



## **Arizona Voice for Crime Victims Profile**

### **What is the mission of your agency and how does the RISE Project fit within that?**

[Arizona Voice for Crime Victims](#)' (AVCV) mission is to ensure that crime victims receive their rights to justice, due process and dignified treatment throughout the criminal justice process. We achieve our mission through providing no cost legal representation and social services to victims of crime and providing education and technical assistance on crime victims' rights. The vision of AVCV is to establish a compassionate justice system in which crime victims are informed of their rights, fully understand those rights, know how to assert their rights, have a meaningful way to enforce those rights, and know how to seek immediate crisis intervention when they become victims of crime. The [RISE Project](#) has allowed AVCV to serve victims who are truly underserved: child-victims who are in the custody of the Arizona Department of Child Safety (DCS), for the purpose of asserting and enforcing their rights under the Arizona Victims Bill of Rights during the course of a criminal prosecution. Many of the child-victims in DCS custody are left without an appropriate victim representative as their parent or legal guardian are often the defendant in ongoing criminal proceedings. Through our partnership with DCS, AVCV has been able to give the most vulnerable of victims, child-victims, a voice and an opportunity for meaningful participation, as our VBR directs, throughout the criminal justice process.

### **When and how did you first start working with NCVLI?**

AVCV and NCVLI have been collaborating partners since NCVLI's inception. AVCV's founder, Steve Twist, and Professor Doug Beloof, from Lewis and Clark Law School, had the vision that led to the creation of NCVLI. With assistance from Senators Jon Kyl and Diane Feinstein, who were also sponsors of the federal Crime Victims' Rights Act legislation, NCVLI was funded. Over the years, AVCV and NCVLI have partnered to provide training and technical assistance on victims' rights issues and file amicus briefs in cases in appellate courts across the country where the outcome will impact the constitutional or statutory rights of victims. AVCV values our partnership with NCVLI and looks forward to what we will accomplish together in the years to come.

### **Tell us about a recent success/deliverable of your RISE Clinic.**

AVCV recently received a ruling from the Arizona Supreme Court on two important victims' rights issues: seating of victims' counsel in the courtroom and whether federal due process requires a cap on restitution. The Arizona Department of Child Safety (DCS) referred this case to AVCV when the child-victim's rights were violated. Over the years there have been many rights violations that AVCV has had to fight to remedy. For instance, initially, the prosecuting

agency did not view the child-victim as a legal victim despite the express statutory provision recognizing siblings of murder victims as legal victims. Thus, the prosecuting agency had arranged for the child-victim to submit to defense interviews for each of the four defendants. Additionally, the state negotiated the first plea offer without conferring with the victim and without any provision addressing restitution. After a long fight for the victim, the Court of Appeals issued a published opinion holding that the sibling of a homicide victim is a victim and that there can be more than one victim in a case. The Court of Appeals also directed the trial court to ensure the victim had an opportunity to confer with the prosecution about the plea agreement. When counsel for AVCV was finally able to confer with the prosecution, she noted that the plea agreement did not address restitution. Fortunately a provision addressing restitution was added but then the state and defense agreed to cap restitution at \$500,000 without regard to the victim's actual losses. During the change of plea and sentencing hearings, AVCV objected to the restitution cap but the trial court upheld the cap relying on a line of cases that predated Arizona's Victims Bill of Rights. During this trial-level litigation, victim's counsel was directed to sit in the gallery rather than the well of the court. AVCV filed again with the Court of Appeals. After oral argument on the matter, the Court of Appeals declined to accept jurisdiction and AVCV filed for review with the Arizona Supreme Court. Oral argument was held on November 20, 2019. AVCV argued that restitution caps in plea agreements are an impermissible waiver of the individual rights of the victim and are not required as a matter of state or federal due process. Additionally, AVCV argued that crime victims have a right to have their counsel seated in the well of a courtroom when a victim's constitutional or statutory right is at issue. On August 4, 2020, the Arizona Supreme Court overruled three pre-VBR cases requiring restitution caps, and held that restitution caps violate the victim's right to restitution for their full economic loss and that victim's counsel has a presumptive right to be seated in the well of the courtroom.

