

Parallel Justice: Where Victim Advocacy and Reentry Work Find Common Ground

Remarks by

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Delaware Center for Justice 91st Annual Luncheon

June 3, 2011

I'm very pleased to be here today to join you at your 91st annual luncheon, I have enormous respect for the work of the Delaware Center for Justice and I look forward to a good, lively conversation.

Very few organizations actively seek justice for both victims and offenders-- as you do. You understand that justice for one does not diminish justice for the other. In many respects you are a lead innovator, a great pioneer in these efforts and I applaud you for your long and distinguished track record.

At the outset, I should say that I come at both victim and reentry issues from the perspective of a victim advocate, and today I'd like to talk to you about how to use what we have learned about victims and victimization to guide our responses to crime.

I will begin by sharing my philosophy of victim advocacy, and for those of you engaged in work with victims, I hope it pushes you to think more broadly about the scope of your work. Then I will tell you how my perspective on victimization informs my views on reentry, and encourage you to consider expanding that work a bit as well.

Let's talk first about crime. As a society we have decided that certain behavior is so harmful, so serious, that we've criminalized it. Because this behavior violates the social contract, we've decided we can punish the people who commit these acts, even deprive them of their liberty. We've decided these violations of the social contract merit a communal response. So when a crime is committed, we respond. We try to find the right person, and bring him before the bar of justice. We tell him, "You violated the law, that's wrong, and this is what's going to happen to you."

In my view, when a crime is committed and the social contract breached, our response to victims should be just as explicit. Victims should be told, "What happened to you is wrong--and we will do everything we can to assist you." I believe that victims deserve more than our compassion, they deserve justice--a communal response that kicks in whenever a crime is committed. Justice for victims means keeping them safe, and helping them rebuild their lives.

I have also come to the conclusion that justice often requires giving victims priority access to many resources and social services.

Why do I say this?

Lots of bad things happen to lots of people. They lose their jobs or their homes. They suffer from AIDS or cancer. They are victims of floods, wildfires, or increasingly tornadoes and hurricanes. All these people deserve our compassion and need resources and support. Let me be clear here--I do not believe that the impact of crime is worse than all of these other circumstances. What I do believe, is that the nature of victimization is such that our society should be particularly concerned and responsive.

Most crimes are acts of human cruelty, so the person who loses a child who accidentally falls into a swimming pool and drowns, has a different reaction than someone whose child is shot and killed. The person whose father dies of cancer reacts differently than the person whose father is strangled to death. It's not that the pain is worse—it's that the reaction takes a different form. The human cruelty of crime often produces alienation from others, a fear of intimacy, and a withdrawal from community life.

These reactions ultimately tear at the fabric of communities and weaken our society as a whole.

After several decades of research, we know a great deal about the impact of crime. Exceptionally resilient victims move on with their lives easily. Others cope with emotional, physical and financial turmoil for weeks, months, and even years after the crime.

When compared to the general population, victims of crime have a greater likelihood of experiencing mental health problems, lower success at school and at work, and are more likely to abuse drugs and alcohol.

For example, research comparing battered women who have been abused on multiple occasions to women who have not been abused shows battered women are 5 times more likely to attempt suicide, 15 times more likely to abuse alcohol, 9 times more likely to abuse drugs, and 3 times more likely to be diagnosed depressed or psychotic.

Research also points to another long-term harmful effect -- victimization often leads to delinquency and criminal behavior. A study by the National Council on Crime and Delinquency found that the single greatest factor in predicting criminal behavior on the part of teenagers was not teenage pregnancy, drug use, or truancy, but whether they had been victims of crime.

A Justice Department report reached a similar conclusion: violent victimization of juveniles is a critical risk factor, not only for future victimization, but also for subsequent violent offending in adulthood.

So victimization fuels many serious social problems, often leads to more crime, and it weakens the very heart of our communities--the ability of people to relate to each other in healthy and productive ways. For the good of society at large, victims not only deserve a communal response, they deserve to be a high priority in receiving the support they need to rebuild their lives.

