



# DEATH PENALTY TESTIMONIALS



## John Getsinger

### **Background:**

John Getsinger was only two years into his practice when he volunteered for State of Louisiana v. Alvin Scott Loyd on behalf of the latter. Loyd was eventually spared from the death penalty when he received a unanimous verdict for a life sentence during a re-trial in 1998. Today, Getsinger remains involved against the death penalty by working on the Death Penalty Project steering committee with the Advocates for Human Rights.

### **Involvement with the Project:**

**First, please describe your involvement with the Death Penalty Project. Why are you involved?**

I am a member of the Death Penalty Project steering committee with The Advocates for Human Rights. I primarily raise funds for the project (recently I held a funding party at my house). That's about as far as my involvement goes at the present. I got involved with the Project as a result of my past experiences – primarily the capital case that involved Scott Loyd. Working with him developed my impressions of capital punishment, and eventually my general opposition to it. I also believe that working with the Project is a good way for attorneys who get capital cases to obtain resources and critical information for a handling a case (especially those who are relatively inexperienced).

### **The Hearings:**

**What was it like taking on a capital case as a relatively new attorney?**

In 1986, I was two years into my practice. A Louisiana-based organization that sought to provide effective defense attorneys recruited the law firm I was working for. They gave us a specific case regarding Scott Loyd. I volunteered for the job along with David Schultz, but I did not know exactly what I was getting myself into at the time. I didn't really know what to expect. My views on the death penalty were not quite formed yet, so I suppose the case played a significant role in doing that. I also underestimated its magnitude, and how much attention it would draw. But I have never regretted getting involved and I got some great experience that helped shape some of my attitudes. It is the most memorable achievement of my legal career to date.

**Describe your emotions and the proceedings on the first day of the hearings.**

I was certainly intimidated and nervous, no question about it. I had never before actually examined a witness in court. Even so, it turned out to be a great experience for a young attorney. Getting thrown into the fire like that, afterwards you know that you can handle just about anything – i.e. it can't get much harder. I worked on this case with a local attorney, but it was mostly my job to work up the case and then split witness examinations with him once we obtained an evidentiary hearing. But on the first day of the hearings, he didn't show up to court for the 9 a.m. hearing, until after lunch. He was supposed to handle the first bunch of witnesses until I got the hang of it. So I had to improvise, which involved, for the most part, buying time until he showed up. First I told the judge that my client (Loyd) wasn't competent to assist me because I'd had him sedated for a psychiatric test earlier that morning. This was actually pretty funny, because Scott just looked up at me and said "John, what are you talking about?" But the judge gave me time to question him privately. Then I told the judge that I was not admitted to practice in a Louisiana courtroom. The judge asked if anyone there would move for my admission, and when no one responded, the judge granted it himself! So at that point, I was pretty well stuck with going forward with the hearing. But I did buy myself a chunk of time to figure out what I was going to do with the witnesses that were showing up. I examined witnesses in the morning, including Mr. Loyd's original trial attorneys whom we claimed (and proved) provided ineffective assistance. We broke for lunch only a couple hours later. It was at that time that my Louisiana counsel showed up, and we handled the case together from there. This kind of stuff you can't learn unless you get it all thrown at you at once. Quick thinking spawned by fear proved a little more useful than my lawyering skills that morning. Looking back on it, I can guarantee you that I could do a better job examining witnesses now, but given the circumstances I was in, I didn't do too badly.



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## **Views on the Death Penalty:**

**Loyd had been on death row for over a decade by July 1998. What are your thoughts about the impact of time and waiting in death penalty cases and appeals?**

Oddly enough, I believe that the time really helped in our case. When trials take place so soon after a murder, the public is fuming for punishment. It seems too easy for people to be willing to approve a death sentence. It illustrates the arbitrariness of the system. When emotions are running high, it is extremely difficult to look at facts and the big picture objectively. The sentence becomes a product of emotions, which have their basis in the subjectivity of jurors and the fervor of the town the murder took place in. This is not a fair way to convict and sentence someone accused of a crime. Once the public cools off, people can take a step back and make more rational and fair decisions. In our case, the victim's mother testified in 1998, 17 years after the crime, that she did not want Loyd to get the death penalty. A complete about face from her testimony in the first trial in 1984. She claimed that she had "made peace" with the situation and saw no need to inflict further harm, even on her daughter's convicted murderer. So while the court system and appeals process is long and can be mentally draining, it can serve a very helpful purpose in certain cases, and it did in ours.

