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The Death Penalty Versus Life Without Parole: Comparing the Healing Impact on Victims' Families and the Community

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Panel 1. Death Penalty Survivor Families

General comments about the affect of murder on victims wherein the punishment is the ultimate penal sanction (death). The key to dealing with the consequences of murder is to forgive. The need to restore a sense of life meaning is important when the perpetrator will be executed. Meeting with both parties can lead to forgiveness.

Panel 2. Life with the Possibility of Parole and Life with Parole Survivor Families

General comments about the affect of murder on victims wherein the punishment is a court case/sentencing that precludes the death penalty. Themes that generated from the talks include: getting back control over one's life (our choices drive our life), allowing the grieving cycle to complete itself, write your reflective journals focusing on choice, truth matters, forgiveness is about the choices you make over time, helping others tends to help oneself, and survivors have great resilience when left to their own. Greif is inevitable, forgiveness is optional.

What can be done? Put a human face to the victims. Minister to the victims helping the felon's families understand the consequences of their actions. Form a network of support.

Contextualizing the Stories of Survivor Families

Summarization of panel discussion by Marilyn Armour (wrote the Research Lead Article of the program)...what survivors have said. Survivors have much to teach in the constant journey of dealing with the darkness of death.

Current research = post-traumatic stress and growth occur at the same time. Essence of journey...nightmare, betrayal, loss of rights, ongoing, I am different now, meaning making and its intense pursuit. Reality is reconstructed to create new meaning in victim's lives. Murder creates a cascade of events, a ripple effect that requires reconciliation. Death begets death across more then one generation.

A forced situational relationship builds with the murderer to the victim's family. That relationship has a great deal to do with healing but dialogue building beyond restorative justice has yet to occur. Another is the remembrance of specific dates and the associations caused by forced death. They figure into the justice system...trial, parole scheduling etc. Therapeutic Juris Prudence literature is on impact statements but actually ineffective. Court activities create powerful meaning making without fully understanding the consequences.

Murder creates a new need for meaning making and what one does with one's life. How the energy of victim is re-directed and reconstructed around **intentionality** towards a fullness of life is crucial to recovery. The dead person(s) become a means for channeling one's "sense of agency" towards re-defining positive aspects of life (post death).

Survivors need a sense of belonging. Again, there was reference to the need for network building and bonding that creates support mechanisms into the future. One of the areas of interest is the need to address the remaining family members' dysfunction as to the consequences of a domestic fatality. We know next to nothing in the criminal justice system to what happens to children left adrift from the horror of what has happened in their lives. Untouched and too complicated. Existing research shows that replication of patterns of domestic abuse tends to be the consequences of ignoring the ripple effect of murder through family members.

Panel Three. Prosecutors, Defense Lawyers, Advocates: Personal and Professional Impact

When entering the criminal justice system you are beginning one of the most important points of one's life. How do those that work in the "trenches" deal with victims/survivors of crime? What shells does one build in order to deal with the trauma? Because you (the lawyer) deal with people day in, day out you begin to identify with them and one begins to see the interaction as a "privilege". When dealing with the physical evidence (photos of death) lawyers are ill prepared. They get nothing in law school to help them cope with the effect of repeated exposure to visual violent death.

Prosecutors are seen as aliens to the perpetrators family team. Defense lawyers do not address the consequences of crime until sentencing. The perception of all parties involved isolate the defense attorney and force internalization of feelings. What to say, how to act creates a situation wherein defense attorneys are perceived by victim's families as co-conspirators in the crime. Capital defense attorneys who have their client executed have unique impacts ("Fighting for their lives: Inside the experience of capital defense attorneys", Sheffer, S.).

How do you resolve difficult decisions in capital crimes and preparing for execution? Lawyers worry about causing someone to needlessly die. Does he live longer; does he die sooner? The lawyer who represents a "monster" is isolated and unable to communicate inner feelings. Long capital cases are emotionally draining and

extremely difficult. Prosecutors know the importance of the cases and the impact those cases have on victims. US Attorneys have to recommend death and that is hard to do when no forensic evidence. Difficult decisions. The type of person that makes those decisions should be a trial attorney with direct experience of the affects of capital punishment on all the humans involved.

Gamesmanship and process completion for lawyers make dealing with the victims/felons families hard. If one focuses on process one can create a protective shell that makes emotional stability easier to maintain. Helplessness in capital cases permeates conversations with affected lawyers. The need to maintain emotional, intellectual detachment is very important.

Is there a way for the Justice System to support attorneys better?
Recommendations?

1. Defense Initiated Victim Outreach ([DIVO](#)) in Texas helps all people with dealing with these issues. It might be better if the victim advocate person is outside the prosecutor's office (non-political).
2. Victim advocates provide a powerful service for helping people cope. Expanded medical/mental health services would be most useful.
3. If you want to be a prosecutor working on capital crime you should have a special education. Ultimate penalty and professionally enhanced education go hand in hand in ensuring professional competency.
4. Providing a means for opposing families to contact each other to heal (prohibited contact with family members-adversarial system) would be useful but hard to implement. Mandated "debriefings" common in law enforcement may be inappropriate. But getting people to talk is important.
5. How prepared is the legal community to deal with mental health issues that emerge in seeking justice in a period chaotic health? Not addressed by the profession.

