

# The Criminal Record

## Rights Needs Power: The Victim in Criminal Justice

On January 25, 2008, legal academics and practitioners gathered at Stanford to provide a series of presentations for a day-long symposium titled “Rights, Needs, Power: The Victim in Criminal Justice.”

This symposium explored emerging and evolving issues for victims of crime, including victims’ voices in mass violence prosecutions, the central role of victims’ needs in Restorative Justice practices, Victims’ Rights Amendments and the current state of Victims’ Rights Law, and the effect of mandatory arrest policies on victim autonomy and safety in domestic violence cases. By exploring a myriad of avenues for increasing the accessibility and effectiveness of systems of justice for victims, the symposium fostered lively, complex, and nuanced dialogue on the needs and rights of victims of crime. The panels were moderated by Professor Robert Weisberg, Edwin E. Huddleson, Jr. Professor of Law and Faculty Director

of the SCJC; Kara Dansky, Executive Director of the SCJC; and Sujatha Baliga, Consultant to the SCJC.

Professor Robert Weisberg led the day with opening remarks, reflecting that the 30 year anniversary of rise of the Victims Rights Movement was an ideal time for “intellectual stocktaking on where things stand philosophically, morally, and socially” for victims of crime. He lauded the Victims’ Rights Movement for demanding scrutiny of crime victims’ treatment in the criminal justice system: “In seeking a role in something larger, they caused us to have to engage in some very deep thinking about what those larger things are.”

The first panel of the day addressed



Howard Zehr, Professor of Sociology and Restorative Justice, Eastern Mennonite University

the role of victims in mass violence prosecutions. Professor Wayne Logan presented from his forthcoming article titled “Confronting Evil: Victims’ Rights in an Age of Terror.” Logan addressed the problems of the use of victim impact evidence (VIE) in trials of mass violence, exploring its efficacy in the trials of Eichmann, Massasoui, and McVeigh. Logan illustrated *(continued on pg. 3)*

**A NEWSLETTER OF THE STANFORD CRIMINAL JUSTICE CENTER:** Stanford’s vehicle for promoting and coordinating the study of criminal law and the criminal justice system, including legal and interdisciplinary research, curriculum development, and preparation of law students for careers in criminal law.

## Director's Note



We at the SCJC were thrilled to begin the spring 2008 semester focusing on a topic that does not often receive much attention in legal academia, but which is crucial to the successful functioning of the American system of criminal justice – the voices of crime victims. The question of crime victims presents a real, and unfortunate, paradox – at the individual case level crime victims feel unheard, uncared for, and marginalized, but in the arena of policy-making crime victims wield extensive power to control legislative outcomes. We hope that this conference stimulated the scholars and activists present to think carefully about this paradox, to look closely at how we might improve the quality of justice experienced by crime victims, and to examine critically how some policies intended to protect crime victims have unintended consequences that do more harm than good to victims' sense of safety and well-being.

I am also excited to announce that beginning this fall I will be teaching and supervising those second and third year Stanford law students who are participating in the law school's externship program in criminal law or criminal justice policy agencies and organizations. Students enrolled in this program work in the field for 16 to 20 hours per week, attend a weekly seminar, and complete a series of critical thinking and reflection papers. The program is designed to give students interested in the practice of criminal law early exposure to the day to day work of criminal law practitioners, the ethical questions that all prosecutors and defense attorneys face, and the complicated – often tragic – situations that criminal law practitioners encounter in their work on a daily basis.

Perhaps the most exciting news for the SCJC is the upcoming conference of the National Association of Sentencing Commissions (NASC), which we're hosting in August in San Francisco. I began attending NASC's annual conferences in 2006, curious to see whether California lawmakers might learn something from some of the other states that had created sentencing commissions and developed sentencing guidelines systems in previous years. I felt then, and continue to believe now, that California has a great deal to learn from other states about how to develop sane sentencing policies that keep prison populations from escalating without threatening public safety. I am honored to be hosting this year's NASC conference and hope many of you will come. In considering whether or not to attend, you should know that Mark Twain *did not* say "The coldest winter I ever spent was a summer in San Francisco." He *did* say, however, "I have always been rather better treated in San Francisco than I actually deserved."

