

FAMILIES OF HOMICIDE VICTIMS SPEAK: AN
EXAMINATION OF PERCEPTIONS OF THE
CRIMINAL JUSTICE SYSTEM AND
CAPITAL PUNISHMENT

By

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CHAPTER I

INTRODUCTION

Overview of the Research

The goal of this project was to explore the sentiments of murdered victims' families where the offender received the death penalty. Specifically the research aimed to: (1) examine the experiences of murdered victims' families with the criminal justice system. In particular, the questions focused on (a) whether there was a sense of inclusion or exclusion by the system, (b) if the family members have, or believe they will have, a sense of closure or finality due to the proceedings from the case, and (c) if there is an overall satisfaction with the criminal justice system and their processes; and (2) examine how these experiences with the criminal justice system shape family members' views of the death penalty. This is important because within the United States there is a growing debate about whether or not capital punishment should be ruled unconstitutional across every state. One aspect that is continually ignored is the victims' families' opinions about this topic.

Traditionally, a victim is "a person who suffers some hardship or loss" (Barnhart and Barnhart 1977: 2331). Another definition is "a person badly treated or taken advantage of" (Barnhart et. al. 1977: 2331). It is the contention in the ensuing research that family members are secondary victims who suffer as well as the primary victim who was killed. When specifically discussing the case of murder, crime victims' families feel an immediate impact from the crime. Therefore, while the victim in these cases is not

able to be heard, have a say in the criminal justice proceedings, and put forth an opinion about the death penalty, the family members are able. They are the ones that must come forth to defend the actual crime victim. So, during this research, by saying the “crime victim”, it is suggested that this could mean the actual victim or the victim’s family.

Historically, victims and victims’ families have largely been secluded from making any decisions about the crime that occurred. Once a crime is committed, states take on the role of victim. With the onset of the victims’ rights movement, restitution programs, social service agencies, and a more inclusive role for victims of crime have been organizational goals set forth to assist crime victims and their families (Friedman 1985). Dissatisfaction with the criminal justice system has led crime victims to demand more rights and advantages from the police, courts, and attorneys. Despite this movement, there is still much work to be accomplished so that crime victims and their families feel a sense of complete embracement by the system.

In terms of violent crimes where the offender has received a death sentence, families of homicide victims are much different from another type of crime due the fact that “death by murder is a public rather than private event and there is no closure” (Peterson 2000: iii). Regardless if family members are included in the criminal justice process or not, they are left with a family member deceased by the hand of the offender. This research hoped to reveal certain aspects of the criminal justice system and how they can induce negative and/or positive feelings about the case and whether or not the surviving family members invoke pro or anti-death penalty emotions. Violent crimes, murder specifically, is one of the only crimes in the nation that is still punished by death (Bedau and Cassell 2004).

The relationship dynamics between the murder victim and the offender can also play a role in the justice system's decision-making processes (Block 1981). Thus, the interaction between family members of homicide victims, the offender, and criminal justice system professionals can have an impact regarding death penalty sentences. Of course, the victim cannot voice his/her opinions in such cases, and in such a circumstance, it is left to the families of those murdered to make recommendations about the prosecution (Block 1981). Crime victims' wishes about what should happen to the offender has largely been pushed due to the victims' rights movement; however, this should not mean that the same should be denied from homicide victims' families.

Arguments have been developed over the course of years that suggest that states rule the death penalty unconstitutional (Haines 1996, Bosco 2001, Logan 1999). What society many times does not take into consideration is how the families of murder victims respond to this. As the criminal justice system responds to the more punitive measures in criminalizing offenders, in general it is important to document homicide victims' families as they interact with a justice system that is learning to respond more to victims and their families.

Why Study the Death Penalty?

Attitudes about the death penalty for convicted murderers are varied. Even at the individual level, people sway between being for or against the death penalty. According to Bessler (2003: 104), the methodology of public opinion polls may be "flawed." He states, "More than two-thirds of Americans say they 'favor' death sentences when asked the oversimplified question 'Do you favor or oppose the death penalty for persons convicted of murder?'" However, Bessler (2003) continues by arguing that people's

opinions change when asked if they would still support the death penalty if life in prison without the possibility of parole were an option. Attitudes supporting the death penalty then drop approximately 15-20 percent (Bessler 2003: 104). Citing a Gallup poll issued in 2002, Bessler (2003: 104) states:

Forty percent of respondents think the death penalty is applied unfairly, and another ABC News poll conducted in 2001 found that 51 percent of Americans support a nationwide moratorium on executions. Other polls show that a majority of Americans oppose the execution of the mentally ill and would not want to pull the switch at executions themselves.

With regard to the mentally handicapped or juvenile offenders, people's opinions bend with respect to applying the death penalty. These populations are perceived as being dependent, not conscious of wrong-doing, and lacking maturity (Bynum and Thompson 2005). This idea has recently been modified through the Supreme Court with the ruling that a juvenile offender cannot receive the death penalty.

To study the death penalty would mean to understand what is involved, why the United States continues to allow the death penalty when many other developed nations do not, and to be aware of the dynamics of imposing a death sentence to an offender. Furthermore, the legal aspects of the death penalty are a necessary component when evaluating public perceptions and opinions. Being a nation of laws, the United States draws upon the constitution to make decisions regarding heavily debated issues. Some states have adequately argued that the death penalty is unconstitutional. This fact alone bears inadequacy between states because some have ruled against death penalty while some states ardently pursue such a sentence.

Within the criminal justice system itself, professionals (i.e. lawyers, judges, police) are just as divided regarding whether or not the death penalty is lawful as the

general public (Bedau and Cassell 2004). Not only do they dispute the legality of the death penalty, but they question the humanitarian aspect of it as well. Whether or not states abolish or keep the death penalty in their jurisdictions is largely a decision these professionals make for the rest of society. Therefore, studying the death penalty and all the facts, opinions, myths, and attitudes about it from various people's points of view is essential.

Other features surround one's perception about if the death penalty should be applied in the United States. For example, one's religious background, economic standing, political affiliation, race, and gender could all be characteristics considered if one supports the death penalty or not (Vollum, Longmire, Buffington-Vollum 2004; Bjarnason and Welch 2004; Young [1992] 2003, Murray 2003). While the goal of this research was not to describe all the demographic features that may lead some in society to support or deny the existence of the death penalty, it is necessary to make the distinction that there are a host of factors that can and do contribute to someone's perspective regarding this issue. Additionally, experiences with the criminal justice system could lead a family member of a murder victim to oppose or support the death penalty. This research does seek to examine those experiences in such a way as to study the relationship between death penalty perceptions and how these family members interact with those in the criminal justice system.

Why Study Homicide Victims' Families?

Traditionally, having a voice in the criminal justice system has been absent for victims of crime. This is no different for families of those a crime was committed against. As briefly noted before, there is a difference between families of homicide

victims and families of victims of any other crime. Whent (1991: 356) notes that there are a few aspects of what happens to a family when their loved one is murdered.

1. The media will examine their lives and any family indiscretions are likely to be brought to the surface and published.
2. A Major Investigation Murder Inquiry will be launched. This is something over which the family has absolutely no control. They will only get information that the police think fit to divulge.
3. They often have a total lack of information of what happens next and what they should do, or can do.
4. They have an inability to bury their loved one for, sometimes, several months.
5. They have to contend with their personal grief and the family trauma which often can manifest itself in one member of the family blaming the other, suggesting that if they had collected their loved one this would not have happened.

Even as this is the case, omitted from this analysis is the question, “What is happening to the murderer?” Police officials many times do not comment on the investigation to family members which leaves them feeling more frustrated, saddened, and fearful.

Additionally, one feature of criminal investigations that divides families is the fact that the various investigators may discuss the case more with one family member versus another (i.e. a wife more than a sister). Separation can occur from this lack of communication between the police as well as between family members.

King (2003) conducted a qualitative study in which she interviewed family members of homicide victims. Her analysis primarily focuses on those family members that oppose the death sentences the offenders received. However, these stories do make mention of the conflicts which can occur within the family unit in regards to people’s opinions of the death penalty and if it should be administered in these particular instances. Moreover, these interviews shed light into the world of family members in

regards to their experiences with the criminal justice system and the frustrations that can come out of them (King 2003).

Varied thoughts exist in terms of what role family members of homicide victims should play in the criminal justice process. Should they be allowed to have full knowledge of the crime? If, in fact, the offender does receive the death penalty, should the family have access to the courts to relay the hurt the crime has caused the family? At times, the family members do not have the knowledge base to understand that they do, in fact, have these certain rights. Do the interactions that family members have with the justice system play a role in deciding to request the death penalty? By studying their responses to these questions, policy can be improved or modified to be more inclusive of homicide victim's families and their thoughts about the death penalty.

Criminal justice officials often consider families of murder victims more as a distraction rather than part of the solution. One reason for this could be that they want to process this case forward quickly, and the family members are requiring the information about their loved one (see discussion of the Crime Control Model). Furthermore, during the death penalty sentencing, family members may not even be called upon to address their views on what should happen to the offender. By questioning families of homicide victims to understand their experiences with the criminal justice system, it will further society's interpretations of the death penalty and to be aware of the role the system plays on pro or anti-death penalty sentiments.

Why Study the Criminal Justice System's Role?

According to the Bureau of Justice Statistics (2005), homicide rates have been decreasing in recent years. Furthermore, state executions have also been slowly declining

(Bureau of Justice Statistics 2004). However, the number of felony convictions in state courts has been steadily increasing with more offenders being sentenced to prison rather than jail or being put on probation (Bureau of Justice Statistics 2002). The criminal justice system is the avenue in which these increases and decreases occur. Historically, the justice system has been divided on whether or not the sentence of death for convicted felons is constitutional. Even today, there are 38 states that continue to use the death penalty as a deterrence method (www.deathpenaltyinfo.org).

