the victim, and when the execution was complete and the other family members were taken into a special room for debriefing and other assistance, Johnnie was immediately escorted off the prison property.

Though she was treated only as someone witnessing the execution on behalf of the offender, Johnnie Carter was without question a relative of the murder victim. The body of her seven-and-a-half year old granddaughter Kathy had been found in a dumpster behind a Wal-Mart in Oklahoma eleven years earlier, and for a long time afterward, Johnnie couldn’t bring herself to walk down that street or think about the details of the crime. But like so many other victims’ family members, Johnnie eventually found that she had questions about what had happened, questions that only the

man who had committed the murder could answer.

The two began a correspondence, initially using Floyd Medlock's attorneys as liaisons. "There were many questions that I wanted answered," Johnnie recalled later, "and I felt that I got a lot of answers. I had felt guilty because Kathy died – I felt like I didn't do enough to protect her, which I think is something a lot of victims feel. Writing to [Floyd Medlock] really affected me. I learned that the murder was not my fault and it was not my daughter's fault."

When Mr. Medlock asked Johnnie if she would be a witness to the execution, she "had to think about it for a long time." A year and a half afterward, she still found it difficult to articulate why she ultimately agreed to attend. "I still don't know why, but I just know that I needed to be there," she says. "I was there for myself and I was there for my daughter and my granddaughter." (Johnnie's daughter, the mother of the murdered girl, also opposed the death penalty but chose not to witness the execution.)

Wanting to witness an event does not mean one approves of it, and Johnnie, who had been actively working to oppose the death penalty in general and Mr. Medlock's execution in particular, was clear that she did not believe the state should be taking this life. Her journey toward healing in the aftermath of her granddaughter's murder, and her quest for answers about the crime, had led her to a seat in the witness booth of the execution chamber that day. But her presence there did not mean that she supported the event, nor did it mean that she no longer considered herself a relative of the murdered child.

In a stark illustration of the varying ways family members can respond in the aftermath of a murder, Kathy's paternal grandmother was outspoken in her support of the death penalty for Mr. Medlock. Both grandmothers had lost a granddaughter, both had suffered because of that loss, and both now considered the execution of Floyd Medlock a significant event, though for different reasons. In an equally stark illustration of the disparity of treatment between pro- and anti-death-penalty victims, Kathy's paternal grandmother was granted all the preparation, support, and debriefing that the national protocol would want a victim witnessing an execution to receive. None of the steps outlined in that protocol were followed for Johnnie Carter.

HOW IMPORTANT IS the difference between being offered the chance to debrief with a sympathetic listener and being summarily escorted off the property after witnessing an execution? One set of guidelines for victim advocates regarding the viewing of executions, developed by the Victim Services Division of the Texas Department of Criminal Justice, devotes a paragraph to the importance of debriefing:

After viewing, the witnesses are escorted back to another room so we can hold an informal "debriefing session" in a confidential setting. The chaplain or prison psychologist, who were also in the support room, attend the debriefing since they are part of the agency's post-trauma team. We believe the witnesses should not leave [the prison] without having the opportunity to "vent" because viewing an execution is considered a traumatic event.

Despite this stated belief on the part of the Texas Department of Criminal Justice, when Ron Carlson witnessed the execution of Karla Faye Tucker in Texas in 1998 his experience paralleled Johnnie Carter's in Oklahoma. Karla Faye Tucker murdered Ron's sister, Deborah Thornton, in 1983 and was eventually sentenced to death for the crime. Ron initially supported that sentence for Karla Faye Tucker and her co-defendant Daniel Garrett, telling prosecutors, "I think they got what they deserved." Strong religious convictions and eventual healing in his own life led Ron Carlson to change his mind about the death penalty and to join many others in speaking out against Karla Faye Tucker's execution. "Karla and I had both done a lot of wrong in our lives," he recalled later. "We

had both turned to drugs to heal our pain; we had both hurt a lot of people.”

Ron Carlson began corresponding with Karla Faye Tucker and eventually agreed to witness the execution as one of her representatives. Like Johnnie Carter in Oklahoma, Ron was immediately escorted off the prison property once the execution was completed, with none of the debriefing or post-trauma services that Texas’s guidelines stipulate.

