

It was the winter of 1991 and the cop killer's courtroom antics showed utter disdain for the judge and the justice system and virtually showed as much for the family and friends of the slain officer — the other victims of the cold-blooded slaying. The system focused on the rights of the accused, regardless of his antics, while ordering those other victims to sit like zombies in the back of the courtroom.

Just a few weeks ago, there was another trial in the same courthouse for a mass murderer, only this time the crime victims could look directly at the man who had taken the lives of their parents, spouses and siblings, and vent their anguish over how he had shattered their lives. And now, perhaps, some could gain some semblance of closure to their horrible losses. The murderer didn't want to be there, but this time the system tilted for the victims.

This year marks the 15th anniversary of the Victims Rights Amendment to the New Jersey Constitution. On Nov. 5, 1991, for the first time in its history, the 1947 constitution was presented to the voters of New Jersey for an amendment dealing with human rights. With nearly 1.5 million people voting, the amendment was approved by a 6-1 margin.

It provides that crime victims be treated with fairness, compassion and respect, and are entitled to attend all public judicial proceedings involving the person charged with the crime.

The change was a long time coming. It was the product of a grassroots movement that began in the late 1980s, spearheaded primarily by survivors of homicide victims. I was among them. Each had been devastated by the loss of a loved one and most had experienced harsh treatment as victims in the criminal justice system. We believed that without substantive civil rights protected by the constitution, the treatment of crime victims would not improve.

The day after the amendment was approved, I returned to Somerville where the trial of Richard Williams had been ongoing. I was assisting the family of the murder victim, State Trooper Philip Lamonaco. It had not been a pleasant experience for his survivors. His widow, Donna, and their three young children were victims, but with little place in the proceedings.

The scene at the Somerset County Courthouse was ominous. A dozen or so uniformed officers armed with rifles were stationed on the roof. I counted no fewer than 19 armed guards in the courtroom at one point.

When the judge entered, neither Williams nor his attorney stood in respect. In fact, on several occasions when the judge entered, Williams leaned back and put his feet on the counsel table. And what about the victims? After being warned several times they were showing emotion, they were relegated to the last row, forced to sit mute and rigid or face eviction. There was no victim advocate to attend to their needs; there was no separate

room where they could wait and be shielded from the public and press during those long hours.

This trial was a public spectacle and a half-hearted attempt by the defense to turn the courtroom into a stage for one more theatrical version of militants on trial. And the victim's survivors were nothing more than members of the public, privileged to have a seat at the performance — the just-approved but not yet implemented Victims Rights Amendment notwithstanding.

Big change

Well, what a difference an amendment can make!

Nearly 15 years after that trial, I arrived March 2 at the Somerset County court complex, once again to be there for victims of a murderer. Thoughts clung of that earlier trip and the treatment those victims endured. On this day, though, the worst serial killer in state history was being sentenced for committing 22 murders and three attempted murders in four counties. It had been a long and emotionally exhausting journey for the victims to reach this day.

Actually, it was late 2004 when we filed a motion on behalf of the victims of Charles Cullen to compel the killer nurse to be in court and face the victims, including the mother of Cullen's youngest victim. She has said in her affidavit, "It is as important to me as breathing air to have Charles Cullen once again look into my eyes to personally see and to hear of the anguish he has caused."

At issue was the announcement by Cullen's attorney that his client had no intention of being present at his sentencing and confronting the victims of the people he had murdered. We argued the victims have constitutional rights to be treated with fairness, compassion and respect, and their right to give a meaningful impact statement at sentencing under the Crime Victims Bill of Rights (N.J.S.A. 52:4b-36) required the presence of the killer.

This past Feb. 24, Judge Paul Armstrong denied Cullen's motion. Since Cullen had no constitutional right to waive his presence, the court held the circumstances mandated he be there.

