



DEATH PENALTY TESTIMONIALS



Jennifer Bishop-Jenkins

Background:

Among her many positions, Jennifer Bishop-Jenkins is on the National Coalition to Abolish the Death Penalty's board of directors, and also works as a leading national victim expert. Jennifer's advocacy is rooted in the tragic murder of her sister Nancy Bishop Langert and her husband, Richard Langert. Jennifer's trauma shaped her activism for a "victim-centered" approach toward the criminal justice system, which includes advocating against the death penalty.

Activism and Involvement:

Please describe your main activist involvements:

My principle involvements in abolition at the moment include my membership on the board of directors of the National Coalition to Abolish the Death Penalty (NCADP) and my work with AIM, which is geared toward abolishing the death penalty in Illinois. Of note, I was on the founding board of Murder Victims Families for Human Rights (MVFHR) for three years, and spent six years on Murder Victims Families for Reconciliation (MVFR). I was the national chair at MVFR for two years.

Do you think activism is a good way for victims to react to and cope with trauma? How come?

It is important for me to first note that the only reason I am involved in activism is that I see murder cases as a "victim issue." That's the lens that I see it through, and that lens is the reason for my advocacy. I am not an activist out of being just a "do-gooder." I am genuinely committed to using the days that I have in my life, that I am acutely aware my sister will never have, to do all I can to end the cycles of violence in this world. It is the only way I can live in the wake of her murder that makes sense to me.

Now, activism is one great way for victims to react because of the very nature of trauma. Trauma is different from regular experiences in that it actually changes the brain chemistry and how the brain stores information. Your question gets to the heart of this issue.

First, I never use the word "heal." "React to," "deal with" – these work. But heal does not. Victims do not heal. You never fully get over the trauma you have suffered. But you can deal with it. Furthermore, "heal" implies that something is wrong with you and needs to be fixed. It is important that, as a victim, one does not consider themselves broken or sick, because they are not. They have experienced something traumatic, yes, but there is nothing wrong with them. Using the word "heal" is also damaging to understanding who is responsible for the situation. It sort of implicitly places blame on the victim, as if they are now broken and to remedy the situation, they must "heal." For victims, they must understand that they are responsible for their own lives, future choices, and response to trauma. They "cope" with the trauma, but they do not "heal."

When reacting to normal events, the brain gathers and stores information neatly in the memory. These memories can easily be recalled in a coherent manner. However, when experiencing a traumatic event, the brain gathers and store information as quickly as possible. It is a survival technique, a primitive and powerful response – victims often remember every detail about the traumatic event. The brain tries to absorb everything it can, but the situation is so out of the ordinary that it does not do a good job organizing the information. So all the information is there in the brain, but it's not stored in a coherent manner in the memory as it is with normal events. When traumatic thoughts are recalled, the victim is re-traumatized. This is because the thoughts were never stored as memories and can feel at times like the trauma is happening NOW – with associated physical symptoms of stress, racing heart, churning stomach, sleeplessness, etc.

Activism helps victims because it changes the way the brain experiences the traumatic story. With the story of my sister...at first I couldn't let myself even think about her final moments – it was too painful. But my sister's response to her final moments of life was filled with love. Right before she died, she wanted us to know that she loved us. She left a heart and a "u" in her blood as she lay dying. That is what she chose to do with the final moments of her life. I want that to be the last word, not executions or hate. Every time I told her story, then, I moved the story in my brain from a traumatic experience to a story associated with positive things (e.g. my sister's legacy, helping others, violence prevention, etc.). The story – my trauma – relocated in my brain to a normally stored, safe place that can be recalled without re-traumatizing me. That allows me to cope. The key is to organize



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the traumatic thoughts into thoughts that make sense and can be stored normally in the memory. Retelling one's story through an outlet such as activism allows the brain opportunities to organize its disorganized thoughts. And this is ultimately the way to cope with trauma.

The “Victim-Centered” Approach:

Why is your activism “victim-centered?” What are the principles behind this idea?