Institutional Silencing and Funding Priorities

THROUGHOUT THIS DOCUMENT we have presented individual examples of discrimination against and silencing of victims’ families who oppose the death penalty. It must also be acknowledged that silencing and discrimination exist on the broader levels of institutional policies and funding priorities.

Up to now, prominent institutions within the victims’ services community have generally discouraged or prohibited discussion of the death penalty. The guidelines for participation in a Victims’ Assistance Online Network online chat room, for example, included the stipulation that there be no discussion of capital punishment. At the Parents of Murdered Children 2001 National Conference, literature from Murder Victims’ Families for Reconciliation was confiscated from the display table, despite promises in the conference’s promotional literature that “other organizations that provide resources for homicide survivors will display information regarding their programs and products throughout the conference.” Later, the MVFR representative was told that it was national policy of POMC to forbid display of controversial material, including material about the death penalty. Yet it is also the policy of POMC “to give support and assistance to all survivors of homicide victims.” It is not possible to support survivors who oppose the death penalty (or who are struggling with the question) while also denying them access to literature on the subject and information about others who share those beliefs.

Victim assistants recognize that a critical part of their job involves offering safe opportunities for victims to discuss the crime and its aftermath. A significant part of that process involves talking about what has happened to the perpetrator following the crime. Prohibiting discussion of the death penalty in public forums or in support group meetings and private encounters with victim assistants amounts to a denial of this crucial step in the process. It means that the some victims are forbidden to discuss an issue of great concern to them. Such victims are, understandably, less likely to view the victims’ services community as respectful of their needs and able to help them make their voices heard.

Policies about what can be discussed and what services must be provided send a strong message about what a community values and supports. Yet it can also be argued that priorities are demonstrated most vividly by how money is allocated and spent. The 1984 Victims of Crime Act established a crime victims fund, under the direction of the federal Office of Victims of Crime, that directly or indirectly provides financial support to public and private nonprofit institutions serving the needs of victims. What message is sent when these public funds are used to support only one subset of the victims’ population?

When the Victim Witness Coordinator for Cook County, Illinois organized a group of victims’ families to testify before a legislative task force in support of the death penalty, public funds were being used to address the needs and represent the voices of that particular subgroup of victims. No publicly funded advocate helped or represented the victims’ families in Illinois who wanted to speak out *against* the death penalty that day. Likewise, when the National Organization for Victim Assistance produced the video “Finding Resolution: Crime Victims as Witnesses to Executions,” which featured only victims’ families who support the death penalty and did not address the needs of those who oppose it, public funds were again being used to serve only one subset of the victims’

population. Without an equal commitment of public resources, victims' families who oppose the death penalty experience clear economic discrimination.

Compassion, Respect, and Dignity

CONGRESS DECLARED IT a matter of public law; it is standard wording in victims' rights amendments and victims' rights laws; it is basic to any list of beliefs held by victims' services organizations: victims of crime should be treated with compassion, respect, and dignity. Is it respectful or compassionate toward victims and their dignity to deny them the right to speak, to characterize them as "not victims," to threaten them with contempt of court, to respond dismissively and patronizingly to their questions about legal proceedings, to cut off communication, to withhold help and support before a pardon board hearing or an execution, to produce educational resources that claim to be speaking for all victims but in fact only speak for those who hold a particular belief?

Denying victims the right to be "informed of, present, and heard at critical stages of the criminal justice process" violates laws, but it also violates the underlying principles upon which those laws were based. Marginalizing and discriminating against victims' families who oppose the death penalty cannot represent the "best practices" of those who work on behalf of victims. If compassion, respect, and dignity are important, they are important for *all* victims, regardless of their stance on the death penalty.

Policy Recommendations

The preceding report has demonstrated that there is inequity in the treatment of homicide survivors and in the application and enforcement of victims' rights laws. With this demonstration, the report poses a fundamental challenge to society to:

- recognize a distinct subgroup of victims,
- acknowledge that they have not been well served in the past and that indeed harm has sometimes been done, and
- make a commitment to treating such victims equitably from now on.

As a victim-founded and victim-led organization, Murder Victims' Families for Reconciliation has developed a set of specific policy recommendations aimed at addressing inequities in the treatment of homicide survivors. These proposals represent a commitment to extending rights and services to all victims on an equal basis.

RECOMMENDATION #1:

Federal and state victims' rights laws should be amended to guarantee equality of all victims under the law and to ban discrimination based upon a victim's position on the death penalty.