The contrasts between how victims were treated in the same courthouse in 1991 and 2006 dramatically underscore the progress — with even more to come — that has occurred for victims over the past 15 years. The proceeding involving the sentencing of Cullen was a resounding recognition by the justice system that the constitutional rights of crime victims are in fact substantive and not merely symbolic gestures. Prosecutors from Somerset, Essex, Hunterdon and Warren counties, along with many of their victim advocates, were in court to assure Cullen would be present at sentencing when the 30-plus murder survivors give their impact statements. Yes, he refused to look them in the eye, but they could look straight at him — and into him.

Respectful

In the courtroom this March, there were no theatrics or disrespect for the court that had been so common 15 years earlier. And the victims were having their first and only chance to have a voice and a face in the justice process involving the killer of their loved ones. They were given the opportunity and they embraced it with dignity.

Many held up pictures of the deceased. Years earlier another battle had been fought to permit the mother of a murder victim, Nielsa Mason, to show her daughter's photo to the sentencing judge while delivering her impact statement. The Appellate Division and Supreme Court refused to hear our requests for emergent relief after the trial judge's denial, and the victim's mother never had a chance to take her daughter's photo out of the shopping bag she brought to court. Soon thereafter, a bill was enacted, amending the Crime Victims Bill of Rights to permit such a photo at sentencing.

Obviously, the victims rights movement has come a long way in New Jersey and nationwide since 1991. The New Jersey Crime Victims Law Center that I started in 1992, which provides *pro bono* assistance to victims of violent crime, is in its 14th year, and eight *pro bono* victim legal clinics have since been established in other states. The National Crime Victim Law Institute, which filed an *amicus curiae* brief in the Cullen case, is leading a victims rights legal advocacy movement nationwide.

So many battles have been won along the way. In the past 15 years, the New Jersey legislature has passed more than 65 laws affecting the rights of crime victims. The Victims Rights Amendment has become the lynch pin in advancing the rights of crime victims in New Jersey courts. Relying on the authority of that amendment, I and others have represented the rights of victims either directly or as *amici* in numerous cases.

These include:

ž *State v. Mohammed*. The Supreme Court in 1996 upheld the constitutionality of the portion of the murder statute that permits victim impact testimony in death penalty cases.

ž *State v. Carey*. The Supreme Court in 2000 held the defendant can receive consecutive sentences in a multiple victim auto death case.

ž *In the Matter of M.G.* The Appellate Division in 1995 permitted attendance by survivors in a juvenile homicide case.

ž *State v. Bennett*. The Appellate Division in 2001 upheld a trial court's decision permitting a homicide victim's surviving children to wear a button in the courtroom showing the victim's face.

ž *Asbury Park Press v. Ocean County Prosecutor*. The newspaper's request in 2004 under the Open Public Records Act for a copy of a 9-1-1 tape containing the dying victim's last words was denied.

ž *State v. WC*. Issuance of a protective order in 1995 preventing the release to the defense of explicit photographs of the sexual assault victim taken by the defendant when the victim was a child.

ž *State v. Kinzel*. Ruling in 1997 permitting a homicide victim's mother to use a video of the victim while delivering her impact statement at sentencing.

ž *State v. Jimenez* and *State v. Thomas*. Denial in 2005 of change of venue in murder cases where relocation would negatively impact the victims.

Still developing

There are other cases as the body of law continues to develop. Some may have indirect, but crucial, impact on victims. For example, the Law Division 1997 ruling in *State in the Interest of K.P.* that the victim has standing in a juvenile prosecution to oppose access to court proceedings by the press has received national acclaim in the victims rights community for its importance.

Like any social movement, the victims rights effort will continue to be a day-by-day, ebb-and-flow quest for progress. It often has been mixed with the sweet victory of justice, the frustration of indifference or just plain lack of understanding by those who should understand.

The education process is far from over. Legal battles, too, remain ahead. But the issue simply is one of justice. Former Supreme Court Justice Marie Garibaldi in *Mohammed* stated it succinctly: "We know exactly what the founders of this constitutional amendment intended — fair treatment for victims."

When I left the Somerset County Courthouse in November 1991, I knew that achieving fairness, compassion and respect for crime victims in the justice system was a dream and a journey with no road map. I and others had no idea where the dream would take us. As I drove away from the same place 15 years later, I knew we had been traveling in the right direction.