The Eighth Amendment suggests that no cruel and unusual punishment should be inflicted on human beings. Therefore, the debate surrounding the death penalty has forced many states to examine the constitutionality of their death sentencing policies. The criminal justice system has to consider the political climate, society's attitudes, as well as legal ramifications when examining the death penalty. Additionally, because the Victims' Rights Movement has gained political momentum, the justice system must also include certain elements of how a victim, or the homicide victim's family, feels about the process and outcome of their specific case.

Over the years, the criminal justice system has come under attack for various reasons including wrongful convictions, racist/discriminatory decisions, and a lack of emotional appeal towards victims of crime (Westervelt and Humphrey 2001; Huff, Rattner, and Sagarin 1996; Austin and Irwin 2000). By examining the organizational culture of the justice system to study certain flaws (particularly as they relate to crime victims and their families), it could prove beneficial to those people who bear the brunt of the crime. Moreover, to determine which aspects, if any, of the system contribute to the attitudes of crime victims' families as being for or against the death penalty could be a

useful indicator for the victims' rights movement supporters in order to more fully understand the dynamics within the system.

Preview of the Remaining Chapters

Chapter II

This chapter provides an in-depth analysis of past and current research in the areas of the victims' rights movement as well as the history concerning the death penalty in the United States. It considers the barriers that victims of crime have faced as well as those challenges for families of homicide victims. The death penalty is continuously being modified in different states, so it is necessary to understand what has happened historically so that society can see what it can possibly become in the future. This chapter briefly outlines some of the problems the current criminal justice system has faced and how those professionals within the system have sought to overcome them.

Chapter III

This chapter explores the sociological theoretical foundations of victims' rights, the justice system, as well as restorative justice. Victimology theory is considered a subfield of criminology which suggests that there are relationships between victims, offenders, the criminal justice system, and media. Herbert Packer's (1968) analysis of the criminal justice system also provides a comprehensive view of two contradictory views: the due process model and the crime control model. These are examined in order to more fully understand the paradigms operating within the justice system. Roach (1999) expands on Packer's model to incorporate victims' needs in what he terms the punitive and non-punitive models for victim's rights in the criminal justice system. Restorative justice calls for a more inclusive role, not only for victims of crime, but for

communities, friends, and family members of both the victim and offender of a certain crime. The restorative justice approach is becoming employed more often than has traditionally been the case in the American criminal justice system. These aforementioned theoretical foundations lay the framework for a more complete assessment of this research.

Chapter IV

Chapter four, the research methodology, begins by outlining how the researcher carried out the plans of the research. A qualitative methodology is used to conduct this research. A review of qualitative methodology, in general, is noted. This project was conducted by using a semi-structured interviewing script and using follow-up questions to gain more in-depth information by the research participants. This chapter also discusses the process used to gain access to the research participants. When using qualitative research, ethical issues are at the forefront of researcher's list. This chapter talks about those issues and how the researcher responded to them using qualitative research. Finally, chapter four describes how the information gained was coded for analysis.

Chapters V and VI

Chapters five and six explore the data analysis of the participants' responses to the researcher's questions. The research found trends and patterns in the life experiences of the participants determining how the criminal justice system has affected their perception of the death sentence the offender received. Chapter six addresses those aspects of the criminal justice system that the families of homicide victims hope can be

adjusted to more suitably meet their needs- specifically when it comes to examining the death penalty sentencing phase.

Chapter VII

Chapter seven provides a summary of the project; draws conclusions from the data, as well as notes the limitations of the research. By conducting this research, this final chapter realizes the need for future research that could be explored such as examining the differences between the families of homicide victims and the family members of the offender currently on death row and their experiences with the criminal justice system.

CHAPTER II

HISTORY

Victims' Rights and Criminal Justice

This chapter provides a broad overview of the victims' rights movement and how this social movement has transformed how the criminal justice system responds to crime victims and their families. Because the role of crime victims within the criminal justice system has recently expanded, due in large part to the movement, the first section briefly describes the dilemmas concerning social movements which pre-dated the crime victims' rights movement. The second section reviews research on the disenchantment of crime victims of the justice system. Then, the victims' rights movement is briefly outlined noting the organizational and legislative advancements made. The fourth section discusses research on the death penalty. It examines arguments that support the death penalty as well as those that oppose it. The issues discussed in this chapter provide a starting point for thinking about whether or not homicide victims families' experiences with the criminal justice system influence the way they think about the death penalty.

Victims and Their Pursuit of Justice

It is no great surprise that victims of crime have been excluded from the criminal justice system and its proceedings. When a crime is committed, it becomes a crime against the state, or government, and the original victim does not have any input into what should happen to the offender. With the onset of the Civil Rights Movement, the

feminist movement, the Anti-War Movement, and the “Law and Order” Movement, supporters of human rights wanted to rectify their current status in the system (Walker 2000). As diverse as these individual movements may seem, the similarities between them offset the differences. These movements provided voices for those people who had been unheard in the criminal justice system. While the Civil Rights Movement gave minorities an avenue to demand equal access to society’s opportunities, the Anti-War Movement gave mainly younger individuals power in a democratic society (Walker 2000).

The law and order movement was “a result of citizens becoming more fearful of violent crime, and many groups consequently calling for more stringent punishment of those who violate the law” (Wallace 1998: 8). This particular movement pre-dated the actual victims’ rights movement; however, many of the proponents of this movement allied themselves with the latter. The conservative nature of this movement spurred many in society to endorse stiffer penalties for offenders of crime. This movement gave way to victims of crime as well as communities a stronger sense of influence about how offenders of crime should be treated within the system.

Perhaps one of the leading movements preceding the victims’ movement was the women’s movement. In the 1970s, society became more aware of the fact that victims of rape and sexual abuse (including spousal abuse) were more prevalent than had originally thought. Pre-existing ideas suggested that women who were victims of rape “asked for it” or that it was their “fault” by wearing certain clothing or who they associated with (Friedman 1985). The feminist movement spawned debates about these ideologies to empower women and to “increase public sensitivity to the psychological effect of crimes

on victims, particularly feelings of powerlessness, isolation, and guilt” (Friedman 1985: 791).

While these various movements endorsed certain rights for those people who were deemed powerless, the development of the crime victims’ rights movement consisted of ideas from all of the aforementioned groups. Before studying the actual movement, it is necessary to research how victims of crime have been disappointed by the criminal justice system. Below, the researcher specifically describes the dissatisfaction held by victims of crime.

Disenchantments with the Criminal Justice System

Frustration comes about in different ways for victims of crime. Some find it geared more towards the police while others feel more discouragement from the actual court processes. Whatever the case may be, victims of crime and their family members have had a difficult time feeling as if their opinions have mattered to the justice system. From the inception of the process with police officers, victims of crime have become more victimized due to lack of involvement with the system. Without crime victims participating in the case, more and more cases would be dismissed. Therefore, it is necessary to be more aware of the role victims and their families should play in the criminal justice system.

Kelly (1984) notes that even when victims of crime are cooperative with police officers, the victims perceive that police are interested in attaining the information about the incident and then no further contact is made about the case. Furthermore, she (1984: 16) notes that “victims soon learn they have no standing in court, no right to counsel, no control over the prosecution of their case, and no voice in its disposition.” The fact that a

majority of court cases are plea bargained adds to the aggravation of the victims because they are then excluded from programs that they could receive.

It is important to state here that even with the commencement of certain victims' rights, these stresses still occur. Ford (1983) suggests that in cases involving spousal abuse, the victims' efforts are often set aside. More often than not, Ford's (1983: 472) research showed that husbands were not arrested by the police, the prosecutor's office held much discretion when deciding to prosecute the case, and affidavits were frequently put "on hold" due to the perception by the prosecutor that the victim would not follow through as a witness. Occurrences such as this could easily be generalizable to other violent crimes. Discretionary rights held by police, prosecutors, and judges will remain at the forefront of the criminal justice system so that victims and their families will rely upon these professionals to attain some finality to the case.

Court processes are especially difficult for crime victims. Kelly (1984: 19) notes that victims "want to be informed of deliberations, included in case developments, and offered an opportunity to participate in determining what happens to their assailant." However, this is not always the case. Research has indicated that victims had no legal counsel afforded to them, or if they did, it was not continuous which meant they would have to cope with a series of prosecutors- not just one (Kelly 1984).

As a result of these disappointments with the criminal justice system, it is essential to study the actual history of the crime victims' rights movement. With its inception in the early 1970s, the victims' rights movement has sought to rectify the aforementioned discrepancies. Although the movement is still in progress, significant

changes have come about because of the involvement of organizations to ensure its progression.

Victims' Rights Movement

Beginning at the grassroots level, the victims' rights movement has gained nationwide recognition. Organizations have been put in progress and laws have been enacted to enhance crime victims' rights. With the emergence of the victims' rights movement, in 1965, the first crime victim's compensation program was established in California. The grassroots efforts of volunteers were the major strides of the movement during this time period. It was not until 1972 that the volunteers founded the first three victim assistance programs: The Aid for Victims of Crime in St. Louis, Missouri; the Bay Area Women Against Rape in San Francisco, California; and the Rape Crisis Center in Washington, D.C. (Walker 2000).

At the national level, the federal government took two significant steps to address the problem: the creation of the first governmental sponsored victimization survey and the Law Enforcement Assistance Administration (LEAA) (Walker 2000). The organization was an independent agency within the Justice Department originally set up to funnel money to police departments. With these first service programs, the major focus was to provide victim support largely through self-help groups. Their goals quickly expanded to target the intensive and unfair treatment of victims by the criminal justice system (Young 1986). Additionally, in 1975, LEAA called together leading activists to discuss methods of increasing victims' rights. The major result of this meeting was the founding of the National Organization for Victim Assistance (NOVA) (Young 1986: 314).