RECOMMENDATION #2:

Victims' rights laws should be amended to include a mechanism for enforcement, and to give legal standing to victims or their representatives who want to challenge policies and actions that deny victims their rights or discriminate against them.

RECOMMENDATION #3:

Victims' services programs should be administered by fully funded independent agencies dedicated solely to serving the needs of all victims of crime.

RECOMMENDATION #4:

Federal and state funds intended to support survivors of homicide victims should be allocated and spent in a manner that reflects parity of esteem between victims who support the death penalty and victims who oppose it.

RECOMMENDATION #5:

The federal Office of Victims of Crime and its counterpart agencies at the state level should formally recognize murder victims' family members who oppose the death penalty as a distinct subgroup of the crime victim population, and should recognize that subgroup as underserved.

RECOMMENDATION #6:

The Office of Victims of Crime and the National Organization for Victim Assistance should assume a leadership role in responding to the challenges to the victims' services community outlined in *Dignity Denied*. Together, OVC and NOVA should invite representatives of key public and private sector organizations whose mission includes working with survivors of homicide victims to participate in a task force for the purpose of developing a national protocol for serving victims' families who oppose the death penalty. Such a protocol should: (1) identify and address the needs of these victims; (2) set a standard of professional conduct for those who work with victims that includes equitable treatment of all victims, regardless of their beliefs about the death penalty.

RECOMMENDATION #7:

Once developed, the above protocol should be used as a model and adapted to the specific purposes of the American Bar Association, the National Association of District Attorneys, the International Association of Chiefs of Police, the American Correctional Association, the National Organization of Parents of Murdered Children, and others whose work includes serving surviving family members of homicide victims.

RECOMMENDATION #8:

The National Victims' Assistance Academy and institutions of higher learning or other agencies and organizations that train and prepare victims' service providers should develop a curriculum that addresses the needs of victims' families who oppose the death penalty, and should integrate that curriculum into training and degree-granting programs.

RECOMMENDATION #9:

Future proposals regarding the licensing or accreditation of victims' service providers should incorporate the idea of serving the needs of victims' families who oppose the death penalty.

Commentary

Recommendation #1: *Federal and state victims' rights laws should be amended to guarantee equality of all victims under the law and to ban discrimination based upon a victim's position on the death penalty.*

As this report has demonstrated, the problem of discrimination against anti-death-penalty homicide survivors needs an affirmative legal remedy, and we believe that is best accomplished through the amending of current laws and Constitutional provisions that guarantee victims' rights at the state and federal level. For a concrete example, see the model state legislation that we have drafted and included here, following this commentary.

Recommendation #2: *Victims' rights laws should be amended to include a mechanism for enforcement, and to give legal standing to victims or their representatives who want to challenge policies and actions that deny victims their rights or discriminate against them.*

We recognize that even under the existing framework of laws, victims have limited remedies available to them to enforce or secure their rights. As the Lamm case in Nebraska demonstrated, it is not enough for there to be victims' rights laws or Constitutional provisions; there must also be a way for victims who are denied those rights to seek redress.

Recommendation #3: *Victims' service programs should be administered by fully funded independent agencies dedicated solely to serving the needs of all victims of crime.*

The final report of the President's Task Force on Victims of Crime, published in 1982, declared, "Experience has shown that the only way of ensuring that the needs of victims and witnesses are met is to have a separate unit dedicated solely to their assistance." As we have seen, when victims' advocacy or assistance programs are administered under the auspices of the prosecutor, the interests of victims are too often subordinate to the interests of prosecutors. Moreover, the extension and enforcement of victims' rights is subject to prosecutors' discretion or whim.

This is of course contradictory to the fundamental premise of victims' services: that in serving victims, the focus should be on victims' needs and experience. In the Summer 2000 issue of the National Center for Victims of Crime magazine, Executive Director Susan Herman wrote, "At the National Center, we promote a concept that we call 'parallel justice.' ...Parallel justice requires us to separate the pursuit of justice for victims from the administration of justice for offenders. What does that mean? It means that when we consider justice for victims, we must always begin and end by asking what victims need to rebuild their lives and what society owes them. We should not start with the criminal justice system as our point of reference. We should not begin by asking what the appropriate role for victims is in the investigation, prosecution, adjudication, and sentencing of offenders."

