

REMARKS BY

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AT THE ANNUAL CONFERENCE OF THE

FAMILIES OF HOMICIDE VICTIMS AND MISSING PERSONS

OCTOBER 13, 2012

DENVER, COLORADO

I. Introduction

I am deeply honored to be with you today and to speak with you at your annual conference. When Howard Morton first invited me to come to this gathering, he expressed two hopes. First, he made it clear that he hoped I would share some insights that would be useful to you as you carry out your important work. But it was the second hope that hooked me. He said he hoped that I would also learn from you, that my time with you would influence my thinking about the way our society treats victims of crime, particularly those co-victims (to use Howard's term), represented here in this room, where society has failed to bring about justice. When I visited Denver this summer, I met with Howard to learn more about your organization, your successes, your struggles, and your agenda for the future. And, in preparation for my return visit to Denver today, I have been researching your work a bit, and I must say I am very impressed. So in fact, we have already met Howard's second goal. Your work and your perspective on issues of justice have already shaped my thinking in profound ways. So, let me begin by saying thank you.

II. The Power of Your Work

There is so much I admire about your work on behalf of homicide victims and missing persons. I admire your guts, your unrelenting advocacy, your firm belief in what is right, your willingness to take on the toughest opponents and to stand up to the powers that be—whether they be government officials or community leaders. I admire your passion on behalf of your loved ones who have been lost, your sense of solidarity in a cause you believe in, and your creativity in forging a formidable coalition that is making a difference here in Colorado and around the country.

Most of all I admire you because of what you can teach those of us who have committed our lives to working on behalf of victims of crime.

As with any movement, there is a tendency in our movement –the victim’s movement – to become less creative, perhaps a little stagnant, with the passage of time. I’ve been a victim advocate in one way or another for over 35 years. I know that too often, people and organizations working on behalf of crime victims become part of the system, part of the bureaucracy, part of the status quo. Now don’t get me wrong – we have travelled a great distance from the days when there were no shelters for battered women, no rape crisis centers, no advocates for crime victims inside police departments or prosecutors’ offices, no victim compensation and no victim’s rights in our laws or our state constitutions. We have a lot to be proud of and we can say with confidence that our country’s response to victims of crime is far, far better today than it was in the 1970s when the victims’ movement first gained momentum.

But as with any social movement, we must always guard against complacency. We must always be ready to re-assert our fundamental beliefs and our core principles. In thinking about

our time together today, it struck me that there is something about your work that reminds me of first principles and why we are doing this work. Your example should inspire all of us to return to these first principles. So my purpose this afternoon is to articulate what I see as the power of your example and to place your work in the larger context of some of the newest developments in the field of advocacy on behalf of victims of crime.

Simply put, what you have accomplished is inspirational. As I have traveled around the country, I have encountered very few grassroots organizations that have had such an impact on both the government's and the community's response to victims of crime. You are all undoubtedly aware of your many victories, but a brief list shows how impressive they are. Your advocacy led to the creation of the Cold Case Review Team we heard from this morning-- an enormous accomplishment. You created and maintain a database of unsolved murders. Working with other advocates, you secured an amendment to the Colorado Victim Rights Act to recognize the special needs of cold case families. You have created a network of support for co-victims in cold cases and when asked, you serve as media representatives for these families. You have worked with Colorado State University to provide guidance to law enforcement agencies on the best ways to communicate with co-victims and you have advised co-victims on the best way to communicate with law enforcement.

And you have launched an amazingly gutsy and creative campaign called "Trade Vengeance for Justice," challenging government priorities in a unique and powerful exercise in values clarification.

As someone who has looked at a variety of victim advocacy organizations across the country, I want to say that you are a great model for the rest of the nation.

The Connection to Parallel Justice.

For me, however, the power of your work extends far beyond your concrete accomplishments. I admire you for the lessons you teach the country -- on a more fundamental level -- about the concept of justice itself. To illustrate this dimension of the power of your work, I would like to spend a few moments describing the concept of Parallel Justice, my work.

As you may know, I have devoted the last several years to developing this idea of Parallel Justice as a new way to frame our thinking about our response to victims of crime. In essence, I have tried to redefine what it means to provide justice in the aftermath of crime.