### **What motivates you to do the work that you do with victims' rights in your community?**

AVCV is motivated to provide legal representation and social services to victims of state and federal crimes in Arizona to ensure victims' constitutional and statutory rights are enforced and that victims are treated with fairness, respect, and dignity and remain free from intimidation, harassment, or abuse as required by the Arizona Victims Bill of Rights. Despite the 30th anniversary of the passage of these rights, there are still victims who are denied an opportunity for meaningful participation during the process, do not have their own counsel or even know they can have counsel, or are in need of social services. Further, there are constitutional provisions that have yet to be addressed by Arizona's appellate courts including a definition of due process for a victim and a victim's constitutional right to a speedy trial. The potential for the advancement of victims' rights motivates AVCV to continue forward.

### **Why should other individuals, clinics, and/or organizations get involved with victims' rights enforcement?**

Victims' right work is the most rewarding work a person will ever do. There is need for victims' rights attorneys and other victims' rights professionals. Very few victims have their own counsel or even know they have a right to have their own counsel during criminal proceedings. Victims having attorneys should be the norm rather than the exception.

**What would you most like for the victims' rights movement to accomplish in the next five years? How does your work to aid in that accomplishment?**

AVCV would like to see advancement both in Arizona and across the country. In Arizona, we hope for the opportunity to have our appellate courts consider provisions of our Victims Bill of Rights that have yet to be before the Court, including a victim's constitutional right to a speedy trial. We also hope the Arizona Supreme Court will integrate victims' rights throughout the Arizona Rules of Criminal Procedure as it would provide better guidance to trial courts and practitioners on the application of victims' rights throughout the criminal justice process. AVCV can aid in these endeavors by representing victims, challenging trial court orders that deny victims constitutional rights; filing amicus briefs in cases where victims' rights are at issue; and providing technical assistance, education/training, and conducting outreach. On a national level, we hope that more states will pass Marsy's Law to either add victims' rights amendments to their state constitutions or strengthen existing constitutional amendments and that Congress will consider and pass a victims' rights amendment to the U.S. Constitution. Additionally, we hope the U.S. Supreme Court will eventually grant certiorari on a case where a self-represented defendant wants to cross-examine their own victims and issue a ruling that does not conflate the implicit right to self-representation with the express right to confrontation. We hope that appellate courts in other states will look to Arizona for guidance when they encounter victims' rights issues that Arizona has already settled.

**Why should other individuals, clinics and/or organizations partner with NCVLI?**

NCVLI is the best at what they do; from technical assistance, training, amicus support, and more. The Annual Crime Victim Law Conference is an excellent training on victims' rights and trauma related topics. NCVLI provides an opportunity for victims' rights professionals from all over the country to network and form collaborations. NCVLI has supported and made a difference in the efforts of AVCV and numerous other clinics over the years with their expert attorneys and technical assistance.

## **Legal Aid Service of Broward County, Inc. (Florida)**

### **What is the mission of your agency, and how does the RISE Project fit within that?**

[Legal Aid Service of Broward County, Inc.](#) (LAS) and its project partner [Coast to Coast Legal Aid of South Florida](#) (CCLA) are 501(c) (3) non-profit organizations. Their missions are to provide high quality free civil legal services to the economically disadvantaged population in Broward County, to improve their living conditions, and to encourage self-sufficiency. Under the [RISE Project](#), LAS and CCLA provide victims of crime in Broward County, Florida with access to legal representation to assert and seek enforcement of their rights in criminal cases. The assertion of these rights is pursuant to Section 16, Article 1 of the Florida Constitution which was enacted on January 8, 2019 and is also known as “Florida’s Marsy’s Law”.

All victims served under the RISE Project have the benefit of working with a trauma-informed social worker who may assist victims with crisis intervention and accompaniment, and who provides community resources and warm referrals to other agencies and organizations.

### **When and how did you first start working with NCVLI?**

In 2019, NCVLI, with funding from the Office of Victims of Crime, executed a subgrant with LAS to represent victims of crime to assert their civil rights in criminal court proceedings. NCVLI provides the technical assistance under this grant and has been instrumental in leading us forward with their best practices and strategies to assert and enforce these rights on behalf of victims of crime.

