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"TORT REFORMS" LET CRIMINALS OFF THE HOOK

In commenting on a New York "tort reform" proposal, Hilda R. Udasco, Board Member of Parents of Murdered Children of New York State said, "Even criminals like rapists would benefit from the provisions of this bill." Here's how "tort reforms" can hurt crime victims and let criminals off the hook:

LAWSUITS ARE AN INCREASINGLY IMPORTANT AND EFFECTIVE TOOL FOR CRIME VICTIMS SEEKING TO REBUILD THEIR LIVES.

According to the National Center for Victims of Crime, "crime victims and their families often suffer significant financial losses in the aftermath of crime. The criminal justice system does little to address the financial hardship resulting from crime. ... Many crime victims file civil lawsuits against the perpetrator and other responsible third-parties to be compensated for the damages they have incurred as a result of the crime." Letter to from Jeffrey R. Dion, Chief Counsel, Civil Justice Division National Center for Victims of Crime, to Friends of Crime Victims, December 28, 1998.

TORT REFORMS MAKE IT MORE DIFFICULT FOR CRIME VICTIMS TO PURSUE CIVIL SUITS FOR INJURIES SUFFERED DURING A CRIME.

Joyce Gorycki, co-chair of a New Yorkers Against Gun Violence chapter, said, "I know firsthand that gun violence can happen to anyone. My husband James was killed in the 1993 Long Island Railroad massacre. It is critical that victims of gun violence have the right to hold their assailants and others legally responsible in court. [Tort reform laws] take these vital rights away." For example:

- **CAPS ON DAMAGES.**

When a jury awards damages, the amount is based on evidence presented at trial of what is required for the victim to reestablish the quality of life she enjoyed prior to her victimization. Caps are unfair and arbitrary as they would prevent the crime victim from being fully compensated. See, e.g., Letter to from Jeffrey R. Dion, Chief Counsel, Civil Justice Division National Center for Victims of Crime, to Friends of Crime Victims, December 28, 1998.

- **LIMITS ON JOINT AND SEVERAL LIABILITY.**

Joint and several liability protects victims if more than one wrongdoer is fully responsible for causing an injury when one is insolvent or unable to pay. This doctrine is often invoked in cases where "third parties" did not commit the crime against the victim but did, in some way, contribute to the commission of the crime, such as a school district that knowingly employs a child molester, apartment landlords, hotels, stores, hospitals, and other places where crimes occur. Limiting joint and several liability prevents significant recovery for most victims of violent crime since the criminal likely has little money or few assets. See, e.g., Letter to from Jeffrey R. Dion, Chief Counsel, Civil Justice Division National Center for Victims of Crime, to Friends of Crime Victims, December 28, 1998.

For example, in a 1994 Ohio case, a gun show's security was so lax that two teenage boys walked out with three handguns and several knives. When local resident Greg Pavlides chased them later for neighborhood vandalism, they shot him. He was paralyzed from the waist down. Because the gun show was negligent in letting the youths walk out with dangerous weapons, the jury found it liable along with the boys. The boys had no assets or income, and in fact were incarcerated. An Ohio jury found the youths and the gun show fully liable under joint and several liability and the gun show compensated Mr. Pavlides for his injuries. Without this doctrine, compensation to Mr. Pavlides would have been severely reduced. *Pavlides v. Niles Gun Show*, 637 N.E. 2d 404 (Ohio App. 1994); Memo from Kristen Rand, Violence Policy Center, to New York Gun Control Activists, September 8, 1998.

- **LAWSUITS HAVE PROTECTED MILLIONS OF AMERICANS FROM VIOLENT CRIMES**

In the study *Lifesavers: CJ&D's Guide to Lawsuits that Protect Us All*, the Center for Justice & Democracy documents numerous cases involving hate crimes and other crimes of violence, as well as official and police misconduct, that have led to specific safety improvements benefiting large segments of the population. These include cases that have bankrupted hate groups or held accountable those responsible for violent crimes on cruises lines, in parking lots, at schools and at workplaces. These cases provide strong evidence that we as a society would suffer tremendously if our civil justice system were weakened in any significant respect.

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