Unfortunately, there are many crime victims who have little access to any kind of support. For example, teenagers are twice as likely to be victims of crime than any other age group, and the least likely to get any kind of assistance. In fact, the people most at risk of violent crime in America are young men of color in urban communities. I think you'd be hard pressed to think of a victim service provider with outreach and services specifically targeting this population—or find more than a handful of organizations across the country addressing their crime-related needs at all.

In my view, just as anyone accused of committing a crime deserves justice regardless of the crime or their circumstances in life—all victims deserve justice—whether they are young or old, or whether the crime took place in their homes, on the street, in schools or institutions such as mental hospitals and prisons.

Furthermore, our response to victims must also focus on their safety. We owe all of our citizens every effort to keep them safe. That's our social contract.

But research has shown that when someone is a victim of crime, almost any crime, they are at greater risk of becoming a victim of another crime for at least a short period of time. Therefore we have a heightened obligation to prevent repeat victimization.

And we know, mostly from research done in other countries, that focusing on preventing repeat victimization can reduce crime. Several strategies such as target hardening and problem-oriented policing to change the circumstances that made a victim vulnerable to crime in the first place, have produced impressive results.

If we want to keep victims safe, and offer assistance to all victims, we must be mindful that very few victims ever see their cases go through the criminal justice process. Only half of all crime is reported to the police, only 20 percent of those complaints result in an arrest, fewer are prosecuted, and fewer still lead to convictions.

The traditional criminal justice process will never address the needs of most victims-- both because they are not participating in it--and because it's not designed to do so. So providing justice to victims should never depend on whether the offender is ever identified or convicted.

Of course victims' experiences in the criminal justice system can and should be improved and victims' rights should be enforced, but seeking justice for victims means looking primarily outside the traditional criminal justice process.

About 10 years ago, I began to imagine communal responses to victims, that came from asking—“What is it victims need in the aftermath of crime, and what are our societal obligations to them?” Think 9/11. We never said, we’ll deal with the problems victims are facing after we find Osama Bin Laden. We realized immediately we had a separate obligation to respond to their needs.

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 there should always be a separate set of responses for the individual who has been harmed by the crime. Imagine a ladder. Separate paths to justice, one for victims, one for offenders, with the rungs representing opportunities for interaction between the two processes.

I began to use the term “Parallel Justice” to make it clear that there are separate responses for victims and offenders, and these responses, both designed to foster successful reintegration, can take place contemporaneously.

Over the last decade I have worked with a number of communities to create Parallel Justice for victims of crime. Some have been community-wide efforts to follow Parallel Justice principles to create better responses to victims; others have focused more on realigning the work of a single agency to the Parallel Justice framework. For example there have been wonderful Parallel Justice initiatives in a police department in California, a District Attorney’s Office in New York, a hospital in Vermont, and an impressive city-wide effort in Burlington, Vermont.

Lately I have been applying Parallel Justice principles to reentry projects, and it’s this work that I’d like to tell you about next.

Over the last ten years, we have seen growing interest in the large numbers of incarcerated people returning home. Much of the discussion focuses on the need to create support structures to help formerly incarcerated people overcome the many obstacles they face.

Reentry programs, whether behind the walls or community-based, typically provide participants educational opportunities, housing, transitional employment, and increasingly, community service opportunities designed to develop self-esteem and create more positive relationships between participants and their communities.

Ultimately the goals of the reentry movement will be reached through new policies and programs that promote desistance and full reintegration.

From my perspective, notably missing from the reentry discussion, and from the reentry process itself, is “truth telling” about the crimes that were committed and the harms that followed.

In some respects, this dishonesty is built into the adversarial system.

There is a moment during the adversarial process when a defendant might plead guilty, but at best this is an incomplete acknowledgement because defendants don't usually say what they did. And, often, when there is such a statement, it is actually factually not true because they are pleading to a lesser charge.