Panel 4. Judge and Warden: Personal and Professional Impact

Key questions to victim...what is helpful? Judge White...having conversation on capital cases is very important. Milwaukee Specialty Courts provide focused litigation. Homicide cases present healing behaviors. Judging requires solid values in order to be effective over the long run. Murder creates a void in ones heart that permeates the courtroom. Courtrooms are intimate locations where all participants interact with each other.

Judge behavior on the bench influences all who watch the process. How does the stress of maintaining visual neutrality affect you? It is not easy to maintain.

Prison and corrections trains to address the offender where they are today, not where they were. Death row populations have grown. The system changes people over time; inmates, staff and family members evolve. Wardens execute inmates. They plan and complete the execution. You manage all aspects of the process. Execution staffs have multiple reasons for volunteering for the group. The outcome is a dignified execution. Civil servants are asked to make the ultimate sacrifice...it can be tragic on all parties involved.

Panel 5. Victim Support and Clergy: Personal and Professional Impact

Victim support as represented by those who actually do the process. Spiritual caregivers and pastoral care requires that one “forgive”. A “gift of grace”. People forgiving people is another process. Listen to where people are and seeking possibilities of “release” through forgiveness. These are healing possibilities that come from getting rid of the person who harmed them. Pastoral care is remote and basically unknown in the legal system. Victims have little help pastorally in the legal system. If you are a chaplain you need to understand the processes of the system intimately.

Many victims seek help in taking the “pain away”. Victims want recovery; they want the murder and its consequences to heal. The legal system is a process (lineal and unyielding); the victim support system is a “non-cookie-cutter” (flexible and reflective) approach to healing. Finding the language to communicate victim family feelings in the courtroom during their 6 minutes in court is insufficient, the courts need to provide a way of moving on.

Civil Service Staff that work executions live an encapsulated world in which the focus is on the activity of that day...who they are and what they believe grounds their activities. Three to six hour intense experience of anticipates the consequences of the appeals process. Anxiety, worry, concern. Executions create acute emotional need. What has the offender done about reconciliation with the victim’s family? All these come into play during a short period of intense time.

Forgiveness is an on-going process that never stops. Triggers constantly make people step back to positions they don’t want to revisit. *Today is the last day I am going to use you [the perpetrator] to justify my [victim’s] bad decisions.*

Honoring the Voice of Family Survivors of Homicide: Implications for the Global Restorative Justice Movement

The comments of [Evo Aertsen](#) international restorative justice scholar and advocate. Victim Offender Mediation was new to Europe in the 1990’s. Evo has a psychology background and worked with both victims and felons. He was an early advocate of a self-help group for child victims and researcher in restorative justice. Today the European Union is funding a great portion of RJ. RJ is also being applied to church problems. His comments were divided into the following segments:

Family Survivors

Let us be modest of trying to understand the consequences of crime on survivors. Secondary victims of crime talk about a symbolic journey of profound personal experience. They use differing “discursive methods” to come to terms with their experience. (after the presentation I asked him if there was a clear philosophical reference in his talks to the concepts of [Jürgen Habermas](#) and his interpretation of communication and meaning making he replied “yes” ...understanding this leads to a better understanding of his methodology of research), He noted that current research points out differences in American and European reactions to punishment and penal approaches to making policy.

Community

The societal experience of crime has yet to fully address victims’ needs for communication but they have been given rights to participate in the justice process. Justice in the EU is shifting to more of a participative act. What then should justice be in the context of a civil society (again see Habermas)? There is a need for more research.

Victim

There is a need for victims to have more ability to “voice” needs and expectations in contributing to the process of justice. European positions on victim rights and RJ is to integrate them more into mandatory addendums to the legal process. The EU is working to integrate all these justice policies into a set of conformed/standardized directives.

RJ

The needs of victims (murdered children and their families), in terms of punishment, are revealing that there are micro and macro approaches to mediating victim healing. Balance between group experience and individual rights is a continuing, evolving activity. Universal feelings of “powerlessness” are areas of concern of a collective approach to providing self-healing. Society healing and personal healing are interconnected.

Emotion and cognition, justice and injustice are interlinked. Empowering victims to act on both political and societal levels are important. The Europeans are seeking to better codify methods and applications of RJ throughout the EU.

Mark Umbreit reviews the growth of RJ and victims rights in the United States. Honoring the voice of victims is an honor.

Summary

An interesting and useful conference. I learned a great deal.

Reference

Armour, M.P. & Umbreit, M.S. (Fall, 2012) Lead Article: Assessing the impact of the ultimate penal sanction on homicide survivors: a two state comparison. *Marquette Law Review*. Vol. 96. No.1.