Herman continues that it is indeed important to advocate for fair and respectful treatment of victims within the traditional criminal justice system, but "we must go further. We must create a separate path to justice whereby society sends the message to victims that 'what happened to you was wrong and we will help you rebuild your lives.'"

Recommendation #4: *Federal and state funds intended to support survivors of homicide victims should be allocated and spent in a manner that reflects parity of esteem between victims who support the death penalty and victims who oppose it.*

As this report has discussed, agencies have not always spent funds or provided resources to victims in an equal manner. Inequitable use of public funds is, quite simply, bad public policy.

Recommendation #5: *The federal Office of Victims of Crime and its counterpart agencies at the state level should formally recognize murder victims' family members who oppose the death penalty as a distinct subgroup of the crime victim population, and should recognize that subgroup as underserved.*

It is our hope that such recognition will be the first step toward serving these victims more effectively.

Recommendation #6: *The Office of Victims of Crime and the National Organization for Victim Assistance should assume a leadership role in responding to the challenges to the victims' services community outlined in Dignity Denied. Together, OVC and NOVA should invite representatives of key public and private sector organizations whose mission includes working with survivors of homicide victims to participate in a task force for the purpose of developing a national protocol for serving victims' families who oppose the death penalty. Such a protocol should: (1) identify and address the needs of these victims; (2) set a standard of professional conduct for those who work with victims that includes equitable treatment of all victims, regardless of their beliefs about the death penalty.*

AND

Recommendation #7: *Once developed, the above protocol should be used as a model and adapted to the specific purposes of the American Bar Association, the National Association of District Attorneys, the International Association of Chiefs of Police, the American Correctional Association, the National Organization of Parents of Murdered Children, and others whose work includes serving surviving family members of homicide victims.*

When it is recognized that a portion of the crime victim population has been marginalized and discriminated against, it is appropriate for the victims' services community to take the lead in redressing those wrongs. It would have substantial impact if the leading public and private nonprofit agencies within the victims' services community worked to identify the effects of past policies on this subgroup of victims and made a clear statement that discrimination against any subgroup of victims will not be tolerated.

Similarly, it would be significant if leadership within law enforcement, the defense and prosecutorial bar, and victims' services divisions of the correctional system required that their members be aware that not all victims' families support the death penalty and that those who oppose it may have different needs and experiences.

Recommendation #8: *The National Victims' Assistance Academy and institutions of higher learning or other agencies and organizations that train and prepare victims' service providers should develop a curriculum that addresses the needs of victims' families who oppose the death penalty, and should integrate that curriculum into training and degree-granting programs.*

Systemic discrimination against anti-death-penalty victims' families is reinforced when discussion of these victims is absent from textbooks and other instructional materials published by the National Victims Assistance Academy and other training programs. It is incumbent upon these teaching institutions to prepare their students to meet the needs of all victims, including those who

oppose the death penalty.

Recommendation #9: *Future proposals regarding the licensing or accreditation of victims' service providers should incorporate the idea of serving the needs of victims' families who oppose the death penalty.*

In an effort to professionalize the delivery of victims' services, systems of licensing and accreditation are being developed for victims' service providers. Thus, we are recommending that integrated into that process be a requirement that providers become familiar with the needs of homicide survivors who oppose the death penalty.

Model State Legislation

Crime Victims Equality Act

1. Short title: This law is to be known as and may be cited as the **Crime Victims Equality Act**.
2. Legislative Intent: The legislature recognizes that the historic promises of dignity, participation, and support that we have made to victims of crime have not always been extended to, or enjoyed by, all victims. It is the intent of the legislature that this act redeems those promises to guarantee that all victims of crime are treated equally and no victim is discriminated against because of their position on capital punishment.
3. Amendment to current law: The Rights of Crime Victims statute is hereby amended by adding the following new section to the law: **All rights of victims of crime established under the constitution and the laws of the state shall be guaranteed to all victims on an equal basis. Notwithstanding the provisions of any laws concerning capital punishment, no victim shall be discriminated against or have their rights as a victim denied, diminished, expanded, or enhanced on the basis of the victim's support for, opposition to, or neutrality on the death penalty.**

Further Reading

Attorney General Guidelines for Victim and Witness Assistance. Washington, DC: United States Department of Justice, 2000.

Belooof, Douglas. *Victims in Criminal Procedure*. Durham, NC: Carolina Academic Press, 1999.