Kara Dansky

Executive Director, Stanford Criminal Justice Center

### SCJC Research Fellowship

We are excited to announce that David Ball (J.D. '06) has agreed to stay on at the SCJC for another year. During the 2008-09 academic year, David will continue his own research concerning the legal implications of *Blakeley v. Washington* in the parole context and diversion of mentally ill offenders from the criminal justice system. David will also take the lead in coordinating the Executive Sessions on Sentencing and Corrections.

### Arthur Liman Public Interest Fellowship

The Arthur Liman Public Interest Program at Yale Law School supports undergraduates and graduate students working in the public interest. Fellowships are offered to students at Barnard, Brown, Harvard, Princeton, Spelman, and Yale. This year, one of the Liman fellowship has been awarded to Eric Rodriguez, who will use his fellowship to conduct public interest research at the SCJC during the summer of 2008.

### SCJC Consultant Awarded Soros Justice Fellowship

Sujatha Baliga, an SCJC consultant responsible for coordinating the symposium entitled *Rights, Needs, Power: The Victim in Criminal Justice* highlighted in this issue of *The Criminal Record*, was recently granted a Soros Justice fellowship to assist the Oakland juvenile justice system in adopting restorative justice practices to decrease its reliance on incarceration and other forms of punishment. Her project will implement a system to help offenders and victims of crime collectively resolve conflicts and root out the causes of juvenile offending. By tracking youth participants and assessing victim and community responses, the project aims to show that restorative practices can decrease the number of youth who end up in facilities, strengthen neighborhoods most affected by mass incarceration, and save public dollars.

## Rights, Needs, Power

(continued from pg. 1)

how VIE can backfire and devalue victims' voices in mass violence prosecutions, and suggested that truth commissions may provide a more suitable format for giving voice to the horrors victims of mass violence undergo. Professor Eric Stover gave a sweeping history of the development of international tribunals, citing the need for such tribunals which grew from the atrocities of Argentina, Rwanda, Yugoslavia, Guatemala, and Iraqi Kurdistan, among others. In describing his personal work as a public health official in exhuming bodies, he explained in moving detail his work's three-fold purpose: to establish historical records, to collect evidence for trial, and to identify remains to return to families for proper burial. He elucidated the differences in the burden of evidence for proving Genocide, Crimes against Humanity, and War Crimes under the Geneva Convention. Author of *The Witnesses: War Crimes and the Promise of Justice in the Hague*, Stover shared his groundbreaking study of the experiences of victims and witnesses who have testified before an international war crimes tribunal.

A lively debate with audience members followed the next presentation, which examined the criminal justice system's approaches to addressing domestic violence and sexual assault. Professor Tom Linger opened the panel by presenting his forthcoming paper examining the impeachment of accusers in sexual assault cases with evidence of simultaneous civil suits, and proposed a rule of evidence which would limit such impeachment. Professor Donna Coker's remarks focused on over-reliance on the criminal justice system to redress domestic violence. Coker noted that while mandatory policies initially appeared necessary to redress state inaction toward domestic violence, further analysis is required about "the harms that flow from mandatory arrest and no-drop prosecution policies and the over-focus on crime centered responses to domestic violence." In

addition to what Professor Coker called the "autonomy risk that is inherent in mandated responses," she addressed the additional negative impacts of mandatory policies on "poor women, poor women of color, and undocumented women who are already vulnerable to intersecting layers of government control through child welfare, through immigration, through the criminal justice system, through welfare." Professor Coker detailed the risks of "further entanglement with these systems" for women marginalized in multiple arenas. Professor Linda Mills then described the successes of the use of restorative justice and peacemaking circles in Nogales, Arizona to address violence between intimates, and offered numerous statistics to challenge the traditional view of violence between intimates being solely caused by male offending.