Later on in the criminal justice process, professionals in the reentry field—corrections, probation, parole, and social service providers—typically feel it is inappropriate to inquire about what someone did.

They may know the penal law charge, but they usually don't discuss the details, nor do they discuss the impact of the crimes.

Reentry initiatives, like the rest of the criminal justice process, do not encourage participants to understand—and do all they can to address—the harms they have perpetrated on others. For the most part, they have not recognized the value of understanding the impact of one's crimes, or the importance of providing restitution to victims.

In so doing, they reinforce a certain collective denial.

This denial is reflected in the language we use when talking about people who commit crime. We say they are “caught up in the system, involved with the system, they picked up a case”.

In fact, in most cases, they committed a crime, and it is this action that brought them to prison. But this truth gets lost in our language, our adversarial process, our corrections system, and our reentry work.

As a result, the public feels disconnected from the justice system. It seems like a game. There is neither trust nor confidence in the criminal justice process.

This lack of truth also harms individual offenders and victims, breeding even more distrust and cynicism about our justice system. Offenders are denied opportunities to come to terms with their actions and the many consequences of those actions. Victims feel there has been no acknowledgement of what actually happened and that no one really cares.

Unfortunately, there is a significant gap between our understanding of the consequences of victimization and the context and goals of the reentry movement. There are other truths we deny.

We know that a large percentage of men, and most women, in prison have been subjected to physical violence prior to being incarcerated, with much of the violence first occurring in childhood. We know from interviews with inmates that many point to their own violent victimization as a turning point in their lives, an experience that contributed to their criminal behavior.

We also know many prisoners experience more violence--and new trauma--while in prison. In fact, in soon-to-be published research, co-authored by Janine Zweig, Jennifer Yahner, Christy

Visher, and Pamela Lattimore, we learn that in-prison victimization experiences are significantly predictive of future recidivism and relapse.

Yet with rare exception, counseling designed to address the impact of an offender's victimization is not a significant part of the reentry process. We don't connect the dots and the truth about victimization is ignored.

We have all heard positive accounts of the South African truth and reconciliation process that values truth telling, documentation of harms, and public acknowledgements of responsibility. In our American criminal justice process, there is rarely any truth telling, and, as a result, rarely any reconciliation.

The focus of my current work, the question I am asking, is whether we can incorporate the truth about crime and victimization into our thinking on prisoner reentry. In other words I have tried to find some common ground between victim advocacy and reentry work.

So, how should the reentry process recognize the realities of crime and victimization?

First, reentry programs should promote responsibility. In an adversarial system that tends to polarize victims and offenders, and in practice, often discourages truth telling, it is difficult to promote genuine acknowledgements of responsibility. Even so, corrections agencies and reentry programs can foster responsibility in a number of ways, often through communication with victims.

Some victims want face-to-face or written communication with the person who committed the crime against them. They should be given such opportunities through a safe and supportive process similar to the mediation programs administered by the Delaware Justice Center. Victim advocates should prepare both victims and offenders for these encounters, to ensure that everyone's expectations are realistic and that they are emotionally ready to hear what the other party might say.

Several correctional agencies have implemented victim impact panels, in which crime victims—not the victims of the offenders in the room, but representative victims—talk with offenders about how their lives have changed as a result of the crime. These panels, designed to foster empathy, are usually geared to individuals convicted of drunk driving or sexual assault, but they could easily be adapted for other kinds of crime and be held during other stages in the criminal justice process.

Several states have longer programs with curricula designed to help prisoners understand and take responsibility for their actions. Some involve victims, some don't.

All these programs have value. Many have limitations. The most significant shortcoming, in my view, is that some tend to promote cathartic change too quickly. The goals of these programs are good--developing mutual understanding, a greater sense of responsibility for actions and remorse

for consequences--but this kind of profound shift in thinking takes time, often a long time. I have found that many encounters between victims and offenders occur with too little lead time to prepare both parties for meaningful and lasting change. And, just as important as sufficient time, is skillful facilitation to maximize the learning outcomes.