NOVA is a “private, nonprofit organization of victims and witness practitioners, criminal justice professionals, researchers, former victims, and others who are committed to the recognition of victim rights” (Bard and Sangrey 1986: 143). One of NOVA’s primary purposes is that “it sustains the helpers, those who are directly responsible for delivering services to crime victims” (Bard and Sangrey 1986: 143). Because these victim support services were largely under the care of volunteers, NOVA pursued the professionalization of these services by providing a forum for specialized growth while also protecting those caregivers from professional dangers such as burnout (Bard and Sangrey 1986).

Though all of these advancements were occurring, beginning in 1977, it appeared that many of these gains of the victims’ movement might be weakening. Federal funding began to decrease and, in 1979, LEAA “ceased to exist” due to the lack of congressional support (Walker 2000: 4). Weed (1995: 8) notes that the reason for the destruction of the LEAA was “the bureaucracy that directed the programs was confused and poorly led, with a high turnover in administrators...it was constantly criticized as lacking goals and standards for evaluating programs.” When this took place, the various grassroots-level as well as government based programs began competing for scarce resources (Lurigio, Skogan, and Davis 1990). This is when those places that relied on LEAA funding, such as shelters, began to find new local sources of funds or simply close down. The fact that the state governments “had been lured into the role of criminal justice planning by the LEAA block grants in the 1970s made the state a logical source for funding victim services” (Weed 1995: 18).

With many of these setbacks to the movement, still some progress was being made. One of the primary reasons the victims' rights movement has been long-lasting is because there was a "second generation" trained to continue the original energy (Walker 2000). New grassroots organizations developed to spur further advancement for rights of victims. Weed (1995: 11) notes that the "rise of a grassroots movement represents a process of development from an embryonic beginning to a stable activist organization."

This process includes four elements:

1. A preexisting or new situation that brings people together such that they discover they have a common issue or grievance.
2. A process of issue formation and elaboration. This is usually carried out by opinion leaders who articulate the meaning of the issue and promote a call for action.
3. The creation of an organized group designed to represent the people and the issue.
4. Organized groups must create or tie into extended networks.

As noted previously, one of the primary grievances that the victims of crime hold is their lack of involvement in the criminal justice system. Traditionally, they were not allowed to see the offender, talk to him/her, or even sit in the court room while sentencing or bail hearings were held. From the crime victim's standpoint, they often felt as though the accused in the case was receiving the most consideration in the process while the victim could not tell how the crime had impacted him/her.

Pressing for reforms and laws was a vital point for crime victims and their families for more inclusion in the justice system. It is important to note that in the early 1970s, attention to crime victims was virtually nonexistent. Efforts to change this were initiated by feminists, who, as previously stated, mobilized to increase public awareness of "callous" treatment which rape victims were subjected by the criminal justice system,

and “law and order groups,” who argued that “few criminals were prosecuted and convicted as a result of this poor treatment” (Kelly 1984).

In 1982, Congress passed the Federal Victim and Witness Protection Act (VWPA). This Act provided for witness protection, restitution, and fair treatment for federal victims and witnesses of violent crimes (Walker 2000). As Congress stated in enacting the VWPA, “The Congress finds and declares that...without the cooperation of victims...the criminal justice system would cease to function” (in Kelly 1984: 21). Kelly (1984) has stated that research has indicated that the contentment of crime victims was enhanced if they felt they had directly or indirectly had some impact upon the criminal justice.

In 1983, a National Conference of the Judiciary on the Rights of Victims of Crime “met to discuss the treatment of crime victims by the criminal justice system and to consider ways to minimize victims’ burdens and trauma” (Bard and Sangrey 1986: 131). Among the most primary victims’ rights should include: “ensuring that victims and witnesses are treated with courtesy, respect, and fairness” (Bard and Sangrey 1986: 131).

As Walker (2000: 5) states, “The single greatest event in the victims’ movement to date occurred in 1984 with the passage of the Victims of Crime Act (VOCA).” This Act established the Crime Victims Fund to give funds for local victim assistance programs as well as state victim compensation to crime victims. Davis and Henley (1990: 157) state that due to federal funding through VOCA, “victim service programs have developed a secure niche for themselves both within and outside the criminal justice system.” As one can see, during this time there was increased public awareness and a high level of political support for victims’ issues.

The Victim Bill of Rights has been the culmination of progressions through the victims' rights movement over the years. Congress enacted the Bill of Rights for victims of crime and their families in the early 1980s. States have since passed similar laws to promote victims' rights. The Office for Victim Assistance (2005) lays out what these rights include:

1. The right to be treated with dignity and fairness and with respect for the victim's dignity and privacy.
2. The right to be reasonably protected from the accused offender.
3. The right to be notified of court proceedings.
4. The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
5. The right to confer with the attorney for [the] Government in the case.
6. The right to restitution.
7. The right to information about the conviction, sentencing, imprisonment, and release of the offender.

Furthermore, on June 25, 1996, the Victims' Rights Constitutional Amendment to the U.S. Constitution was proposed by President Bill Clinton (Wallace 1998). The President stated:

Having carefully studied all of the alternatives, I am now convinced that the only way to fully safeguard the rights of victims in America is to amend our Constitution and guarantee these basic rights—to be told about public court proceedings and to attend them; to make a statement to the court about bail, about sentencing, about accepting a plea if the victim is present, to be told about parole hearings to attend and to speak; notice when the defendant or convict escapes or is released, restitution from the defendant, reasonable protection from the defendant and notice of these rights.

By increasing the rights of victims and their families, there has been increased professionalism in the criminal justice system and providers of certain services afforded to victims. Victim Impact Panels, Victim Service Centers, and the National Victim Assistance Academy are some mentionable entities that serve victims of crime.

Additionally, there is a growing public awareness of the plight of crime victims while sensitivity to this population grows.

The Eighth Amendment

The Eighth Amendment reads: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted” (in Bessler 2003:52). When discussing the death penalty, the debate over this constitutional amendment almost always is presented. What is cruel and unusual punishment? Individuals (crime victims, families of victims, criminal justice personnel, etc.) have varying opinions of the terminology. When should the eighth amendment apply to death penalty cases? What does “cruel and unusual punishment” mean? A series of court cases have brought about constant changes about the eighth amendment and how the death penalty should be applied.

Perhaps the most cited court case on this issue is *Furman v. Georgia*. On June 29, 1972 the Supreme Court ruled the death penalty violated the eighth and fourteenth amendments because it was considered cruel and unusual punishment. The reasoning behind this decision was that juries were considered to impose death sentences subjectively (www.pbs.org). Ewer (1980: 538) notes that the judgment was because of the death penalty’s “infrequent or standardless administration.” In turn, this decision by the court overturned all the death sentences and laws.

Then, in 1976, the *Furman v. Georgia* decision was overruled by *Gregg v. Georgia*. The Supreme Court found that in certain instances, mainly killing another human being deliberately, the court had the legal right to impose the death sentence. By

separating the trial and sentencing phase from one another, the death penalty statute was found constitutional as deterrent and retributive methods (www.pbs.org).

Many questions face the constitutionality of capital punishments including racial discrimination, executing minors, and the death penalty sentence to non-murderers. In terms of race bias and capital sentencing, *McCleskey v. Kemp* (1987) argued that a research agenda (the Baldus study) found that black men who kill white victims are much more likely to receive the death penalty than are whites (Bynam 1988). *McCleskey* argued that this was against his eighth and fourteenth amendment (equal protection and due process) rights. The court denied the appeal on grounds that he would have to prove that the jury's decision was due to racial bias. This case provided an environment where these discriminatory sentencing practices were revised and made more aware.

Mentally handicapped persons have also been applied to the list of unconstitutional executions. In 2002, the Supreme Court concluded in *Atkins v. Virginia* that the death penalty was unconstitutional when applied to the mentally retarded (www.oyez.org). According to the eighth amendment, executing mentally retarded persons is considered "cruel and unusual punishment." The lessened psychological functions prohibit this population of making rational decisions- thus not warranting the retributive and deterrent methods of capital punishment.

The most recent decision of the Supreme Court occurred in 2005 with the decision that capital punishment could not be applied to persons under the age of 18 at the time of the crime. *Roper v. Simmons* declared that a juvenile's eighth and fourteenth amendment rights are being violated when a juvenile is sentenced to death. Justice Kennedy has stated: "When a juvenile offender commits a heinous crime, the State can

exact forfeiture of some of the most basic liberties, but the State cannot extinguish his life and his potential to attain a mature understanding of his own humanity”

(www.deathpenaltyinfo.org). This ruling affected 72 juvenile offenders in 12 states.

The discussion over the eighth amendment is not at the end. In fact, understanding and compromising what exactly is “cruel and unusual punishment” is a debate that, no doubt, has a long future. Opponents and supporters of the death penalty will argue over the constitutionality of the death penalty for years to come. It is now necessary to turn attention to what the disputes are in terms of support and opposition to the death penalty in the United States.

Supporting the Death Penalty

Recently, politicians, as well as the general public, have had a “get tough on crime” attitude towards criminals and criminal behavior. Of particular importance is what the general public assumes about capital punishment and how it is administered. Politicians more often than not base their policies on public opinion and the political climate at any particular moment. Multiple reasons exist to influence why victims of crime and the public support the death penalty. Punitiveness, deterrence, just deserts, race, religious orientation, and fear of victimization are some of the items to be reviewed in support of the death penalty.