### **Tell us about a recent success/deliverable of your RISE Clinic.**

The RISE Project is the first of its kind in Florida under the new Constitutional Amendment. LAS and CCLA are making small strides in enforcing victims’ rights, one case at a time. Our RISE attorneys have been hard at work to protect our clients’ rights at every turn – from drafting powerful victim impact statements to successfully protecting child sexual assault victims by filing motions to oppose the Defendant’s release from jail. RISE attorneys have also been instrumental in helping victims obtain civil restraining orders, thus empowering victims of crime to feel more protected during the criminal justice process.

### **Why should other individuals, clinics and/or organizations partner with NCVLI?**

Notwithstanding small victories, it is clear that rights enforcement is going to be difficult. Since the time that Florida’s Marsy’s Law was enacted, there has been push back by Defendants’ attorneys, some State Attorneys, and the courts. In the few state cases that have reached the appellate stage, the court interpreted Florida’s “Marsy’s Law” under a very narrow lens, ignoring the language and spirit of the law, and depriving victims’ rights to participate in the criminal proceedings<sup>1</sup>.

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<sup>1</sup> L.T. vs. State of Florida and J.T, First District Court of Appeals, Case No. 1D 19 3032, April 17, 2020.

It is for precisely this reason that all individuals, legal clinics, and legal aid organizations should get involved with victims' rights enforcement. Without the efforts of all, victims will continue to be ignored in the criminal process, and their constitutional rights will continue to be infringed upon.

**What would you most like for the victims' rights movement to accomplish in the next five years? How does your work aid in that accomplishment?**

LAS and CCLA hope that, in the next five years, the victims' rights movement in Florida will be able to enforce rights for victims that have been denied by the courts. We will continue to showcase adverse rulings around Florida and the nation. We will identify the issues which are ripe for appeal or writ and create favorable precedent for future victims who are denied rights by the courts. We will continue to challenge rulings in writs and appeals in order to shine a light on the need for strong enforcement of rights.

# **Michigan Coalition to End Domestic & Sexual Violence Profile**

## **What is the mission of your agency and how does the RISE Project fit within that?**

[Michigan Coalition to End Domestic & Sexual Violence](#) (MCEDSV) is Michigan's catalyst for survivors. Victim representation is critical to that mission because so many survivors report feeling a lack of agency when interacting with the criminal justice system.

## **When and how did you first start working with NCVLI?**

MCEDSV has been aware of the work of NCVLI for some time, and even had the pleasure of having NCVLI Executive Director Meg Garvin provide an inspiring address at our Annual Conference in 2017. Later, when we litigated a case of first impression regarding how litigation abuse interfered with constitutional and crime victim rights, NCVLI provided excellent amicus support. We have consistently relied on NCVLI to keep us updated on developments around the country and therefore to continue dreaming about what rights in Michigan could look like.

## **Tell us about a recent success/deliverable of your RISE Clinic.**

MCEDSV's RISE Clinic is among the first in Michigan to endeavor to appear on behalf of victims in criminal cases, and accordingly, every action we take is significant and trailblazing. We have recently secured the right to more meaningfully confer for a limited English proficient (LEP) survivor who had not previously been able to express her wishes. Amidst the COVID-19 pandemic, we have worked closely with our clients and prosecutors to limit the identifying information that becomes available through livestreaming court hearings.

## **What motivates you to do the work that you do with victims' rights in your community?**

MCEDSV understands that survivors' sense of the success or failure in the criminal justice system is not pegged to convictions, but rather their ability to meaningfully participate. We feel this concept can change the world.

## **Why should other individuals, clinics, and/or organizations get involved with victims' rights enforcement?**

Victims' rights enforcement is exciting and novel. There is no "way that it is always done" because we are making the road by walking it.

## **What would you most like for the victims' rights movement to accomplish in the next five years? How does your work to aid in that accomplishment?**

Regular representation of victims. We are just taking the first step towards representation being accepted. We would like to see victims regularly have access to a lawyer—particularly those who have experienced complex, relational crimes such as sexual assault, child abuse, child pornography, domestic violence, and human trafficking.

**Why should other individuals, clinics and/or organizations partner with NCVLI?**

There is simply no tool more helpful or powerful to this work [than NCVLI].