Paul Cassell, Former U.S. District Court Judge, and current Professor of Law at S.J. Quinney Law School and champion of victims' rights, delivered the keynote address on "Marcy's Law," a comprehensive Crime Victims Rights Amendment which will appear on California ballots in November. Cassell noted that many past statutory and constitutional changes billed as victims' rights initiatives are merely "feel good" amendments or work to increase the ease of prosecutions without actually delivering any true substantive rights to victims as they navigate criminal procedure. Cassell argued that Marcy's law would give "teeth" to what have been chimeral rights of victims under the 1982 Proposition 8 legislation, including the right to be heard before the tribunal, the right to privacy regarding certain medical and psychiatric records, and the right to be notified of a defendant's release date. Outlining the seventeen areas in which "Marcy's Law" would buttress victims' rights, Cassell urged his California audience to vote for the amendment in November.

The next panel addressed restorative justice's offerings to victims of crime. Sujatha Baliga introduced the panel by noting the value of legal academia's consideration of

(continued on pg. 7)



Sujatha Baliga, Conference Coordinator and SCJC Consultant

Sponsored by The Stanford Criminal Justice Center (SCJC) and coordinated by SCJC Consultant Sujatha Baliga, the conference hosted distinguished speakers and panelists including:

Doug Beloof  
(Lewis and Clark Law School)

Paul Cassell  
(University of Utah S.J. Quinney College of Law)

Donna Coker  
(University of Miami School of Law)

Marcus Dubber  
(SUNY Buffalo School of Law)

Lynne Henderson  
(William S. Boyd School of Law at UNLV)

Don Johnson  
(Hennepin County District Attorney's Office)

Tom Linger  
(University of Oregon School of Law)

Wayne Logan  
(Florida State University College of Law)

Linda Mills  
(NYU School of Law)

Eric Stover  
(University of California, Berkeley)

Robert Weisberg  
(Stanford Law School)

Howard Zehr  
(Eastern Mennonite University)

## Professor Angela Davis Speaks on Prosecutorial Discretion

Angela Davis, Professor of Law at American University and former head of the famed Public Defender Service in Washington D.C., spoke to a large group of students on the theme of the often under-acknowledged power of prosecutors in the American criminal justice system. Professor Davis, author of the recent prize-winning book on the subject, *Arbitrary Power*, traced the contemporary evolution of the ever-expanding power of prosecutors, from mandatory minimum sentencing laws that enhance prosecutorial control over the outcome of cases to the increasing distortions in the role of prosecutorial offices through electoral politics. She argued that these system flaws have helped to explain large manifest racial disparities in criminal justice outcomes, especially in patterns of initial charging and plea-bargaining decisions. Prosecutors not only hold vast power, Davis argues, but they are also under-regulated and lack accountability. She called for more civic awareness of the potential of such new creative mechanisms of accountability and review commissions, disciplinary boards, and reform of local and state electoral processes.



Angela Davis, Professor of Law at American University and former head of Public Defender Service in Washington D.C.; Author, *Arbitrary Power*

## The Stanford Executive Sessions on Sentencing and Corrections

The Stanford Executive Sessions on Sentencing and Corrections is an innovative form of policy working group designed to bring together key public, academic, and organizational leaders in the field of criminal justice policy. The goal of the Executive Sessions is to move cooperatively towards reform of California's sentencing and corrections systems, as well as the criminal justice system as a whole. Our mission in the 2008 Executive Sessions is to encourage collaborative criminal justice policy development. We seek to promote public/private partnerships with state, county, and municipal governments in the criminal justice arena; create opportunities for the use of social science research to aid in the development and implementation of empirically-validated, data-driven criminal justice programs and policies; and serve as a public service consultant to the State of California and its fifty-eight counties. For our March 2008 meeting, we brought together California Chiefs of Probation, the California Administrative Office of the Courts (AOC), and state trial judges to address the role of information sharing and operations integration in the front-end of sentencing, where crucial decisions are made about whether to incarcerate offenders or divert them into probation or treatment. The group convened at the March meeting concluded that PSRs present an opportunity to move towards evidence-based policies and practices, that AOC should continue to meet with counties to promote information sharing between its Criminal Case Management System and other systems, and that counties should continue to explore their own avenues of data integration.