Tyler and Weber (1982) suggest that support of the death penalty comes about because people want to see the overall crime rate decrease. Radelet and Akers (1996) suggest that the idea of “just deserts” is a common attitude the American public have on capital punishment for convicted murderers. In fact, they state:

This justification suggests that murderers should be executed for retributive reasons: murderers should suffer, and the retributive effects of life imprisonment are insufficient for taking a life (1996:1).

The old adage “an eye for an eye” is heavily drawn upon when discussing retribution. Harsher sanctions towards criminals are popular beliefs that the public hold towards criminals mainly due to the fear of vicarious victimization (Tyler and Weber 1982, Borg 1998). Existing fears about criminal victimization hold true in society, in turn leading to views that more severe punishments are needed to decrease overall crime rates.

Does the death penalty deter crime? The answer varies. Generally, those who support capital punishment would say that it does. The theory of deterrence “is based on the idea that the threat of punishment must be severe enough to counter the benefits or pleasures that the criminal would receive from the crime” (Schonebaum 1998: 8). Proponents of capital punishment suggest that common sense explicates a deterrent factor instead of life in prison. People will fear death more than life in prison. Davis (1996: 24) notes: “Death has a property that life in prison does not: finality.” For families of murder victims, this point is poignant. To have some degree of finality to the death of his/ her loved one is something that victims and their families strive for. While some family members of a murder victim do not see death as the only viable solution for finality, to some family members it is.

Furthermore, supporters of the death penalty note that deterrence would be much more defined if the death sentence were carried out more swiftly- without the lengthy appeals process (Schonebaum 1998, Specter 1994). This is very much in tune with the aforementioned idea of finality. As Specter (1994: 12) states: “The families do not understand the complexities of the legal process and experience feelings of isolation,

anger and loss of control over the lengthy court proceedings.” The delays that occur in capital cases are sometimes seen as abusing a system that is there for substantive reasons (Specter 1994).

While the grounds for supporting the death penalty are many, there are a number of demographic factors that also play a role. Race and religious orientation pave the way for society and victims alike to either support or oppose the death penalty. Barkan and Cohn (1994) suggest that more whites support the death penalty due to prejudice against Blacks. There has been a long-standing idea that the death penalty has been disproportionately applied to Blacks (Young 2004). The before mentioned case *McCleskey v. Kemp* clarifies this point. As Young (2004: 161) states:

Consistent with other research, support for the death penalty was found to be higher among males, the less educated, and the politically conservative. As expected, it also was higher among those who hold racially prejudiced attitudes toward African Americans...finally, support for capital punishment was higher among those who consider it a more serious mistake to free a guilty defendant than to convict an innocent one.

Young (1992) also examines religious orientation and how it affects a person's attitude towards the death penalty. The idea of morality heavily comes into discussion at this juncture. The merging of morality and politics is one of the primary debates when arguing capital punishment. However, it is important to note that both supporters and abolitionists use the Bible to debate their points of view on the death penalty. When differentiating evangelical and fundamentalist churches, Young (1992:85) found that “the association of fundamentalism with high levels of support for the death penalty was not surprising.” He continues stating, “It is also important to note that these inclinations are apparently nurtured only in *white* fundamentalist churches...”(Young 1992: 85).

It is imperative to note that there are differences between religious sects as to their support for the death penalty. For example, Bjarnason and Welch (2004) affirm that the Catholic Church is adamantly opposed to the death penalty. Among the results, Bjarnason and Welch (2004: 115) found that “African-American, female, and unmarried parishioners are less unsupportive of the death penalty than their white, male, and married counterparts”. What these previously mentioned results lead to is a conclusion that support of the death penalty is not absolute. There will be differences in opinion when discussing each of these populations. It is essential to now turn attention to the arguments posed to oppose capital punishment.

Opposing the Death Penalty

When supporting the death penalty, the issue of deterrence emerges. However, those who oppose the death penalty state that the death penalty does not deter crime. To quote Ross (1995: 21), an inmate on death row:

As former U.S. Supreme Court Justice Thurgood Marshall wrote, ‘The error in the [deterrence] hypothesis lies in the assumption that because people fear death more than life imprisonment after they are convicted, they necessarily must weigh potential penalties prior to committing criminal acts....It is extremely unlikely that much thought is given to penalties before the act is committed.’ It is the premeditated crime that society deems the most reprehensible, yet this type of crime is the least likely to be deterred by the threat of capital punishment. This is simply because in a premeditated crime the person doesn’t expect to be caught.

There is also the suggestion that during an emotional-type murder, one is not thinking about the possibility of a death sentence for him or herself. Ross (1995: 23) notes, “There can be no deterrent value in a punishment that one does not ever expect to receive.”

Brutalization theory suggests that instead of the death penalty deterring crime, it actually increases it because the system is “devaluing” human life (Schonebaum 1998: 8). Radelet and Akers (1996: 10) suggest that brutalization theory “sends a message that tells citizens that killing people under some circumstances is appropriate.” Theory aside, Radelet and Akers (1996) found that the death penalty does little to deter crime from occurring. One suggestion is to find other methods rather than promoting death in the system to deter or prevent crime from happening in the first place.

King (2003) interviewed family members of murder victims who have joined a movement called the Murder Victims’ Families for Reconciliation. The similarity of these family members is that they are all opposed to the death penalty the offender received due to the killing of their family member. The argument most interviewees have against the death penalty is that there is no justice for the state to kill someone. To do so would send a message that it is acceptable to do unto another what he/she did to that person’s family member. Brutalization theory can be drawn upon here in that these family members feel it devalues human life altogether.

Another stance they take is that the Bible teaches love and forgiveness. One point that is worth quoting is a statement made by Ron Carlson, the brother of murder victim Debbie Thornton. Karla Faye Tucker was one of the individuals who murdered the victim in 1983. Mr. Carlson wrote a letter to then Governor George W. Bush in Texas asking him to not execute Karla Faye. He writes:

I ask that you would consider working with the Board of Pardons & Paroles and consider the facts of the case closely. I realize that according to law Karla should be executed. However, through all of this I see one thing that just does not go over well with myself. That is the fact that executing Karla will not bring back my sister...However, the pain that I feel for the loss of my loved one will not be replaced with joy by the

execution. I believe that the same pain will be felt by all of Karla's relatives. The fact of the matter is also that executing Karla will not bring me a sense of closure concerning this matter. If Karla is executed it would only add to the pain that I already have concerning this matter. I believe that killing is wrong, no matter how it is done. We as human beings do not have the right to take a life. As it is written, Vengeance is mine sayeth the Lord, I will repay. The fact that I forgive Karla myself...should not matter. However, the fact does remain that having compassion towards them as I do, I feel that by executing those death row inmates, our society is not improved. If anything, it just makes the cycle continue and cause the pain to increase (in King 2003: 72-73).

This sentiment is a summary of much of the debates people hold to oppose capital punishment. Throughout the text, interviewees hold steadfast that the state should not be the ones responsible to kill another life.

Another reason people oppose the death penalty is they feel it is "too arbitrarily" imposed (Bowers 1993: 165). In his survey conducted in New York and Nebraska, the statement that most research participants agreed with was: "The death penalty is too arbitrary because some people are executed and others are sent to prison for the very same crimes" (Bowers 1993: 165). Questionable aspects of the criminal justice system in regards to the death penalty include whether or not a defendant receives a fair trial, if the justice system sentences innocent citizens, and if there is equal access to legal representation for all defendants (Vollum, Longmire, and Buffington-Vollum 2004). One response to sentencing innocent people to death has been taken into effect in Illinois. In 2000, Governor George Ryan put a moratorium to all death sentences currently serving in the state. Those who oppose capital punishment applauded this decision noting that serious reforms are needed in the current justice system to prevent killing innocent people (Aaron 1998).

With that, executing innocent civilians is part of the debate that supporters and abolitionists alike feel is a necessary issue that needs serious consideration. Radelet and Bedau (1998) have researched the existence of this dilemma and suggest that there have been more than 400 accounts of people being wrongfully convicted in capital cases. Lofquist (2001) suggests that wrongful convictions begin with the police investigations that follow through to the actual sentencing. Once someone is made a suspect in a case, the evidence that is found is then molded to fit the pre-existing ideas that the suspect committed a crime- not vice versa. Opponents of capital punishment see a need for serious alterations in the way the organizations investigate and sentence defendants. Haines (1996: 87) calls it a “miscarriage of justice.” By researching the anti-death penalty movement, Haines (1996) suggests that abolitionists have used cases which guilty persons were later found to be innocent to express what is wrong with the death penalty as a whole.

It is important to mention that debates about convicting someone as guilty and sentencing them to death is much different than actually following through with the sentence. Cases are overturned due to new evidence in capital cases- largely with new technology which can test a person’s DNA. Supporters of the death penalty see this as the justice system’s “procedural safeguards worked, not how poorly” (Haines 1996: 91). In other words, by catching these cases before the defendant is actually put to death should be recognized as a step in the right direction. However, as Haines (1996: 91) continues stating:

From a more humanistic point of view, however, it neglects the fact that not only is the wrongly convicted person deprived of a number of years of freedom, but he or she is put through the excruciating experience of death row confinement. That is, prisoners who have narrowly escaped execution

for crimes they did not commit have already suffered what is probably the worst part of the death penalty: months or years of psychological torment, often confined to a cramped death row cell for as many as 23 out of every 24 hours, with little to take their minds off their impending fate.