**What do you think about time's impact on the emotional and mental state of inmates? How did Loyd handle it?**

The toughest part for Loyd was when he was about to be executed in 1987. One week before the scheduled execution, he was taken away from his cell and put into a holding cell to wait for execution. The same day, we had filed for a stay of execution and an evidentiary hearing. While in the holding cell, he was on suicide watch. This meant that a guard had to make sure Loyd was alive every ½ hour or so, so they had to disturb him – yell at him and make sure he responded. This is what got Loyd the most. He didn't sleep for days. When he finally got out of the holding cell after learning that he wasn't going to be executed, he asked me to never let that happen to him again (chuckles). He wanted me to file motions for a stay of execution earlier. He really didn't do well without any sleep. He was virtually psychotic during this time. It was cruel and inhuman.

**Do you believe that the benefits of the death penalty outweigh its monetary costs?**

The extra costs of the death penalty are in the hundreds of thousands or millions of dollars per case. These costs exceed the costs of prison costs. Absolutely no, the death penalty's benefits (if any) do not outweigh the costs associated with it. Is revenge priceless? Many states are considering repeal of the death penalty for that reason, among others.

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

I think the main problem with the death penalty is that there is no consistent way to evaluate whether a particular crime is deserving of an execution or not. There is absolutely no way to achieve consistency in the system, which renders it unfair. In trials, there are many, many different factors that influence the decision as to whether or not to condemn someone to death. The disposition of the jurors, the skill of the attorneys, the location of the trial, etc., all vary greatly from case to case. As humans, we each have different opinions on what qualifies a crime to be punishable by execution. Some people would impose it for a lesser crime than murder. Others make decisions based on race. And of course, no crime is going to be identical to another crime. Conditions will always be different for each and every case. Therefore, it is impossible to come to a rational, universally-accepted decision for each death case. It is simply too arbitrary.

**Do you think whether or not a country implements the death penalty is an indication of its level of "sophistication?"**

I think that we have a wrong-headed system when it comes to the death penalty. But looking at our nation, for example, I don't think the death penalty is necessarily an indicator of being unsophisticated. "Decency" might be a better word. I just think we need to focus on improving the justice system in that respect. We're a sophisticated country that just happens to have a few bad qualities, one of which happens to be the death penalty. I don't think you can judge a country so much just by their system of punishment.



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## **Effects and Advocacy:**

### **How, if at all, did the Loyd case shape any decisions you made later in your career?**

I can't say that the Loyd case has shaped any specific decisions in my career. I kept with the same firm for a while after. The case did, however, affect my views on the death penalty, and led me to support more pro bono work. That is one of the reasons I am on the steering committee at The Advocates. I can't say I wouldn't have gotten there without the Loyd case, but it certainly played a role.

### **If you were giving a talk to high school or college students, what would be the number one message you would want them to take away from your talk?**

I would hope that they really consider the arbitrariness of the death penalty system we have in place, and the results that we have obtained under it. The race of the accused, the race of the victim, quality of the defense, the political ambitions of judges, juror dispositions – these factors all play a very significant role in capital cases. If young people realize how inconsistent justice can be because of these variables, they will ultimately reject the death penalty as a form of punishment.

### **How and why do you continue to volunteer your time on the death penalty issue?**

The main volunteering on the death penalty issue that I do now is with the Advocates. I work on the steering committee and help to raise funds for The Advocates and the resources it provides to attorneys. Cathy Powell (also a lawyer) and I recently held a fundraiser party at our house in March. I also keep in touch with David Schultz, whom I worked with on the Loyd case for a while. He remains a close friend. Currently, he has a capital case in Texas and sometimes we discuss that case. I support his candidacy for Ramsey County District Attorney.

### **Any other interesting tidbits?**

Loyd's fate is an interesting discussion. He was given a life sentence in 1998. Angola Prison in Louisiana. Angola offers career choices for "Lifers" (those who are serving a life sentence). Among these choices are dairy farming, crop farming, or creating license plates. Other things, too. Loyd chose to be an "Inmate Counselor." This allows him to represent inmates in proceedings – quasi-legal disputes between inmates or inmates and prison staff. This is pretty ironic. Loyd used to have a ball and chain wrapped around him, and now he actually has a master key to the prison, the "key to the kingdom." He's even allowed to make appearances in court on behalf of inmates. For these appearances, police actually transport him to the hearings, so he ends up getting some time outside of the prison and makes a positive contribution to society, despite having been considered "the most dangerous of criminals" for many years.