## ACLU Drug Law Reform Project

The ACLU Drug Law Reform Project was founded in 1998 in order to improve public understanding of, and government response to, drug use and drug policies. DRLP Litigation Director Allen Hopper began the presentation by describing ways in which lawyers at the DRLP use litigation not only to improve the state of our country's drug laws and policies, but also as a vehicle for protecting our citizens' civil rights along the constitutional spectrum. DRLP Deputy Director Jay Rorty then followed up with a discussion regarding ways to conceive of criminal cases as opportunities to engage in impact litigation, and the pitfalls of doing so. Following the presentation, DRLP Staff Attorney Carly Ware met with a small group of students to discuss her work on a case involving the Seattle Police Department's selective enforcement of drug laws against people of color and opportunities for SLS students to get involved in research projects with the DRLP.

## Understanding CA Sentencing

In March 2008 SCJC Executive Director Kara Dansky presented her work on the history of California's sentencing system at the USF Law Review's symposium, *Confronting the Crisis: Current State Initiatives and Lasting Reform for California's Prison Conditions*. On examining California's punishment system over the course of the last 150 years, three themes emerge: (1) that California has always, from the beginning of statehood, incarcerated more people than its correctional apparatus can handle; (2) that, unlike many of its counterparts on the east coast, California has never engaged in a serious and genuine examination of how it chooses to deal with criminal offenders; and (3) that throughout California's history there has been a tug of war between the legislative and executive branches of government over who is responsible for reducing excessive sentences and alleviating overcrowding, with each branch hoping the other will win. If California is going to adopt a policy of increasing its prison capacity indefinitely, it should do so formally, after a thorough evaluation of the alternatives and an honest examination of the utility of such a policy.

## In re Lawrence

Attorneys from Munger Tolles & Olson LLP have filed an amicus curiae brief in the California Supreme Court on behalf of the SCJC in the matter of *In re Lawrence*. Sandra Lawrence served 25 years of a sentence of seven years to life for a murder that she committed in 1971. During her 25 years of confinement, Ms. Lawrence had no disciplinary problems, held several prison jobs, participated in numerous programs to improve her chances of finding employment upon release, and obtained her MBA. The California parole board recommended her for release on parole on three separate occasions. The first of these recommendations was overturned by Governor Wilson, the second by Governor Davis, and the third by Governor Schwarzenegger. In August 2005 the board again recommended her for parole. Governor Schwarzenegger again overturned the board's recommendation and Ms. Lawrence filed a habeas action to obtain her release. The matter is now before the state Supreme Court. In its brief, the SCJC takes the position that: (1) the Governor's decision to overturn the 2005 parole recommendation was purely retributive in nature, which is antithetical to the view that parole decisions are intended to be based on a prisoner's having been rehabilitated; and (2) if the Governor's decision to overturn the 2005 parole recommendation was based on the view that Ms. Lawrence was not sufficiently rehabilitated, such a view was not supported by the evidence.

## The Fresno Juvenile Behavioral Health Court

Since August 2007 the SCJC has been conducting a process and outcome evaluation of the Fresno Juvenile Behavioral Health Court (JBHC). During the Spring of 2008 SCJC engaged a team of Stanford second and third year law students to observe the JBHC, review the existing literature on the benefits and drawbacks of juvenile behavioral health courts, interview all of the JBHC team members, and write interim reports that the SCJC is required to submit to JBHC during the course of the evaluation. The SCJC was pleased to have Patrick Garner of the National Center for Youth Law speak as a guest lecturer on the topic of juvenile behavioral health courts. The final evaluation is due in August 2008.