When discussing injustice and inequality in the criminal justice system and the death penalty, researchers often argue that there is a clear and offensive racial bias to those who are sentenced to death (Greenberg 1982, 1986; Jacoby and Paternoster 1982; McAdams 1998; Nice 1992; Wolfgang and Riedel 1973; Zeisel 1981). As previously indicated, whites are much more likely to approve of a death sentence if the offender is black and the victim of the crime was white. Abolitionists of the death penalty suggest that the application of the death penalty is and has been discriminatory, “with a greater proportion of executions for blacks compared with whites” (Jacoby and Paternoster 1982: 379). Even as Supreme Court cases have enacted laws to discourage such inequalities, Jacoby and Paternoster (1982: 379) suggest that this discrimination has taken “more sophisticated forms” in two primary ways:

1. ‘Partial’ discrimination, where white and black offenders *appear* to be equally likely to be sentenced to death until the race of the victim is considered, and
2. A more masked form of discrimination at the jury selection stage where the attitudes of potential jurors are decisive in the probability of their selection for jury service in death cases, with a subsequent effect on the verdict and sentence.

Those who support abolishing the death penalty realize these marked disparities with sentencing and urge reform in the process. Abolitionists maintain that there can be no justice for a community in a system that administers certain sentences, particularly a death sentence, so arbitrarily.

Summary

This chapter has described the many facets of the victims' rights movement as well as the death penalty. It has reviewed notable court cases that have influenced the direction of the death penalty. From the inception of the movement, certain advantages have been afforded to crime victims and their families. However, these benefits still do not occur in uniform fashion across the states. The justice system as an organization still needs to develop new ways of communicating with victims and their families so they perceive the system in a more favorable light.

Opinions vary in terms of the death penalty. Due to different perceptions of the justice system as an organization and how it handles certain aspects of a defendant's trial, those who either support or oppose capital punishment do so for personal reasons. However, opinions may at times be misguided due to the lack of information about the death penalty. The next chapter outlines a sociological framework for examining crime victims, the criminal justice system, and the application of more inclusion within the system by victims and their family members.

CHAPTER III
THEORETICAL FRAMEWORK

Victimology

Researchers cannot address the idea of victimology without first explaining the study of criminology. Sutherland (1947: 1) defined criminology as such:

Criminology is the body of knowledge regarding crime as a social phenomenon. It includes within its scope the process of making laws, of breaking laws....The objective of criminology is the development of a body of general and verified principles and of other types of knowledge regarding this process of law, crime, treatment or prevention.

Therefore, criminologists examine crime as something social. Enveloped in criminology is a relatively new branch of study called victimology. It is “the study of victim, the offender, and society” (Wallace 1998: 3). While traditional criminology neglects the role of the victim of crime much of the time, victimology’s purpose is to study the victim’s role in crimes, the criminal justice system, as well as their relationship with the offender. In fact, criminology has been criticized in the past for its seeming role of placing the victim of a crime at fault or that he/she could have prevented the crime in some way. Victimology, in sum, encompasses the study of: victimization, victim-offender relationships, victim-criminal justice system relationships, victims and the media, victims and the costs of crime, as well as victim and social movements (Victimology Theory Online: 2003).

Considered the father of victimology, Benjamin Mendelsohn classified crime victims into six different categories. There are as follows:

1. *The Completely Innocent Victim.* This victim may be a child or a completely unconscious person.
2. *The Victim with Minor Guilt.* This victim might be a woman who induces a miscarriage and dies as a result.
3. *The Victim Who Is as Guilty as the Offender.* Those who assist others in committing crimes fall within this classification.
4. *The Victim More Guilty Than the Offender.* These are persons who provoke others to commit a crime.
5. *The Most Guilty Victim.* This occurs when the perpetrator (victim) acts aggressively and is killed by another person who is acting in self-defense.
6. *The Imaginary Victim.* These are persons suffering from mental disorders such as paranoia who believe they are victims (in Wallace 1998: 9).

Although this classification was written in 1956, the study of victimology has gained significant insight of how to distinguish various types of victims.

Another prominent figure in victimology has been von Hentig. He also classified the different types of victims into the general classes of victims, the psychological types of victims and the activating sufferer (von Hentig 1979). However, what von Hentig hypothesized was that crime victims were largely responsible for their victimization. While this theory has been criticized, the idea of “victim precipitation” has been used to study the idea of being a victim and possibly how the crime could have been prevented.

Stephen Schafer attempted to explain his classification of crime victims by the amount of responsibility each held with the crime in question. As Schafer (1968: 5) has noted:

The study of criminal-victim relationships emphasizes the need to recognize the role and responsibility of the victim, who is not simply the cause of, and reason for, the criminal procedure, but has a major part to play in the search for an objective criminal justice [system] and a function solution to the crime problem.

By being more responsible and not acting so provocatively, Schafer notes that social control would be more effective. His theory of functional responsibility hypothesizes that crime occurs to the victim because he/ she provokes the offender to do so. Therefore, it is the victim's functional responsibility to prevent these occurrences (Schafer 1968).

Marvin Wolfgang, who termed "victim precipitation", conducted the first study on this idea. In the late 1950s, he studied 588 homicides in which he found that 26 percent of the killings first began by the murder victim (in Wallace 1998). Following his study, other researchers began to examine "victim precipitation" as a way of looking at why crimes occur. Some reasons given by researchers were that there was no self-protection from the victim, forcible rape happens because the rape victim first consents to sexual relations and then draws back at the last minute, or because the victim hit the offender before the murder occurred (Normandeau 1968; Curtis 1974; Amir 1967; Wolfgang 1957).

Current victimization theories have since moved past the victim precipitation theory. The primary reason for this is due to the underlying blame given to crime victims for why the crime happened to them. The feminist movement was a primary force in debunking the charge that women could avoid being raped. The women's rights movement in the 1970s held steadfast that research should be done on the subject by women- not only men (Meier and Miethe 1993). In their view, women could offer a more complete view on rape victimization because they were the ones experiencing it.

The current theories on crime victimization and crime victims' behaviors suggest that there should be a more extensive review rather than blaming victims and making

typologies. The lifestyle-exposure perspective as well as the routine activities theory are two theories that social scientists examine when discussing victimization. Developed by Hindelang, Gottfredson, and Garofalo in 1978, the lifestyle-exposure approach emphasizes certain social groups as more prone to experience criminal victimization than others (Meier and Miethe 1993). Age, gender, income, and marital status are all characteristics that this approach examines when understanding who is more likely to be victimized (Hindelang, Gottfredson, and Garofalo 1978). These characteristics are “associated with various role expectations, which, in turn, lead to differences in lifestyles, exposure to risk, and subsequently to differences in the likelihood of victimization” (Miethe, Stafford, and Long 1987: 184). What Hindelang and his colleagues (1978) found was that males, the young, unmarried, low-income, and ethnic minorities have a higher rate of victimization (See Appendix A). Therefore, the risk of these populations is going to be greater. This approach is similar to Benjamin and Master’s Threefold Model which explains that conditions that support criminal activity are classified into precipitating factors, attracting factors, as well as predisposing factors (Victimology Theory Online: 2003).

Cohen and Felson (1979) developed the routine activities theory. While there are many similarities between this theory and the lifestyle-exposure theory, routine activities theory was developed “to account for changes in crime rates over time whereas lifestyle-exposure theory was proposed to account for differences in victimization risks across social groups” (Meier and Miethe 1993: 470). Motivated offenders, suitable targets, and the absence of capable guardians are all aspects to determine why crimes occur and who gets victimized (Cohen and Felson 1979). They argue that “structural changes in activity

patterns influence crime rates by affecting the convergence in time and space of [these] necessary elements for criminal victimization” (Miethe et. al. 1987: 184). In other words, if these three characteristics are present, a predatory crime is more likely to occur (See Appendix B). They also argue that because much more activity is taking place outside of the home in recent decades, the shift in crime rates (especially predatory crime) is expected (Cohen and Felson 1979).

While victimology theory examines victims’ perceptions of crime, some of the main premises are to determine why certain victims are targeted, their proximity to crime, their exposure to crime, target attractiveness, and having a capable guardian. These all play vital roles in conceptualizing criminal victimization. Very briefly, all of the characteristics are interrelated. By saying that the offender has choice in the matter of who they victimize, the proximity, exposure, attractiveness, and the absence of a capable guardian all play an important part. By saying that some crime victims are selected as crime targets more than others would suggest that these victims:

Must be exposed more frequently to motivated offenders (proximity), be more attractive as targets in that they afford a better ‘yield’ to the offender (reward), or be more attractive in that they are more accessible or less defended against victimization (absence of capable guardians) (Meier and Miethe 1993: 477).

What is unique about this development in victimology is that it incorporates both structural elements and choice into its scheme. This model attempts to clarify important points made by routine activities theory as well as the lifestyle-exposure perspective of victimology (Meier and Miethe 1993). All of these various aspects (i.e. proximity, target attractiveness, etc.) are taken into account to describe crime rates and how they have changed over the years.

Another element of victimization that continues with this line of thought is the ecology of criminal behavior. In other words, neighborhoods and communities are examined in terms of what it is about the structural landscape of an area that is conducive to more criminal behavior, and thus, more criminal victimization. Park and Burgess (1925) suggested that the city was a major cause for criminal behavior due to the lack of resources available in certain parts of the neighborhood. Victimology theory would entail researchers to examine the ecology of a place to find if there is any correlation between those people who are being victimized (and their attractiveness, proximity to criminal behavior, lack of an appropriate guardian, etc.) and the actual neighborhoods these crimes are being committed in.

Victimology theory addresses many more issues such as consequences of being a victim, child victims, female victims, hate crime victims, rights of victims, and compensating victims. However, for theoretical purposes, it is important for this research to note those certain concepts that are in place to determine who is more likely to be a victim of a crime. Whereas it is key to examine how victims are treated in the system, victimology theory focuses upon conceptualizing the likeliness of being victimized and how one could prevent such an occurrence.