Cushing, Renny. "Amazing Grace: Reflections on Justice, Survival, and Healing" in Dow and Dow, eds. *MACHINERY OF DEATH: The reality of America's Death Penalty Regime*. New York, NY: Routledge, 2002, Chapter 18, pp. 282-287.

Cushing, Renny "Not in our names: The work of Murder Victims' Families for Reconciliation" *The International Journal of Narrative Therapy and Community Work*, Adelaide, South Australia: Dulwich Centre Publications, Vol. 1, 2002, pp. 29-32.

Herman, Susan. "Victim Advocacy and Parallel Justice," *NETWORKS: A publication of the National Center for Victims of Crime*, Summer 2000, pp. 9-11.

Hood, Barbara and King, Rachel, eds. *Not In Our Name: Murder Victims' Families Speak Out Against the Death Penalty*. Cambridge, MA: Murder Victims' Families for Reconciliation, 1999.

Jenkins, Bill. *What To Do When The Police Leave*. Richmond, VA: WBJ Press, 2001.

Karmen, Andrew A. "Who's Against Victims' Rights? The Nature of the Opposition to Pro-victim Initiatives in Criminal Justice," *St. John's Journal of Legal Commentary* Vol. 8:157 (1992).

Landmarks in Victims' Rights & Services, Washington, DC: National Center for Victims of Crime, Washington, DC, 2002.

Lowenstein, Thomas K. "Against Execution," *The American Prospect*, August 28, 2000, pp. 37-41. *National Victim Assistance Academy Textbook*, National Victims Assistance Academy, 2000.

New Directions from the Field: Victims' Rights and Services in the 21st Century. Washington, DC: United States Department of Justice, 1998.

President's Task force on Victims of Crime, Final Report. Washington, DC: United States Government Printing Office, December 1982.

Sheffer, Susannah. "Beyond Retribution." *Index on Censorship*, Vol. 30, No. 1, January/February 2001, pp. 182-187.

Sheffer, Susannah. "Justifiable Homicide?" *Peacework*, April 2001, p. 20.

Sheffer, Susannah. "Not In Our Name: Interview with Renny Cushing." *Peacework*, April 1999, p. 14-15.

Victims' Rights Sourcebook: A Compilation and Comparison of Victims Rights Laws, Arlington, VA: National Victims Center, 1997.

Young, Marlene. "Victims' Rights and Services: A Modern Saga," in Davis, Lurigio and Skogan, eds., *Victims of Crime, 2nd Edition*. Thousand Oaks, CA: Sage Publications, 1997.



August 2002

Board of Directors

Chair
Jennifer Bishop
Illinois

Vice Chair
Ricardo Villalobos
Washington DC

Vice Chair
June Post
New Jersey

Secretary
Sue Norton
Kansas

Treasurer
Betsy Fairbanks
California

Bill Babbitt
California

Rev. Walter Everett
Connecticut

Michelle Giger
New Mexico

Bill Jenkins
Virginia

Yvonne Rivera-Huitron
California

Bud Welch
Oklahoma

Linda White
Texas

Executive Director
Robert Renny Cushing

Administrative Director
Liz Coleman

National Organizer
Kate Lowenstein

**Murder Victims Families
for Reconciliation**
2161 Massachusetts Avenue
Cambridge, MA 02140
phone 617.868.0007
fax 617.354.2832
www.mvfr.org

John Gillis
Director
Office of Victims of Crime
United States Department of Justice
Washington, DC

Dear Mr. Gillis:

On behalf of the Board of Directors and the members of Murder Victims' Families for Reconciliation, we respectfully submit to you a copy of the report *Dignity Denied: The Experience of Murder Victims' Family Members Who Oppose the Death Penalty*.

MVFR is a victim-founded, victim-led national organization, representing murder victims' families who oppose the death penalty. This report, which includes policy recommendations, is the culmination of a long effort to identify and document the bias on the part of some prosecutors, judges, and members of the victims' services community against victims' family members who oppose the death penalty.

We recognize the OVC's commitment to – as your mission statement says – “enhancing the nation's capacity to assist crime victims and to providing leadership in changing attitudes, policies, and practices to promote justice and healing for all victims of crime.” With such a mandate, we know you will consider the denial of dignity and inequitable treatment of a particular group of victims to be a matter of serious concern.