### Legal Studies Workshop

This year Criminal Law Professor and SCJC Faculty Director will be teaching Stanford's Legal Studies Workshop, designed to give students a broad introduction to legal scholarship through exposure to current academic writing in a range of fields and close attention to students' own scholarly writing projects. The Workshop consists of two components: (1) a student-faculty colloquium, considering papers on a range of subjects, with the author, enrolled students, faculty, and other auditors present; and (2) a systematic introduction to legal scholarship to aid students in producing a piece of legal scholarship of potentially publishable quality.

### Criminal Law Externship Seminar

SCJC Executive Director Kara Dansky will be teaching and supervising the students who have been selected to participate in the criminal law component of SLS's Externship Program during the 2008-09 academic year. Selected students will examine the ethical, legal, and practical questions associated with the practice of criminal law by working directly in a criminal law or criminal justice agency or organization. Through a combination of supervised fieldwork with a prosecutor's office or public defender's office and participation in weekly seminars, students are encouraged to evaluate legal theories and ideals in the context of their practical experience.

## DNA Collection: Legal, Social, and Political Implications

SCJC has been involved in a working group of scholars and social justice organizations designed to find ways of encouraging the development of a progressive yet precautionary approach to genetic technologies that does not sacrifice our

civil and human rights. The material contained in the box was developed by the ACLU of California in an effort to clarify some misunderstandings regarding the purposes and usefulness of DNA collection.

### **Myth #1: DNA databank expansions make us safer.**

*Fact: Bigger is not better.*

Heedless expansions of DNA databanks overwhelm DNA labs and draw attention and resources away from high priority cases. This can actually make us less safe. In Britain, where in recent years the DNA database has been flooded with thousands of arrestees and children as young as 10, the number of crimes resolved has not significantly increased and crime rates have not declined.

### **Myth # 2: DNA testing is infallible.**

*Fact: Like any other procedure that relies on human precision, DNA testing is susceptible to human error.*

There are innumerable opportunities for error in the DNA sampling process – at the scene of the crime and in forensic laboratories. Cases of mislabeling, switching samples, misinterpreting results, and even simple clerical errors have led to miscarriages of justice, resulting in mistaken convictions or prolonging incarceration for innocent people. Despite the credibility of conclusive DNA test results, there is always room for human error.

### **Myth #3: DNA is no different from a fingerprint.**

*Fact: DNA contains much more personal information than a fingerprint.*

While a fingerprint is a 2-dimensional representation of the surface of your fingertips, DNA contains a tremendous amount of sensitive information about you, including your susceptibility to certain diseases, family history, and ancestry. Concerns of misuse of this information are driven by current laboratory practice, in which each individual's biological sample is retained along with the generated DNA profile.

### **Myth #4: Creating a massive DNA database will prevent rape.**

*Fact: Expanding DNA databanks to people unlikely to ever commit a rape will do nothing to prevent rape and may even impede rape investigations.*

While DNA testing has helped to resolve many rape cases, it has not significantly reduced the number of rapes committed. Part of the reason for this is that most rapes are between acquaintances rather than strangers, and often take place in the context of violent relationships. Moreover, backlogs created by DNA databank expansions have in fact interfered with rape investigations. A recent report on the expansion of California's DNA databank shows that expanding the database to all felons resulted in delays of six months or more in analyzing rape kits – the evidence from the crime scene. In one case, a rapist attacked two more victims, including a child, while his DNA sat on a shelf awaiting analysis.