As previously noted, one criticism of this type of theory is that it seems to place too much emphasis on the victim of the crime and how he/she could have prevented it somehow. Karmen (1990: 120) suggests that this type of research is called “victim blaming.” He writes, “Victim blamers find facilitation, precipitation, and provocation to be valid descriptions of what some people do ‘wrong’ that gets them into trouble” (Karmen 1990: 120). On the other hand, he also notes, “Arguments that question the

soundness and usefulness of notions of shared responsibility can be termed examples of *victim defending*” (Karmen 1990: 120). He continues by stating, “Victim defenders deny that certain victims are partly at fault for the crimes committed against them.” Using a victim defending perspective, Karmen (1990) notes that blame is often established on two levels: criminal and system. By blaming these two populations, the blame shifts from that of the victim in the case to either the criminal for their “personal accountability for misbehavior” or the system for the “culture and environment” for both the victim and culprit of the crime (Karmen 1990: 125).

Crime victims are an important aspect of any study of crime. Although this population is largely omitted from any study of criminal behavior, more recent research has incorporated them back into the picture. For the purposes of this research, victimology theory provides a framework to operate from more of an individualistic level. While structure is not necessarily discussed here as much, the criminal justice system does play a significant role in how victims feel about their treatment overall. Discussed below is the applied approach of restorative justice. Bringing victims back into the system is something that has been applied recently to the system.

Restorative Justice, Shaming, and Constructivism

Restorative justice is a relatively new way of looking at the criminal justice system. In the traditional justice system, victims of crime are often left out of making any decisions concerning the offender(s). As previously noted, sometimes they are not even allowed in the courtroom while offenders are on trial. Victims often feel helpless, hopeless, and without any sense of closure. Then, after the offenders are sentenced, the victims are often left with a sense of no security. When restorative justice is used, the

victims, offenders, friends, family, and community can meet with one another to discuss the crime and why it happened. Importance for this is threefold. First, it gives the victims some sense of hope and security. Second, the restorative justice process holds the offenders accountable for his actions. Third, it helps offenders realize the full impact their actions had on the victims as well as the surrounding community.

Restorative justice is not concerned with the retributive aspect of the criminal justice system. It is, however, an approach to dealing with crime in a way that restores the victim to the way they were before the offense happened. There are several programs that have incorporated restorative justice that includes victim-offender reconciliation, family group conferencing, and peacemaking circles. These individual programs work very similar to one another. The victim, offender, community members, and anyone else either affected by the crime or has some interest in preventing future criminal acts by the offender meet to discuss the crime, why it occurred, and how they can assist in preventing another unlawful act.

Perhaps the most notable figure who theorizes about shaming is John Braithwaite. His reintegrative shaming theory is more of an integrative theory which draws upon labeling, subcultural, opportunity, control, differential association, and social learning theories. While it is beyond the scope of this research to expand on all these theories, it is important to note that Braithwaite (1989: 100) describes shaming as “all social processes of expressing disapproval which have the intention of effect of involving remorse in the person being shamed and/or condemnation by others who become aware of the shaming.” In brief, labeling theory explores how a “criminal” is created. Through social interaction, labels are conferred upon an individual which are then very difficult to extinguish. It is

through this process of labeling that shaming occurs. Reintegrative shaming occurs when a wrongdoer is shamed by the public, or the victim, but then allowed re-entry back into the community. This type of shaming is much different from stigmatizing in that there is a process of healing that does not offend either party- the offender or victim. The core argument of the theory is that “reintegrative shaming leads to lower crime rates, whereas stigmatizing shaming leads to higher crime rates” (Vold, Bernard, and Snipes 1998: 304).

As Van Ness and Strong (2002: 107) note:

Braithwaite argued that there is a correlation between low crime rates and the high social power of shaming. Cultures and historical eras that have experienced low rates of crime are characterized by social structures in which reintegrative shaming played a central role. Internal control is more effective than external control in restraining crime.

The practice of restorative justice heavily relies upon Braithwaite’s theory of reintegrative shaming to suggest new strategies of crime prevention. The criminal justice system in several countries around the world, along with defense attorneys, prosecutors, the police, and the community are beginning to adopt the practice of restorative justice to reduce the stigmatization society has placed on victims and offenders as well as to restore what the communities have lost- whether that be safety and security or a member of that community to the prison system. The core idea of reintegrative shaming, as mentioned previously, is to not make offenders outcasts in a community, but rather to accept them back into society after a period of some form of punishment.

The history of reintegrative shaming can be seen as far back as some ancient religions. Whether it is Christianity, Judaism, Buddhism, Hinduism, or the American Indian legal tradition, the practice of restorative justice takes into account those religions that have developed this type of peacebuilding that promotes acceptance among various

types of people. Punishment is seen as something that is necessary, but it should be done in a way as to not label or stigmatize the offender. To do so would be detrimental to the shaming process.

Social construction is an area of theoretical criminology that assesses why one crime or act of deviancy is labeled as such and not another. Berger and Luckman (1966) note that, through daily interactions with people, society constructs what is acceptable or deemed not acceptable. How society labels someone as deviant is socially constructed and interpreted by the majority of citizens. To define what is deviant is a matter of debate among social scientists. To demonstrate the argument, it is necessary to make the distinction between criminal acts and deviance. For the purposes of this research, deviance is something that is against society's norm while a criminal act is something that is prohibited by law. Some may say that all criminal acts are deviant; however, Pfohl (1994: 345-346) would disagree stating that:

Homicide is a way of categorizing the act of killing, such that taking another's life is viewed as totally reprehensible and devoid of any redeeming social justification. Some types of killing are categorized as homicide. Others are not. What differs is not the behavior but the manner in which reactions to that behavior are socially organized...The behavior is the same...each is a type of killing. Some are labeled homicide. Others are excused, justified, or viewed, as in the case of dangerous industrial pollution, as environmental risks, necessary for the health of our economy if not our bodies.

How society reacts to somebody who is outside of society's values is of significant importance when studying crime and deviance. This kind of constructivism implies that the meaning and interpretation society gives criminal acts determines its legitimacy.

Academic research that focuses on shaming also shares the attention with labeling and social construction. Furthermore, many of the studies done on these topics involve

international comparisons and how policies of one country may include reintegrative shaming while another does not, and then examine crime rates between the two (Osterberg 1992; Sanders and Hamilton 1992). Much of the work done on the community-level of shaming is by Braithwaite. His work has been criticized; however, because it is said that reintegrative shaming works better in more rural areas than in the urban centers of the world (Van Ness and Strong 2002). Due to the fact that urban areas are more individualistic, shaming seems to be a very simple behavior. However, as Van Ness and Strong (2002) note, the focus needs to be on the reintegrative process with criminals and how the community can develop these principles- and less upon the actual shaming of these individuals.

Other research that has been relatively successful is that of Shelley Neiderbach (1986) who studied the victim support group Parents of Murdered Children. Along with other victim support groups, Neiderbach (1986) describes such support groups as able to meet some of the unmet needs of victims; however, in terms of reintegration, the relationships made in these support groups lack this element. In other words, the relationships between victim, offender, and the community at large are often missing in support groups. Again, the victim's family is examined as a secondary victim. Therefore, by taking part in these various programs, the victim in these cases is family members.

There is vast literature available on labeling and social construction- more than is within the scope of this research. Lemert (1974) examines the social reaction to deviance in such a way as to bring culture back into the picture. Lemert (1974: 461) states, "In a narrow sense it is true that culture sets up an apperceptive base from which those

enculturated respond selectively to define good and evil independently of other aspects of the actions they perceive.” By examining group interaction and social structures, Lemert (1974) contends that deviance is somewhat of a changing phenomenon that constantly shifts social positions. While he does not focus specifically upon the shaming aspect of social reactions, this can be applied to the social reactions in society. Because society is ever-changing its beliefs and values, it is the actors in a community that decide to stigmatize a deviant/ criminal or not. Once society has deemed it appropriate to reintegrate offenders back into the community, the social reactions, group interactions, and even the social structures (family, church, politics, etc.) can adhere to the process of shaming without stigmatizing.

By stigmatizing an offender, or labeling him/her as such, this generally has negative connotations in society. Liazos (1972) offers a rich description of how we should not focus mainly on deviants such as prostitutes, gamblers, and petty street criminals, but also include in the description those structural entities such as inequality, powerlessness, and institutional violence that can also be labeled “deviant.” When using his work to describe the shaming process, one can see how stigmatizing an individual can be detrimental to his/her position in society. However, Liazos (1972) contends that society tends to only examine those people with a lower standing instead of condemning those with power. Therefore, shaming somebody only represents part of the population. We do not do this to everybody. Reintegrative shaming is thus made more difficult due to the fact that the way society views one type of deviant is opposite the way we treat another.

Shaming deviants and criminals is something that is done in all societies.

Braithwaite (1989) argues that a society that restores and accepts individuals after a period of punishment is healthier, and therefore has a lower crime rate than one that only stigmatizes offenders and victims of crime. Because this is a fairly new area of interest for many scholars, more and more research has been acknowledged within the past few years. Of course, there is no clear-cut answer when applying the theory of reintegrative shaming- some people respond positively and some negatively.

Some victims of crime have urged a more inclusive role in the system- this includes meeting the offender. By understanding what it means to be a crime victim (while this takes on different meaning for different victims) the more that person is to know what they expect out of the process. Below is an explanation of the different elements of the criminal justice system and the various models it can have.