As our government's leading voice for victims of crime, you have the authority and the responsibility to influence public policy and to establish rules, regulations, and guidelines concerning the treatment of victims of crime. It is our hope that this report will initiate a dialogue within both the Office of Victims of Crime and the victims' services community about the needs of a distinct segment of the crime victims population. As you will note, our policy recommendations include the request that your office, along with the National Organization for Victim Assistance, take the lead in convening a discussion among stakeholders in the victims' community about this report and its implications.

We are committed to collaborating with you and other groups and agencies in implementing the recommendations presented here. We look forward to joining with you in this effort.

Sincerely,

Robert Renny Cushing
Executive Director

Jennifer Bishop
Chair of the Board

cc: Marlene Young, Executive Director, and the Board of Directors,
National Organization for Victim Assistance
Susan Herman, Executive Director, National Center for Victims of Crime
Nancy Ruhe-Munch, Executive Director, National Organization of Parents
of Murdered Children
Newman Flanagan, Director, National District Attorneys Association
Morna Murray, Executive Director, Victims Assistance Legal Organization
Trudy Gregorie and Chiquita Sipos, American Correctional Association,
Victims Committee
Douglas Beloof, Director, National Crime Victims Law Institute
Dean G. Kilpatrick, Director, National Crime Victims Research and
Treatment Center
Stephen Walker, Director, Center for Victims Studies, California State
University-Fresno
Mario T. Gaboury, Crime Victim Study Center, University of New Haven
James Marquart, Director, National Institute for Victims Studies, Sam
Houston State University
Thomas Underwood, Director, Center on Violence and Victims Studies



August 2002

Board of Directors

Chair
Jennifer Bishop
Illinois

Vice Chair
Ricardo Villalobos
Washington DC

Vice Chair
June Post
New Jersey

Secretary
Sue Norton
Kansas

Treasurer
Betsy Fairbanks
California

Bill Babbitt
California

Rev. Walter Everett
Connecticut

Michelle Giger
New Mexico

Bill Jenkins
Virginia

Yvonne Rivera-Huitron
California

Bud Welch
Oklahoma

Linda White
Texas

Executive Director
Robert Renny Cushing

Administrative Director
Liz Coleman

National Organizer
Kate Lowenstein

**Murder Victims Families
for Reconciliation**
2161 Massachusetts Avenue
Cambridge, MA 02140
phone 617.868.0007
fax 617.354.2832
www.mvfr.org

Dr. Marlene Young
Executive Director
National Organization for Victim Assistance
Washington, DC

Dear Dr. Young:

On behalf of the Board of Directors and the members of Murder Victims' Families for Reconciliation, we respectfully submit to you and the Board of Directors of NOVA a copy of the report *Dignity Denied: The Experience of Murder Victims' Family Members Who Oppose the Death Penalty*.

This report, which includes policy recommendations, is the culmination of a long effort to identify and document the systemic bias against victims' family members who oppose the death penalty. It represents the voices of victims that have too often gone unheard by the victims' services community.

We recognize NOVA's commitment to ensuring dignity for all victims. As the leading voice for victims' assistance in the United States, NOVA has the authority and the responsibility to set professional standards for the victims' services community and to see that no victims are denied dignity.

As you will see, this report contains specific policy recommendations, and we draw your attention in particular to the recommendation that NOVA, along with the Office of Victims of Crime, take the lead in convening a discussion among stakeholders in the victims' community about this report and its implications. With the dissemination of this report, we hope to begin a dialogue among those who share our commitment to serving the needs of victims of crime. As a victim-founded, victim-led organization, and as a member of NOVA, we are committed to collaborating with you and other groups in implementing the recommendations presented here. We looking forward to joining together in this effort.

Sincerely,

Robert Renny Cushing
Executive Director

Jennifer Bishop
Chair of the Board

cc: John Gillis, Director, Office of Victims of Crime, U.S. Department of Justice
Susan Herman, Executive Director, National Center for Victims of Crime
Nancy Ruhe-Munch, Executive Director, National Organization of Parents of Murdered Children
Newman Flanagan, Director, National District Attorneys Association
Morna Murray, Executive Director, Victims Assistance Legal Organization
Trudy Gregorie and Chiquita Sipos, American Correctional Association, Victims Committee
Douglas Beloof, Director, National Crime Victims Law Institute
Dean G. Kilpatrick, Director, National Crime Victims Research and Treatment Center
Stephen Walker, Director, Center for Victims Studies, California State University-Fresno
Mario T. Gaboury, Crime Victim Study Center, University of New Haven
James Marquart, Director, National Institute for Victims Studies, Sam Houston State University
Thomas Underwood, Director, Center on Violence and Victims Studies

Murder Victims' Families for Reconciliation

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. Our mission is to abolish the death penalty. We advocate for programs and policies that reduce the rate of homicide and promote crime prevention and alternatives to violence. We support 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. Because violent crime cuts across a broad spectrum of society, our members are geographically, racially, and economically diverse.