### **Myth #5: If you've done nothing wrong, you don't have to worry about your genetic privacy.**

*Fact: DNA collection and storage place everyone's privacy at risk and innocent people have already been harmed.*

Because DNA collection and storage are carried out by fallible human beings, there is always the potential for errors and corruption in databank management. In recent years, a scandal in the forensic crime lab in Houston, Texas, has led to the reexamination of hundreds of convictions and the exoneration of several innocent people wrongfully convicted on the basis of DNA evidence alone. Furthermore, every person has a privacy interest in the information contained in their DNA – it is information you would not want falling into the hands of employers, insurance companies, and other actors who could use it against you. Allowing our government to permanently retain biological samples – in addition to the generated DNA profiles – jeopardizes everyone's genetic privacy.

– ACLU of Northern California

## Rights, Needs, Power

(continued from pg. 3)

the emergent paradigm shift from traditional to restorative justice: “as restorative justice programs begin to grow across the nation, we see not just supplementation of our existing criminal justice system, but also a full supplanting of portions of our system with restorative practices.” Howard Zehr, internationally acclaimed restorative justice expert and author of the seminal text *Changing Lenses: Reflections of Crime Victims*. Through his work with victims, Zehr learned: “They want answers. And they don’t want the speculative answers they get out of law enforcement, and they don’t want the constrained answers they get out of the legal process where everything that’s not legally relevant gets stripped aside and all they get are what a lawyer friend of mine calls ‘lawyer stories.’” Restorative practices provide an opportunity for victims to receive answers to the questions that plague them: “Why you broke into my house, and why you stole these things that were obviously of no commercial value, or what were my daughter’s last words, or what was my son doing on that bridge at night, was he dealing drugs?” Zehr noted that the “central focus of justice is making sure that offenders get what they deserve. Inherently in this system the victim is still in second place because the crime is against the state.” Zehr proposed restorative justice as an alternative to the present rights-based paradigm: “When we wrong someone, we violate people and relationships. We do harm, and whenever we do harm, it creates an obligation to repair the harm as much as possible. If that’s true, then instead of the central focus being on the offender getting what they deserve, it would shift: the victims get their needs met and offenders are held accountable.” Zehr was followed by Don Johnson, who spoke of his experiences as a prosecutor using restorative approaches to youthful offending in Hennepin County, Missouri. Johnson noted that his primary



### Rights Needs Power: The Victim in Criminal Justice Photo Gallery

**Rows, left to right:** Linda Mills, Professor of Social Work, Public Policy and Law, New York University

**Lynne Henderson**, Professor of Law, William S. Bod School of Law, University of Nevada, Las Vegas

**Suzanne Neuhaus**, Victim Services Specialist, California Department of Corrections and Rehabilitation

**Paul Cassell**, Professor of Law, S.J. Quinney College of Law, University of Utah, Former Judge, United States District Court for the District of Utah, with **Robert Weisberg**, Edwin Huddleson, Jr. Professor of Law, Stanford Law School

**Howard Zehr**, Professor of Sociology and Restorative Justice, Eastern Mennonite University

**Marcus Dubber**, Professor of Law and Director, Buffalo Criminal Law Center, SUNY Buffalo School of Law, with **Kara Dansky**, Executive Director, Stanford Criminal Justice Center and Lecturer in Law, Stanford Law School

**Sujatha Baliga**, Conference Coordinator and SCJC Consultant

**Donna Coker**, Academic Associate Dean, University of Miami School of Law and

**Tom Lininger**, Professor, University of Oregon

**Lynne Henderson**, Professor of Law, William S. Bod School of Law, University of Nevada, Las Vegas; **Doug Beloof**, Professor of Law, Lewis and Clark Law School, Portland, Oregon;

**Markus Dubber**, Professor of Law and Director, Buffalo Criminal Law Center, SUNY Buffalo School of Law; and **Robert Weisberg**, Edwin Huddleson, Jr. Professor of Law, Stanford Law School

concern as a prosecutor is that victims “begin their journey toward healing.”