Crime Control vs. Due Process

The criminal justice system operates on a level that is very different for various individuals. Herbert Packer (1968) suggests that the current system is divided into two models: crime control and due process. While he calls these models “distortions of reality,” they “represent an attempt to abstract two separate value systems that compete for priority in the operation of the criminal process” (Packer 1968: 153). Suffice to say that the way in which the system treats its criminals invokes ideas about how it will accommodate victims. These two distinctions of the criminal justice system exist in part to recognize the values that the system places on the process. These two models are more structural in nature and attempt to provide a way of examining the system in broader terms. The vital component to note here is the value system in each of these models and

how society uses these values to interpret how they should react to certain criminal behavior.

Packer's (1968: 158) crime control model is "based on the proposition that the repression of criminal conduct is by far the most important function to be performed by the criminal process." The most important idea from this perspective is to punish criminals and provide social control to maintain social order. Main characteristics of this model are the "efficiency with which the criminal process operates to screen suspects, determine guilt, and secure appropriate dispositions of persons convicted of crime" (Packer 1968: 158). One analogy that Packer (1968) uses for this model is an assembly line- where cases are issued in the most efficient and speedy manner. Criminal cases should progress rapidly so as to not "clutter up" the system with "ceremonious rituals" while enhancing certain routine procedures that signify the closing of a case (Packer 1968: 159). In other words, the main premise of the crime control model is to arrest and convict the most amounts of people in the least amount of time. By doing so, communities are safer while the costs of the system are minimal.

Under the crime control model, justice officials often assume the guilt of an individual instead of adhering to the philosophy "innocent until proven guilty." With that, breeches of the Fourth Amendment (the right of unreasonable searches should not be violated) are commonplace. Additionally, there is a high disregard for citizen's rights with this model. If there is no protection for their rights, then the system can hold to their rules and accountability without taking into consideration federal mandates.

On the other hand, Packer (1968) expresses the due process model more as an obstacle course rather than an assembly line. The main premise of this model is that

there is the possibility of error in the system so the investigation and court processes need to be undertaken with a high degree of precision and lawfulness. Furthermore, this model differs from the crime control model in that it is more concerned with quality rather than quantity. Packer (1968: 165) states: “The combination of stigma and loss of liberty that is embodied in the end result of the criminal process is viewed as being the heaviest deprivation that government can inflict on the individual.” In other words, by not adhering to the laws of the system and not providing fair and equitable justice to the criminal, the due process model suggests that this is reprehensible.

The due process model realizes that the power of the system is abused. Professional and personal gain by justice officials can override the equality of service. For example, Packer (1968) explains that one difference between these models is how people who have money are treated in the system compared to those with little or no funds. Those without money are often treated more harshly because they do not have the opportunities to provide themselves with a high quality attorney. Those that do have money are often seen as making an honest mistake while for the same criminal act, the defendant without money is seen as a habitual offender. Furthermore, the retributive factor is more prevalent with those of a lower social standing than the upper class individuals. Generally, the criminal justice system bureaucracy will sentence lower class defendants to more institutional time (or the death penalty) more so than upper class defendants.

Packer (1968) insisted that the due process system had failed. The elements that were necessary to bring about a more fair and equitable system had changed nothing. Roach (1999) explains that Packer did not consider the changing views of the court

system- from the Warren court to the Rhenquist court. The latter moved to grant the criminal justice system more power and exclusionary rights. As we can see in the criminal justice system today, there is much more of a punitive ideology in existence. Offenses are reprimanded at much higher rates than previously, and the accused are receiving much harsher punishments for certain crimes than before. Austin and Irwin (2001) suggest that the United States is experiencing an “imprisonment binge” to house all of the criminals that society faces. We have been doing this more frequently and more ruthlessly than in recent decades. Also, the inequalities that are in place would suggest that more lower class individuals are at the receiving end of the punitive measures that are extended (Austin and Irwin 2001).

One of the criticisms Roach (1999) has about the Packer models is that they fail to take into account crime victimization. As previously mentioned, criticisms now exist, where they once did not, in regards to the exclusion of crime victims in theories and models of the criminal justice system research. The practice of restorative justice now provides victims and offenders alike the opportunity to have a more inclusive role in the criminal justice system to ensure the needs are met by the victims of crime. This approach operates within the elements of the criminal justice system. Packer (1968) does not address these issues. Roach (1999: 695) notes the reason for this is that “Packer wrote before victimization studies documented widespread under-reporting of crime to the police and the pervasive risk of crime.” Packer (1968) used only police-reported crime statistics for his data on the sanctions given by the justice system. Roach (1999: 696) contends that “new models of criminal justice should integrate this new knowledge about unreported crime.” Roach (1999: 696) contends:

More generally, victimization studies can provide evidence of a great unsatisfied demand for the criminal sanction and a damning critique of the inadequacy of the present system. When risk is expanded into the fear of crime, victimization surveys may be laying the basis for non-diminishing demands for arrests, prosecutions, and criminal justice reform. The failure of these state-based crime control activities to control most crime, as well as limits to which an adversarial and punitive system can be victim sensitive, may be a recipe for unending dissatisfaction.

By examining Packer's crime control and due process models, Roach (1999) has expanded these to two other models of the justice system: the punitive model of victims' rights and the non-punitive model of victims' rights. As it suggests, these models take into account victims and their needs from the system. The parallels of these two models are very similar to Packer's models of the justice system. The punitive model is comparable to Packer's crime control model with the emphasis on punishment while the non-punitive model is similar to the due process model stressing crime prevention and restorative justice (Roach 1999). He states the differences between these two models by stating:

The punitive model of victims' rights can be represented as a roller coaster. It preserves the linear orientation of the crime control and due process models as it moves towards trials, appeals, and punishments, but the ride is bumpier because of the well-documented failure of the criminal sanction to control crime and respect victims and new political cases which pit due process claims against victims' rights claims. The non-punitive model of victims' rights is represented by a circle which symbolizes successful crime prevention through family and community-building and successful acts of restorative justice. Both crime prevention and restorative justice can draw individuals together as a community. The non-punitive model is more holistic and can merge into general issues of health, well-being, and social justice, whereas the punitive model promotes the criminalization and legalization of these issues (Roach 1999: 699).

A primary aspect of victimization studies suggests that victims are often re-victimized by the criminal justice system after an act of violence has occurred. The

punitive model asserts that the justice system urges victims of crime to report more criminal activity, and by doing so this creates an atmosphere where victims' rights are more included while higher numbers of arrests and convictions are brought forth. Controlling crime is at the heart of this model. Therefore, as Roach (1999: 703) explains, "Like the crime control model, punitive forms of victims' rights oppose due process claims because they divert attention from factual guilt and allow the criminal to go free." Disenchantment will exist when victims believe they are not receiving as fair of treatment as the accused. When this happens, victims of crime will be more likely to seek retribution of the offender in order to maintain some sense of security in society.

On the other hand, the non-punitive model coincides with Packer's due process model. This model aims to prevent crime while engaging in restorative justice (Roach 1999). The non-punitive model suggests that by not reporting criminal activity, victims of crime take into account other "strategies" to meet their needs such as avoidance, shaming, apologies, and informal restitution (Roach 1999: 707). Victims taking control of their own interests and needs (instead of the wishes of the state) is seen as empowering while at the same time shows uncertainties with the system as a whole. Under this model, the communities, family members, educators, etc. are those responsible for safety-not just the police.

While it may seem that victims operating under the non-punitive model are not concerned for their safety, Roach (1999) contends the opposite. A victim can continue to be safe by taking precautionary measures while holding true to the fact that there is more than retribution for long-lasting safety in the community. The collective welfare of the broader public can benefit from not experiencing the narrow focus of a punishment-only

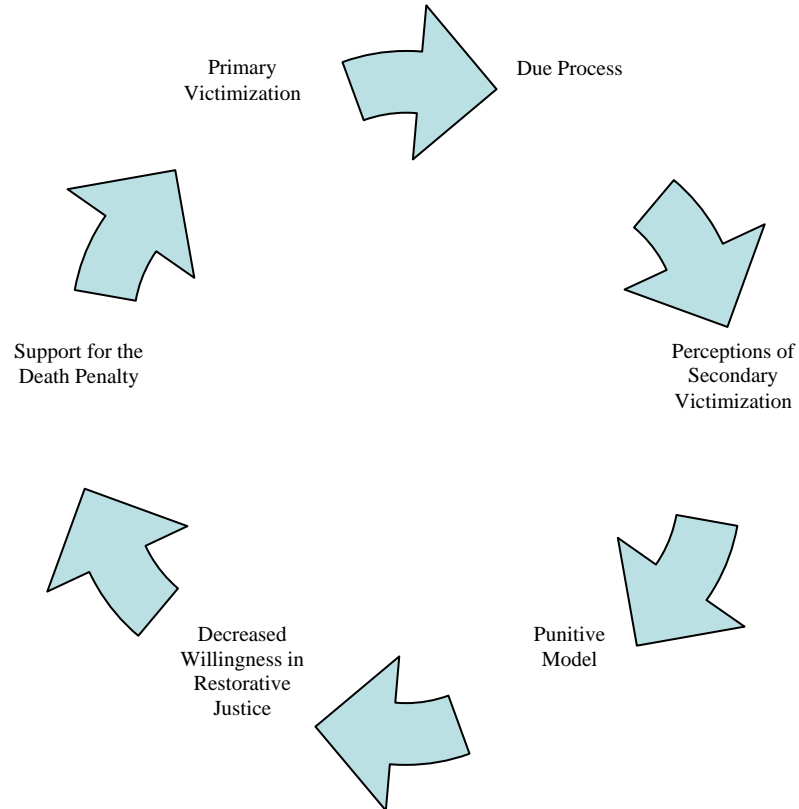
approach. The reintegrative shaming approach is something that some crime victims see as being more useful in the long run than simply punishing the offender.

