

Remarks by
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at the
2010 Annual Conference of the
National Coalition to Abolish the Death Penalty:
Building Bridges to Wider Audiences

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I'm so pleased to be here today at this wonderful gathering. I am honored to meet your great leader Diann Rust-Tierney, and to share this panel with Howard Zehr and Renny Cushing, two men I've known and admired for many years.

Much of this conference is focusing on how to extend your reach, how to join with other reform efforts to build stronger coalitions. In that spirit, I am intentionally speaking more generally about the larger category of all victims of crime, including survivors of homicide, and in some cases I will talk about criminal justice reform, not just the abolition of the death penalty.

I want to build bridges between victim advocates and victims of any kind of crime -- and anyone who wants to make our collective response to crime more humane and effective. Over the last ten years, I have advocated a new approach I call Parallel Justice and I believe it is quite relevant to your work.

I have worked in-- or close to-- the criminal justice system for over 30 years. I started my career working in the Philadelphia prisons, spent several years as a mediator and teacher of mediation and conflict resolution. I've worked on community safety issues from a community development perspective, served in the New York City Police Department as Special Counsel to the Police Commissioner, and for many years focused exclusively on victims' issues -- first

sexual assault victims, then victims of domestic violence, and later victims of any kind of crime.

As a result, I have spent much of my working life shuttling between different worlds.

In my experience, with rare exception, people working on criminal justice reform typically fall into two groups: those working on victims' issues, and those working on everything else—and I do mean everything else—from crime prevention and fixing broken windows to effectiveness of eyewitness identification, DNA issues, indigent representation, prison reform, prisoner reentry, even the abolition of the death penalty--everything else-- besides victims' issues.

While much of the criminal justice reform agenda, in my view, clearly overlaps with victims' needs and concerns, alliances between criminal justice reformers and victims and victim advocates, are few and far between. The common ground between these "camps" is rarely explored. And this is true in both directions.

My hope today is to shed some light on why this may be so, and why it is critical that anyone interested in abolishing the death penalty, or anyone interested in achieving a more just response to crime, try to overcome the barriers between these camps, and understand the relevance of victims' needs and concerns.

Let's begin by dealing with some of the elephants in the room. First elephant: Many proposals calling for stiffer sentences, or even supporting the death penalty, have been spearheaded by victims. Furthermore, politicians and prosecutors often align themselves with victims-- sometimes outspoken victims, sometimes victims of particularly horrific crimes-- saying they are pushing for harsher penalties on behalf of these victims.

So, let's unpack this one. Over the years, research has consistently shown that victims of crime hold views about sentencing that are as diverse as the general population. I am not saying that some victims don't have extremely retributive leanings. Many do. But as you well know, given your membership, many others don't.

It's important to remember that we are far less likely to hear from victims with less extreme views. Some do not seek attention, and worse, when they have, they are often ignored by prosecutors and politicians who fear being seen as soft on crime.

Even the press tends to portray the victims who believe in more lenient sentences---especially, the "forgiving victims"-- as oddities-- almost saint like people whose personal journeys make good stories, but whose views about criminal justice policies are not important.

Second elephant: Many people feel it's just too difficult to talk with victims or victim advocates about crime policy because it gets too personal, too emotional. For this reason, despite the great potential of such alliances, criminal justice reformers often don't want to include victims or advocates in their discussions.

Likewise, many criminal justice practitioners (police, prosecutors, judges, and even parole officials) complain that victims make the whole criminal justice process messier and more complicated.

Recently, I had the opportunity to speak at a law school. A nationally known professor commented that as a general rule, victims shouldn't have anything to do with the criminal justice process, because their views aren't relevant. This comment came during a discussion about whether victims should have a right to allocution at sentencing, but that view of the irrelevant, or even the harmful victim, is frequently echoed in other criminal justice policy debates.

As a result-- because of our distaste for emotional engagement, our fear of personalizing crime-- there is less airing of views, less cross-education, and instead, more uninformed entrenchment. We need to move beyond this caricature of victims and engage in more productive debate and thoughtful discussion. Certainly people who have been directly affected by a particular experience have something valuable to add to our understanding of that experience, and in turn, our formulation of public policy.

Third elephant: Anything that is “good for victims” in the criminal justice system is probably going to violate the rights of offenders. When I was at the National Center for Victims of Crime, we studied thousands of pieces of victims’ rights legislation from across the country. We concluded that fortunately, justice is not a zero sum game, and this fear is, for the most part, completely unfounded.

The victim advocates’ camp has its own version of this elephant -- Be suspicious of anything that is designed to help offenders and involves victims, because victims are generally an afterthought and only used as props. Of course, there is more than a kernel of truth to this view of the world, but it is important for victim advocates to evaluate reformers’ proposals on their merits, and not walk away simply because victims are not central to the discussion.