The final panel addressed Victims Rights and the Law. Moderator and Executive Director of the SCJC Kara Dansky noted that this is a particularly challenging area of the law because it questions “whether victims rights can accommodate defendant’s rights and vice versa.” Professor Beloof, co-author with Professor Cassell of a law textbook

titled *Victims in Criminal Procedure*, began the panel by describing reluctance of “courts in the case law to breathe any life into the victim’s right to fairness.” He spoke of the need to expand the concept of a right to fairness to “mean something more than simply being aspirational.” Noting that criminal defendants have been equally unsuccessful in having their due process rights enforced by courts, Professor Beloof concluded rights are generally not (continued on pg. 8)

## National Association of Sentencing Commissions Annual Conference

August 3-5, 2008

Every year the NASC Conference brings together hundreds of judges, legislators, academics and policymakers from around the country to examine our nation's experiences with sentencing laws and practices, and to identify emerging issues and innovations. The Stanford Criminal Justice Center is hosting the 2008 NASC Conference in San Francisco, California, on August 3-5. The conference will be held at the impeccable Palace Hotel, one of the city's finest. California is facing a seemingly intractable prison overcrowding crisis and a potential federal take-over of our state prison system. Moreover, there is now growing agreement among practitioners, policymakers, and academics that California's post-1976 sentencing structure has contributed to serious problems that no one anticipated in 1976 – a correctional system plagued by egregious overcrowding, unsafe conditions for officers and inmates, racial imbalances, high recidivism, a troubled parole revocation system, increasing expenditures, a lack of systematic data collection, and an incoherent sentencing structure. Many states have faced similar problems, and several have repaired their sentencing and corrections systems with no consequent threat to public safety. This year's NASC Conference is an opportunity for California to learn what steps these states have taken and to tackle some of the problems unique to the Golden State. Please visit the conference website for more information: <http://scjc.stanford.edu/nasc2008>.

## Executive Sessions on Sentencing and Corrections

June 2008 Executive Sessions Meeting – June 27, 2008

In the second 2008 Executive Sessions meeting we will focus on two key geographic regions: San Diego and its surrounding counties and the San Francisco Bay Area. This geographic focus will enable Executive Sessions participants to delve more deeply into the specific issues that confront criminal justice and government officials at the county and city levels and to address the complexities of information sharing and organizational cooperation between contiguous counties.

September Executive Sessions Meeting - September 12, 2008

December Executive Sessions Meeting - December 5, 2008

## Rights, Needs, Power

(continued from pg. 7)

enforced unless they are concrete and specifically enumerated. Professor Marcus Dubber followed with a historical account of the problems of punishment in a free society, and explored issues of personhood that arise in the context of crime. Professor Lynne Henderson, author of the first critical law review article addressing victim's rights ("The Wrong of Victims' Rights") spoke of how "the role of the victim is under-theorized and not empirically grounded." Henderson noted that victims are too often exercising, for example, the right to be heard "while judges are marking up other things or typing on their laptops." Henderson criticized proposed federal victims' bill of rights as well as Marcy's Law for failing to provide "strong rights," arguing that such a bill would not help victims because the rights they propose are not "trumps in any way... You could go for a writ if you were denied the right to participate, but that's it. You can't sue for damages. You can't sue to force anyone to do anything to honor your rights."

Professor Weisberg closed the conference with remarks addressing the sociology of crime, and stressed the preponderance of intragroup offending and the failure of the press to present an accurate view of what victimization looks like in American society. He noted that the Center was "quite lucky to get the stars of the field" and lauded the participants for sharing new "ideas for more empirical work, more foundational philosophical thinking, and more legal analysis."

### About *The Criminal Record*

The Stanford Criminal Record is produced by the staff of the Stanford Criminal Justice Center.

**Executive Director:** Kara Dansky

**Editor:** Lara Luepke

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Please send them to:

**The Stanford Criminal Justice Center**

Crown Quadrangle

559 Nathan Abbott Way

Stanford, CA 94305-8610

**Contact Information:**

Kara Dansky

Executive Director

650 724-5786

[crim@law.stanford.edu](mailto:crim@law.stanford.edu)