Recently I have been privileged to be a part of a new initiative for prisoners. The Osborne Association in New York City, working with a task force of academics, defense attorneys, victim advocates, and formerly incarcerated individuals, developed a curriculum on individual responsibility for incarcerated people, called "Coming to Terms." The objective of this 16-week course is to explore the issue of responsibility in the context of a profoundly personal journey traveled by individual participants.

To create an environment where people can speak freely, the workshop is facilitated by non-correctional staff, one therapist, and one reentry specialist. Participants are encouraged to reflect on their lives, understand traumatic experiences that may have shaped their life course, take responsibility for their actions, acknowledge the harm that resulted from their crimes, understand remorse, and develop ways to make positive contributions to society. The curriculum has been offered several times to groups of individuals in the NY State prison system serving long sentences for violent crimes, mostly murder.

This work has been powerful and dramatic. A few early observations: according to the participants, all of whom have been in prison over 10 years, this experience marked the first time they ever talked truthfully about the crimes they committed to anyone—including their families, their defense attorneys, and their fellow inmates. This was the first time they ever explored the impact of their crimes, the first time they ever felt genuine remorse, and the first time they acknowledged the victimization in their own lives.

All of the men have reported tremendous positive personal transformations as they finally allowed themselves to tell the truth about their lives.

I have no doubt that similar curricula that challenge and support participants through this kind of deep exploration could be created for people on probation and parole or in community-based reentry programs.

Second, reentry programs should encourage offenders to pay restitution. We know that offenders who pay restitution-- when compared to those who don't--are less likely to recidivate. But too often, when offenders are poor, the idea of restitution is rejected out of hand. This is unfortunate because restitution is a meaningful way to show victims that their losses are real, and that offenders have an obligation to them, as well as to society at large. Restitution also allows offenders to acknowledge the harms they have perpetrated and take action to right the wrong. Payment schedules can always be adjusted to reflect income, and for most victims, some payment is better than nothing.

Third, we should provide victim assistance to offenders. As I mentioned earlier, we know there is a link between victimization and subsequent criminal behavior. Because a high percentage of all incarcerated people have been victims of violence either before or after entering prison, corrections departments have a unique opportunity to address the impact of those crimes.

Corrections agencies should either develop the internal capacity-- or partner with local victim service providers--to offer prisoners who have been victims of crime appropriate counseling to get over the trauma, and safety planning to prevent repeat victimization. And in all instances, when a crime is committed in prison, the victim of that crime should also have access to victim services. In my view, victim assistance should be an essential part of both corrections and reentry programs.

In many cases, this will require victim service providers who have never worked with prisoners or formerly incarcerated people to rethink their service delivery models. This will also require funders, including legislators in some states, to lift restrictions that exclude prisoners from eligibility for government-funded victim services.

I believe it's time to infuse our knowledge about victimization into the reentry process. It's time for more truth, and more healing. As a final thought I'd like to leave you today with a challenge to expand your victim services, and to rethink the nature of your reentry work.

Young men of color in urban communities are the people most at risk of violent victimization, and the least likely to receive any victim services. Consider finding ways to reach them, and to help them get their lives back on track.

Many people coming out of prison--typically young men of color from the same urban communities--were victims of violence before or during prison. Try to find ways to offer them appropriate counseling and support to address the impact of this violence on their life course.

Remember that victims need to have their experience acknowledged and they often need assistance to move on with their lives. Remember that truth telling has great value for both victims and offenders and consider creating reentry programs that actively encourage participants to take responsibility for their actions, and promote the payment of restitution.

And now I'd like very much to hear your thoughts about Parallel Justice and where victim advocates and reentry work find common ground.

Thank you.

Contact Susan Herman and read more about Parallel Justice at www.paralleljustice.org