To make the kind of changes I’m about to describe—victim advocates need to partner with criminal justice reformers. We just won’t get there alone.

At this conference you have heard many statements framing the abolition of the death penalty as a social justice or human rights issue. I would agree with this characterization. I believe that there are far more humane and effective responses to crime than the death penalty, responses that therefore, seem far more “just”. As

we consider alternatives--as we think through different models and approaches, I would like us to consider a broader definition of justice –one that extends beyond the humane and effective treatment of offenders.

I believe that our societal response to crime—our conception of justice--must also include humane and effective treatment of victims and survivors. Please allow me to explain what I mean by that, and why I think it's critical that a discussion about alternatives include consideration of what I call Parallel Justice for victims of crime.

About 10 years ago, I began to rethink what it would mean to provide justice to victims of crime. I didn't want to start by analyzing the deficits of the criminal justice system. Very few victims ever see their cases go through the criminal justice process. Remember that of those crimes reported to the police, only 20 percent ever result in an arrest, and fewer still are prosecuted. So our responses to victims should never depend on whether the offender is ever identified or convicted.

Instead I wanted to think through what it would mean to create responses to victims, that began by asking-- what is it victims need in the aftermath of crime, and what are our societal obligations to them.

The concept of Parallel Justice provides a new framework for responding to crime. Based on a set of guiding principles, Parallel Justice creates two separate paths to justice – one for victims and one for offenders. In my view, for every reported crime, our society should continue to respond by trying to apprehend, prosecute, sanction and, whenever possible, reintegrate the offender back into productive communal life.

But, with Parallel Justice, there would always be a separate set of responses for the individual who has been harmed by the crime.

No doubt victims' experience in the criminal justice system can be improved, but it seemed to me that providing justice to victims meant addressing the most basic needs most victims share: to be safe, to recover from the trauma of the crime, and to regain control of their lives—and that resources both within and outside the criminal justice system should be put towards that goal.

In my view, we have a separate, and distinct societal obligation to help victims rebuild their lives, and it extends to everything from immediate, practical aid, to compensation for losses, and long-term assistance. Parallel Justice principles can reorient the priorities of both the public and private sectors to contribute to justice for victims.

What does this look like?

Criminal justice officials--police, prosecutors, courts, and corrections-- can focus much more on keeping victims' safe, and preventing repeat victimization. Healthcare and social service agencies can play a much greater role in helping victims deal with the many emotional, physical, and financial problems that arise after a crime. Civic groups and faith-based institutions can also support victims in many, very practical ways.

And, along the way, alternatives to the criminal justice process such as restorative justice programs-- where victims can interact with offenders, neighbors, and family members-- should be offered as part of a menu of options victims can access if they want to.

Parallel Justice though-- not only provides a role for offenders and communities-- it also creates an important role for government. I don't want to let the government off the hook! While an offender

can offer apologies, restitution, and sometimes greater understanding of the crime, and communities can certainly provide valuable support to victims, only the government can marshal the wide range of resources many victims suddenly need in the aftermath of crime – the health care, the housing, the child care, the substance abuse treatment, psychotherapy, or even job training. The extent to which a victim can be “restored” should not be limited to the resources of a given offender or the surrounding community.

I also believe that only the government can speak on behalf of society at large and acknowledge that what happened to a victim was wrong. This message alone can mean the world to victims, and unfortunately it is rarely heard.

If we are to shape a new, more just response to crime—we must do this in a way that seeks justice for victims as well as offenders. I urge you to explore the concept of Parallel Justice for two important reasons.

First, as I have already argued, it’s the right thing to do. To the extent we care about victims now, we do so because we are a compassionate society. But we must no longer limit our support for victims to charity or discretionary government programs.

We must realize that helping victims rebuild their lives is a fundamental component of justice.

Second, seeking justice for victims is a sound strategy for those seeking to abolish the death penalty. This year more than 20 million people will become a victim of crime in America. Very few will get the assistance they need to get their lives back on track. If we provide Parallel Justice for victims of crime-- all victims— we will have fewer people who are angry about-- and alienated from—our system of justice.

If we acknowledge victims' experiences, make victim safety a high priority, address victims' needs as much as possible, and enforce their rights to participate meaningfully in the criminal justice process--- I believe millions of people who have been victims of crime—will be much more open to criminal justice reform—including considering the abolition of the death penalty.

Why? In the simplest terms, if we treat victims more humanely, they will be much more likely to treat offenders more humanely.

Again, I thank you for inviting me to speak with you today, and I look forward to continuing the conversation.

Thank you.