The starting point for the Parallel Justice idea is that the commission of a crime creates two important societal obligations. One obligation is to find the person who committed the crime, where possible to prosecute that person for violating the law, and where the evidence allows, to convict that person and sentence him or her to an appropriate criminal sanction. This is the societal response that we all know so well. We expect our government to “find the bad guy and put him behind bars.” This societal response is heralded in our media – on television shows, on the front pages of our daily newspapers, and in our textbooks on the criminal justice system. This is what we usually mean when we say “Justice has been served.”

Under the Parallel Justice framework, however, we recognize that a second, equally important, societal obligation is triggered by the commission of a crime. This is the obligation to help victims of crime get their lives back on track – an obligation to repair the social fabric that has been torn by the commission of the crime. I should point out immediately that this obligation does not depend on the identification and prosecution of an offender. It is a distinct, parallel duty to the victim.

This separate duty has important operational consequences. As this audience knows better than anyone else, not all crimes are solved, and not all arrests result in successful prosecutions. In fact, when you include all crime, only one in five reported crimes results in an arrest. Stated differently, we must recognize that the vast majority of victims will never see the inside of a courtroom. So how can these victims secure any sense of justice if our concept of justice is limited to a criminal conviction?

In my book, I spell out ways for us to meet our obligations to all victims of crime—and by us I mean all of us—our government, our communities, and even individuals. In a moment, I will share some of those details, but for now I want to emphasize a simple point: our obligation to help victims rebuild their lives after the commission of a crime is not a matter of charity, nor is it simply a system for providing compensation, or a quid pro quo offered to secure the cooperation of victims in the traditional justice system. No, we must meet our obligations to crime victims because justice requires that we do so.

And when we meet those obligations, we create a separate, or parallel, path to justice. Justice is the overarching goal, and the concept of Parallel Justice provides a framework for pursuing justice for both victims and offenders.

So I look at the work of the Families of Homicide Victims and Missing Persons (FOHVAMP) through the lens of Parallel Justice. And what I see is a group of fierce advocates for justice in the deepest meaning of the word. You are fighting to make sure that government agencies responsible for solving crimes and apprehending and prosecuting offenders do their jobs. You are demanding action, accepting no excuses, prodding, pushing, embarrassing, and sometimes even shaming the law enforcement and criminal justice agencies of your states to do

what government should – and must do – in order for us to have a just society. You are holding government to the first obligation.

But at the same time you are advocating for just treatment of the victims and survivors of crime. You have published the rights of co-victims of unsolved homicides, knowing that these families too often do not get the respect, support and assistance to which they are entitled. You are reaching out to the family members to offer your support and insights. You have built a network of support – but, as important, you are providing an outlet for turning the anger and impatience you have experienced into constructive demands for action.

In a tragic twist, because the murders you have experienced have not been solved, or your loved ones have not been found, you stand as constant reminders that our society needs to carry out its primary obligations to its citizens. When the social contract has been breached through the commission of a crime, we owe it to those whose lives have been ripped apart that we will bring them justice.

At the same time, you exemplify one of my core beliefs – that the treatment of victims, by government, and by communities, and even individuals, should not depend on whether an offender has been arrested and prosecuted. Justice requires that in addition to trying to hold offenders accountable, we do everything possible to help victims rebuild their lives, regardless of whether the police and prosecutors have been able to build a case. In this sense, I salute you, because your struggles and your passion exemplify the core principles that brought me to the concept of Parallel Justice.

III. The Principles of Parallel Justice

I'd like to take a few minutes to explain the concept of Parallel Justice because I hope that you will find the principles of Parallel Justice useful. Parallel Justice is based on ten principles. Right now, I will mention only three of them. The rest I'll discuss in the afternoon workshops.

One of the core principles of Parallel Justice is that "victims should be presumed credible." We all know one of the foundational principles of our system of criminal law, that the accused must be presumed innocent until proven guilty. In my work on Parallel Justice, I have articulated a first cousin of this bedrock belief, one that applies to victims of crime. I believe that victims should be presumed credible unless there is reason to believe otherwise.

Too often, the people who work in the agencies of our justice system-- police, prosecutors, judges, corrections, probation and parole officers-- do not give credence to statements made by crime victims. How many of you have had this experience?