The victim-centered approach to criminal justice reforms has a few rules. The main thing is that we don't really talk much about the offender. Yes, killing anyone has to be said to be as wrong as the crime originally is itself. But certain kinds of attention to the offender in a way glorifies the crime. Compassion for the convict is not usually helpful to advancing the political agenda of changing the hearts and minds of elected officials and most of the public. As advocates, our goal is to change the minds of voters. Abolitionists in the 1970s tried offender-focused abolition, highlighting the humanity of criminals through death row art and poetry, putting them in high fashion Benetton ads, etc, and showing that “they have feelings too.” But this didn't work politically. Most Americans don't really buy this line of reasoning. They're still going to think the guy is a bad guy. The argument is too one-dimensional and relying on people's conscience and compassion for convicted murderers will not result in broad political consensus. Victim-centered activism doesn't just focus on ethics (which it does more effectively than offender-focused activism anyway), it also focuses on practical arguments about what is best for victims of the crimes. Crimes were committed...horrible, appalling, inexcusable crimes...but now what are we going to do about it? Executing the offender repeats the same act, it wastes vital financial resources needed to aid victims, and drags the victims through an almost interminable and protracted legal battle where the offender becomes almost a household word and the victim is largely forgotten. Victim-centered activism provides an answer to this, while offender-focused activism cannot.

Before I continue, I must acknowledge the great efforts made by New Jersey and New Mexico. Much of their abolition efforts have been victim-centered. Being victim-centered neutralizes the opposition. It's the great equalizer. Proponents of the death penalty state that it is necessary to “do justice” for the victims, but when the victims do not want capital punishment, the issue stops being ethical and completely becomes a public policy issue. And proponents of the death penalty cannot win these arguments, which include the higher costs of capital punishment, and the problems our country has with convicting and potentially executing innocent people.

The victim-centered approach is very principled as well. The death penalty is actually torture for victims. It takes two to three years to process a case that does not involve capital punishment, but fifteen to twenty years to process one that does. Costs also rise: we go from spending 100,000s of dollars to tens of millions of dollars. This money is not going to victims or prevention, where it would do the most good for society. And it glorifies the offender. He becomes a household name, and this overshadows the victims. And we try to never use the offender's name in a victim-centered approach.

I have a story about how the victim-centered approach has worked in my experience. I spoke at a conference, about to tell my story, and riding in the elevator as I was going to begin, a lady was with me. She went on about how she had heard of my story, and it was so sad about my sister being pregnant, watching her husband shot in the head and then to have her baby shot, and then to leave that message of love in her blood – just so touching – she would never forget it – and then she asked “Who was that guy who did it anyway?” Did they ever catch him? And in my head, I just did a fist pump! I knew I had been successful in my years of work because Nancy and Richard were remembered, and the killer, who at one time had been on the front page of the paper every day for two years, was now a non-entity in this woman's mind, but she had heard of Nancy and Richard. And yet she took their death and my story as a reason to oppose the death penalty – the love Nancy expressed as she lay dying. That's what we go for – taking the attention away from the offender, and placing it on the victims and their stories. Victim-centered activism works, and it's also the right thing to do.

DIVO (Defense-Initiated Victim Outreach):

What is DIVO (Defense-Initiated Victim Outreach)? How is it done properly, and what kinds of benefits does it provide that other approaches do not?

Our [The U.S.:'] “adversarial” system of justice is generally not conducive to such a balanced approach towards victims. In our system, two distinct sides argue in front of an independent judge, who listens and decides what is true. But this notion of “two



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sides” is problematic for victims. The defense, instead of being viewed simply as an element for carrying out justice, is viewed as being “for” the criminal. Therefore the prosecution must be “for” the victim, right? Well there’s another problem here as well. Sadly while prosecutors across our nation are incredibly dedicated and underappreciated people, the prosecution doesn’t always put victims first. Budget and political considerations often get in the way of doing what is best for the victim. Moreover, they may be so protective of their role as prosecutors that they actually withhold information from the victims, leaving them to feel lost and isolated. This is especially harmful, because on top of the trauma that victims are facing, they become confused about procedures, schedules, and other information that pertains to their case. Victims need more information, not less.

More than 60% of murders involve an offender and a victim who know each other. Given the complexities of real human life, the prosecution and the defense often have goals that intersect. Victims should not belong to any one “side”. Justice for victims involves a more cooperative effort that is victim-centered. The notion that the victim “belongs” to the prosecution “side” is harmful and counterproductive.

Here’s an example. No piece of information is more vital than a murder victim’s last moments. The defense often has access to this information because often it is information that only the offender knows; the prosecution does not. This kind of information can be very helpful to victims and it is why it is best for victims to work with the defense as well as the prosecution. Sometimes, oddly enough, the defense may better understand the victim’s situation and feelings than the prosecution. Cooperation with the defense can sometimes better help the victim through the process. The difficult hurdle is getting over the notion that the defense is trying not to get their guy convicted. This simply has to be accepted as a facet of the law and fair trials. But defense teams can see themselves as being pro-victim too. That in no way interferes with their job of defending the offender.