MVFR IS A nonprofit organization under section 501(c)3 of the federal tax code and is a member of the National Organization for Victim Assistance, the National Coalition to Abolish the Death Penalty, and the National Center for Victims of Crime.

Acknowledgments

A special thank you to MVFR's Administrative Director, Liz Coleman, for the layout and design of this publication. The authors also wish to express appreciation to her and to MVFR's National Organizer, Kate Lowenstein for all their help during the research and writing of *Dignity Denied*.

For valuable assistance during the preparation of this report, the authors wish to thank Amanda Bergson-Shilcock, Aaron Falbel, and Kristie Conrad.

Murder Victims' Families for Reconciliation does not receive funding from any state or federal source. We gratefully acknowledge support from the following foundations, which makes it possible for Murder Victims' Families for Reconciliation to work on behalf of homicide survivors who oppose the death penalty:

Sam and Helen Beber Foundation
Ben and Jerry's Foundation
John H. Bickford Foundation
Butler Family Fund
Catholic Campaign for Human Development
Columbia Foundation
Fund for Nonviolence
Funding Exchange
Haymarket People's Fund
Jesuit Institute
A. J. Muste Institute
Open Society Institute
Public Welfare Foundation
Tides Foundation
Unitarian Universalist Funding Program

Additional thanks to the New England Regional Office of the American Friends Service Committee, The Justice Project, and the Death Penalty Information Center for the resources they provide.

A very special acknowledgement and thanks to Sandra Matheson, Director of the Office of Victims/Witness Assistance for the State of New Hampshire. Sandi's compassion for and selfless dedication to victims, her willingness to be proximate to and share in their pain, her enduring support and advocacy, is the embodiment of the ideal of those called to labor in the field of victim services.

Finally, and most importantly, the authors wish to express our endless gratitude to all the individual family members of Murder Victims' Families for Reconciliation. Your courage and commitment are the reasons MVFR exists, and you are the inspiration for this report.

About the Authors

Robert Renny Cushing is the Executive Director of Murder Victims' Families for Reconciliation. A lifelong social justice activist, Renny served as a two-term lawmaker in New Hampshire, where he was involved in victims' issues and sponsored a measure that would have abolished the death penalty in that state. Renny wrote the Whistleblower's Protection Act and a groundbreaking law providing assistance to victims of domestic violence, and he supported the passage of laws establishing a victims' bill of rights, victims' advocate programs, and a victims' compensation fund. In 2001, as plaintiff in Cushing v. McLaughlin, he was successful in a landmark state court case brought to enforce New Hampshire's Victims Bill of Rights law. He is a member of the National Writers Union/UAW Local 1981.

Susannah Sheffer, the author of three books, works as a writer for Murder Victims' Families for Reconciliation. She is a member of the National Writers Union/UAW Local 1981.

Board of Directors, 2002

Jennifer Bishop, *Chair*
Ricardo Villalobos, *Vice Chair*
June Post, *Vice Chair*
Sue Norton, *Secretary*
Betsy Fairbanks, *Treasurer*
Bill Babbitt
Rev. Walter Everett
Michelle Giger
Maria Hines
Bill Jenkins
Yvonne Rivera-Huitron
Bud Welch
Linda White

Founders, Incorporators, & Previous Board Members

Marie Deans, Founder
Pat Bane, Executive Director Emeritus
Jeanne Bishop
Lillie Clark
Leigh Eason
Azim Khamisa
Marietta Jaeger Lane
Michael Lawson
Barbara Lewis
Bill Lucero
Teresa Mathis
Pat McCoy
Bill Pelke
Mike Penzato
Sally Senior
Sam Sheppard
Linda Thurston
George White
Dale Williams
Rev. Renee Wormack-Keels