Too often, when victims are interviewed by a police officer or a prosecutor, the veracity of the victim's statements is immediately questioned. The officer thinks-- and may act as though-- the victim is making up his or her story, is distorting the truth, or concealing evidence. The prosecutor may think the victim is covering up his or her complicity in the crime. This is one of the most damaging realities for victims because this attitude undermines a victim's faith in government, and in the legitimacy of the rule of law itself.

The principles of Parallel Justice require that we change this reality, and that we presume victims to be credible unless there is hard evidence to the contrary. Imagine how different a victim's experience would be if all government employees were trained to follow this principle. Start out presuming victims are credible unless facts prove otherwise.

A second principle of Parallel Justice is that all victims deserve justice. Too often, we create hierarchies of victims, treating some victims as more deserving than others. I believe a crime is a crime wherever it occurs—whether it's in a grade school, in a nursing home, on a college campus, a shelter for the homeless, or in a prison. And I believe that the “status” of a crime victim is irrelevant. It should not matter if the victim is a student, a patient in a mental health ward, a prostitute, a drug addict, or a prisoner. All victims of crime deserve justice.

One of the distinctions that I've fought hardest against is between victims of violence and victims of financial crimes. For example, some state constitutions provide victim's rights only to victims of violent crimes. Why? Do victims of a financial crime who may have lost their life savings through a fraud not have as much right to attend court proceedings, to speak at sentencing, or to be notified when the offender is paroled from prison? I would guess that members of this organization have encountered your own versions of these hierarchies. Why, for example, should a co-victim of a murder that was committed years ago be treated with less respect – and get less attention – than the co-victim of a murder that was committed last night? All victims deserve justice.

Some of your sons and daughters, and sisters and brothers, whose lives have been lost to crime -- may themselves have violated the law. But if they were also victims of crime, they deserve justice. They should not be written off--and their cases should be as important, and get as much attention, as anyone else's.

I'd like to draw upon one more principle of Parallel Justice to illustrate the strong nexus with the work of your organization. If we implemented Parallel Justice, we would create forums for victims and co-victims of crime to express the harm they have experienced, and to articulate

what they need to rebuild their lives. A victim would be able to say, because of the crime I need to move so I can be safe, or I would like my lock repaired so I can sleep at home, or I have severe depression and need counseling, or, because of the crime, I need a new job and need some training to make that possible. This forum would be a separate opportunity for a victim to be heard-- outside of the Criminal Court context-- allowing the focus to be squarely on the victim and not the offender. This is an essential component of a societal response--an essential component of justice--that we listen to victims' needs and then address them to the extent possible.

I sense that the Families of Homicide Victims and Missing Persons – in your own way – has created a version of a Parallel Justice forum. You have given voice to co-victims and have organized networks of support for each other. In a world dedicated to Parallel Justice, however, you would not create this alone, you would have broad-based public and private support, coordinated community responses, and we would see similar systems of support for all victims of crime.

I hope you get a sense of the excitement I have experienced coming to speak with you today. Without using the same language or the same conceptual framework, you have been experimenting with the same ideas that define the concept of Parallel Justice. So I consider you soldiers in the same fight, and I salute you.

IV. The Agenda Ahead

In many ways, the work you are doing provides a blueprint for our efforts to seek justice for all victims of crime. You have shown the power of a grassroots coalition, unfiltered by bureaucracy, unrestricted by institutional considerations and political agendas. I find great

power in your ideas, and true inspiration in your accomplishments. By focusing laser-like on unsolved cases, you remind us that government's obligation to do everything possible to find and prosecute those who have violated the law-- is absolute.

And, by focusing simultaneously on the needs of co-victims whose cases have not been solved, you remind us that crime's wounds need attention to heal. Society has a distinct, separate obligation, one that we meet only rarely, to help victims of crime rebuild their lives and learn how to move forward.

By organizing the power that comes from your pain, by channeling the ideas born from your anger, by creating a coalition built on your shared experiences, you remind all of us that the concept of justice springs from our shared humanity and that our direct experiences with injustice provide the most powerful reminders of the distance we have yet to travel.

Thank you for your courage and your fine work.