So DIVO is a technique where the defense reaches out to the victim so as to minimize the effects of the adversarial system, offering information, support, and opportunities for dialogue. Then the victim and defense can mutually benefit from each other – through information exchange and understanding. The defense must be incredibly careful, sensitive, and cautious. They must NOT force, trick, mislead, or persuade the victim. They MUST only work to help and inform the victim. Information is vital to the victim. Being informed allows victims to deal more effectively with their trauma. Not knowing what is going on only compounds their problems.

The Death Penalty:

What problem with the death penalty do you believe is the most pressing?

There are two types of problems with the death penalty: the emotional/moral aspect (i.e. is executing someone right?) and the practical aspect (i.e. how much money does it cost, can human beings create a legal system that is error free, etc.). The real reason I am against the death penalty is the moral aspect. Killing is wrong. I always note that among the list of the “big ten” moral prescriptions on human behavior. “Thou shalt not kill” comes first.

However, I may differ from some of my abolition colleagues in that I do believe that the death penalty is an issue on which people of good conscience can genuinely disagree. I have for example, a much better view of prosecutors than many abolitionists do – and I think the abolition movement needs to stop vilifying these good people. There are many people who believe that when faced with convicts who have committed heinous crimes that it is in the name of public safety that we put them to death. This prevents the possibility of them escaping and killing again. And given the constant recent legislative threats to the Life Without Parole sentence, and the concerted effort to eliminate that sentence too, this issue of public safety as it pertains to the death penalty is a legitimate public policy disagreement. So it’s important that I also defend my stance also through a practical argument, which can be more aptly applied to public policy than a simple moral argument can be.

So I suppose the most pressing issue with the death penalty, from a practical standpoint, is that we cannot have the death penalty without making mistakes. With the death penalty, the state is deciding between life and death for an individual. This is serious, and if we’re prone to mistakes, even a little bit, it is unacceptable. Innocent people should not be put on death row. And it happens, and it’s not exceptionally rare. This only creates more innocent victims.

What problem(s) with the death penalty do you think society is most unaware of?

I think there’s a 50-50 tie on this one. The first is the cost factor. People always think it costs so much to imprison convicts for



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life – giving them clothes, food, etc. But the reality is, the costs associated with the death penalty are astronomical. People are usually shocked to learn this. They aren't aware of the underlying court costs and appeals. They think more in terms of the drugs required to kill the person, and the money "saved" by not feeding them for x number of years.

The other problem people are most surprised about is the innocence problem – the mistakes that are made, whether they're on purpose (has happened, but very rare) or by accident. Let me say that it is really hard to convict someone. Just getting enough evidence to prove guilt beyond a reasonable doubt is a very difficult task. Cook County, Illinois has the largest unified court system in the world. 80% of violent crimes here never go to trial. The police never catch the guy, or the accused accept a plea. Sometimes authorities just go for the easy convictions, which are not always right. Police have been known on rare occasions to even cover up for each other to try to get convictions. And generally to take a case to trial of this magnitude, present the evidence, do the work and get the conviction is not easy. And yet mistakes are still made, and innocent people go to jail.

What is the best advice you have for younger generations in fighting to abolish the death penalty?

First off, I would advise them to be victim-centered in their approach. Second, they need to address issues that cross political lines. Trying to obtain a consensus based on moral arguments only will only divide the left from the right. Three main arguments work: cost, errors in the system (innocence), and the victims. The first two arguments can be backed up by data. The death penalty simply costs more, and the system makes far too many errors. The last argument about what is best for the victims negates the pro-death penalty camp's only argument: that executions are for retribution and justice for the victims. If some victims say that they don't want executions, it neutralizes that argument, even though many victims are for it. The debate becomes purely about public policy, and death penalty supporters cannot win any of these arguments (cost, innocence, etc.). Their support breaks down.

Third, I urge them NOT to devote too much of their precious time helping on every other good cause that comes along – for example, the guys behind bars unless that is what they are genuinely and fully called to do. Time is a limited resource. I remember my first visit to death row in 1994. I will never forget it. I talked to 20 prisoners. It was physically and emotionally exhausting. When I left, I started crying. I was overwhelmed by the need they had there. And I then spent years of my time and energy trying to help these individual cases. Everyone there needed something – emotional, material (books, money), what have you. I spent a lot of energy and time trying to help those guys for years. Still do, to a certain extent. But if your goal is abolition, you must "keep your eyes on the prize." You must stay focused on changing public policy. You are a limited person with limited resources. Being inside death row can be overwhelming, and you may have to make a tough choice between being effective on public policy and doing the individual case work with offenders in need.

Working for the convicts does the least to help the abolition cause. Sure, talking with convicts serves a humanitarian purpose. But it does not really much advance the cause of abolition. Abolition will not emerge from understanding the plight of the criminal. We tried that in the 1970s, and it doesn't work. We must focus on lobbying, organizing, and building grassroots pressure on state legislators. Only spend time on the offenders as it advances that goal, if abolition work is your calling. There are wonderful people who do prison ministry work exclusively, thank goodness.

Where We Are Right Now:

Any notable additions?

I'd like to tell you what I'm feeling about where we're at right now in regard to abolition. I am cautiously optimistic, but somewhat troubled. I am first concerned that we must stand up for life without parole sentences in those rare and truly horrific cases where it is completely called for, and where the victims' families should not have to endure a lifetime of re-engagement with the offender in parole hearings that will never result in the truly "worst of the worst" offender being released. But we are actually seeing in Illinois for example, that we are losing key political allies for abolition because they also see abolition advocates filing legislation to do away with life without parole. This has single handedly virtually destroyed any serious chance at abolition, and this in a state that had the best shot at it in the nation a few years ago! Every single major paper in the state of Illinois called for abolition, Democrats and Republicans alike were on board, but as they have been telling me personally for over two years now, it's off the table until many of the same advocates stop filing bills that will end life without parole. So I would just like to ask again all abolitionists to follow Sister Helen Prejean's wise advice about this and leave LWOP off the table in all our discussions. Abolition has to come first, politically.



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I'm also cautiously optimistic because there is more practical and effective victim-centered and effective advocacy going on in places like New Jersey and New Mexico; both recently abolished the death penalty. Major players in advocacy have learned now that this works. Advocates are also getting more efficient with their resources, organization, and costs.

I am somewhat troubled, however, because we aren't where we need to be quite yet in terms of fully integrating the victim experience into abolition. Right now, I see many in the abolition movement as "using" victims as "tokens" rather than putting them fully at their strategy development planning table. Victims are seen as important to put out publicly, and to include on their websites, boards, etc. But they are not in the highest levels of leadership of the abolition movement in strategy and funding and planning etc. They aren't always being treated as an integral part of the movement.

When I did a very well-received workshop at an NCADP conference we discussed the historical three stages through which the abolition movement is traveling. Phase one was during and after the 1970s. Abolition was focused on the offender – the "poor guy behind bars." This was entirely an appeal to sympathy and did not work, because no one made a legitimate public policy argument.

Phase two is now. This is where victims are beginning to be part of the movement, but are not involved enough. They are used as "tokens" – simply for show or convenient purposes. This resembles the history of race relations in our nation, where minorities began to enter our popular culture on a token basis, where everyone had to have a token minority employee or what have you. Many in the abolition movement see victims not as essential to their whole thinking about how to do abolition work, but rather "useful" for particulars.

Phase three is hopefully in our future. This is where victims will be fully integrated in the abolition movement, not just mere tokens. Victims will help shape decision-making from the inside out, changing the way that most offender advocates see the crimes, and playing a more prominent role in the movement's success. Restorative Justice principles, which are victim driven in their foundation, should pervade abolition methodology and practice. This parallels the hope that soon, someday, all races and nationalities will be full integrated into society because that's the best way – not because it "should be" or that it may be sometimes be useful or convenient. I am still waiting for phase three in the abolition movement. This is why I'm somewhat troubled. I feel that we should be getting there faster.

If I was a state abolition director, I would bring into every policy discussion victims family members and devote 50% of my budget to resources for homicide victims. This would not only be the best thing for the abolition movement, but it would be great PR, it would be moral, and it would be politically strategic. You can't lose because you would change the very face of how abolition is seen in the political dynamic. Abolitionists as victim advocates and supporters. We need to evolve from phase two to phase three and get as many victims involved as possible. This is what is best for the abolition movement as a whole.