Death penalty attitudes cannot be ignored when describing these models. The crime control model, and those individuals operating from this model, would suggest that the death penalty is a natural deterrent and a necessary crime control mechanism. On the other hand, the due process model notes that there is the possibility that errors have occurred in the implementation of the capital sentencing as well as the unfair application of the death penalty to lower-class citizens. Likewise, the punitive model of victims' rights holds that the offender should be punished to the full extent of the law for the hurt and injury to the victim as well as their friends and families. Crime victims' families are necessary components to bring this type of sentence to its entirety. The non-punitive model would advocate for a resolution in lieu of the death sentence. Crime victims and their families who have these views would maintain that it is in everyone's interest to examine why the crime occurred, accept that it has happened, and (through the justice system) request the offender's life be spared .

In order to examine family member's sentiments of the death penalty, we must consider certain factors that may have some effect on whether or not family members of homicide victims support or oppose the death penalty. Those factors, illustrated in the researcher's model below, are those discussed in this chapter. They include: initial, or primary, victimization by the offender, how the due process model can create a sense of being victimized by the criminal justice system, how victimization by the offender and the criminal justice system leads to a more punitive ideology of the family member, how the punitive model leads to a decreased willingness of the family member to participate in

any type of restorative justice program, and how this decreased willingness to participate in a restorative justice program enhances one's support for the death penalty.

Figure 1 Conceptual Model



Summary

This chapter covered three main perspectives concerning this research: victimology theory, reintegrative shaming, and Packer's due process versus crime control models. Roach (1999) largely integrates these three perspectives/ models to account for victims' inclusion into the criminal justice system by using the punitive and non-punitive models for victims' rights. Theoretically, crime victims' families can be examined using any of the above mentioned perspectives to understand their experiences with the criminal justice system as well as the accused. This research aims to understand their

experiences as well as how those experiences have affected the way they view the death penalty.

The next chapter outlines the methodology for this research. As discussed, interviews were conducted with family members of murdered victims where the offender received the death penalty. While the interviews were largely open-ended, they were semi-structured around the issues faced in this chapter. They were asked about their experiences with the criminal justice system and if that had any effect on the way they either supported or opposed the offender's death sentence. Participants shared their lived experience with the process, including the offender, the justice system, and any other relevant figures that played a role in the death penalty process.

CHAPTER IV
RESEARCH METHODOLOGY

Qualitative Methodology

As noted in the introductory chapter, the goal of this project was to explore the sentiments of murdered victims' families where the offender received the death penalty. Specifically the research aimed to: (1) examine the experiences of murdered victims' families with the criminal justice system. In particular, the questions focused on (a) whether there was a sense of inclusion or exclusion by the system, (b) if the family members have, or believe they will have, a sense of closure or finality due to the proceedings from the case, and (c) if there is an overall satisfaction with the criminal justice system and their processes; and (2) examine how these experiences with the criminal justice system shape family members' views of the death penalty. These research goals can best be achieved using a qualitative methodology. As Rubin and Rubin (1995: 1) state: "Qualitative interviewing is a way of finding out what others feel and think about their worlds...you can understand experiences and reconstruct events in which you did not participate." Thus, qualitative methods are compatible for exploring homicide victims' families and their interactions with offenders and the criminal justice system.

By engaging in intensive interviewing, the researcher allowed the participant to describe their experiences in such a way that the researcher could dive into more thought-provoking questions that the participant had not previously considered. Furthermore, the

more participants were involved with the interview process, the more shared understandings were encountered and brought to light. Rubin and Rubin (1995) describe qualitative research as an approach to learning. By understanding interviewees in their own worlds, their own experiences, and their own interpretations of events, the researcher is learning a new world that was not previously known to him/ her.

The most effective method of qualitative interviewing for this research was the semi-structured (focused) format (Merton, Fiske, and Kendall 1990). This design introduced the participant to a particular question posed by the researcher, but allowed enough flexibility in the question that there could have been numerous follow-up questions to dive further into what was being studied. There are three shared characteristics of qualitative interviews that Rubin and Rubin (1995: 6) note:

First, qualitative interviews are modifications or extensions of ordinary conversations, but with important distinctions. Second, qualitative interviewers are more interested in the understanding, knowledge, and insights of the interviewees than in categorizing people or events in terms of academic theories. Third, the content of the interview, as well as the flow and choice of topics, changes to match what the individual interviewee knows and feels.

With this in mind, the qualitative process should be examined in terms of a fluid process where there is no exact repetition, and the interviewee is free to share his/ her experiences with a particular phenomenon.

More specifically, phenomenology can be described as “a qualitative research technique that seeks to make explicit the implicit structure and meaning of human experience” (Sanders 1982: 353). Sanders continues by stating that “the point of phenomenology is to get straight to the pure and unencumbered vision of what an experience *essentially is*” (1982: 354). For purposes of this research, understanding the

victims' families' experiences with the offender as well as the criminal justice system and how these affect decisions about the death penalty are aspects for using this methodology.

According to Sanders (1982: 356), there are three fundamental components in a phenomenological research design:

1. Determining the limits of what and who is to be investigated.
2. Collection of data.
3. Phenomenological analysis of the data.

For the first component, family members of homicide victims where the offender received the death penalty were investigated. As Sanders (1982: 356) says, "More subjects do not yield more information." She continues by stating:

The phenomenologist must learn how to engage in in-depth probing of a limited number of individuals. Although the ideal number will vary according to the topic under investigation, too many subjects can become overwhelming...generalizations beyond the group under investigation should not be made (Sanders 1982: 356).

The data collection process was, as previously stated, geared around semi-structured interviews. Stone (1978) identifies this method as a primary method of gaining information using phenomenological research. The subjects were tape-recorded and the interviews were transcribed. By tape recording the interviewee's answers, this ensured that the researcher was not distracted by taking too many notes. Therefore, the researcher could engage in follow-up questions more effectively.

Finally, the analysis of the data emerged from common themes. From the transcribed interviews, the researcher pulled themes that constituted explaining the research questions. Themes "are statements that explain why something happened or what something means and are built up from the concepts" (Rubin and Rubin 1995: 57). The themes related to the above described theories to understand why and how these

person's experiences have affected them and their beliefs about capital punishment. These common themes, or patterns, constituted a series of remarks made by the interviewee to indicate a response to a specific research question.

Interviews

In-depth interviews provide the necessary tools to understanding this particular population under review. The researcher did not engage in e-mail interviews due to the difficulty in following up with some of the initial questions. In order to probe the interviewee further to gain more useful information, it is believed that this needs to be done either face-to-face or over the telephone. There was the possibility that the respondent would not e-mail the researcher back if asked further questions over the computer. Or, if unclear, the respondent may have needed immediate clarification that the researcher would not have been able to afford. For these purposes, face-to-face interviews and telephone interviewed were thought to be the most reliable interviewing techniques.

Gaining Access to Study Participants

The names and addresses of the research participants were unknown to the researcher until the consent form was signed and returned to the researcher. The Attorney General's Office has a Victim's Services Center where victims of crime as well as families of homicide victims can be kept aware of certain proceedings within the justice system as well as any restitution that may be available. The researcher had a contact in this office who had access to names and addresses of family members of homicide victims wherein the offender received the death penalty. The researcher sent ninety packets (including a cover letter, consent form, and a pre-stamped envelope for

consent form return) to this individual, and they were all subsequently sent to the noted population desired to be studied. Once the consent form was signed and returned, the researcher contacted the respondents to set up an interview time. The respondent was instructed to leave contact information on the consent form (See Appendix C). The researcher then traveled to a designated location for the interview.

Description of Participants

A total of twenty-three interviews were conducted for this research project. There were 21 face-to-face interviews and 2 telephone interviews. The face-to-face interviews were conducted in a place where the interviewee was most comfortable and was convenient for them. Most interviews were completed in the respondents' homes; however, there were times when the researcher would interview the respondent at their place of employment upon the request of the interviewee. The telephone interviews were conducted as such because the respondent lives out of state, in turn, making it a longer distance to travel for the researcher. On average, interviews lasted approximately one hour. Interviews began in November 2005 and continued through December 2005.

The population studied included family members of homicide victims wherein the offender is currently serving on death row, has previously been on death row and is awaiting re-sentencing, or has had his sentence already carried out by the state. Interviewing family members who have been through the entire process gives a more well-rounded analysis of their experiences with the criminal justice system. Furthermore, examining feelings of closure (or lack of closure) that family members awaiting the death sentence have not experienced provides explanations that the latter population could not offer.

While there were 23 participants, the number of crimes discussed was thirteen. Relationships to the primary victim include: sons and daughters, sisters and brothers, wives and husbands, and grandfathers and grandmothers. The average age of participants was 53.8 years with the youngest being 32 and the oldest being 74 years old. There were a variety of religious backgrounds that the participants had including: Methodist, Baptist, Presbyterian, Christians (non-denominational), Catholics, and three Agnostics. All of the participants were Caucasian with the exception of one who was African American. Nine respondents were living in urban areas at the time of the interview, while 14 interviewees lived in rural areas. There were 5 men who agreed to participate while 18 participants were women.

While there are various religious backgrounds, areas of the state, ages, genders, and relationships to the deceased, the analysis finds many similarities in regards to experiences with the criminal justice system, how they view the crime, as well as their opinions of capital punishment. In fact, the length of time since the crime has occurred played no significant role in what experiences have been thus far. Furthermore, this researcher noticed saturation with the data due to the fact that respondents generally gave many of the same responses- indicating that their experiences were similar to one another. Hence, it is the researcher's contention that there were enough interviews completed to satisfy the goal of the project.

The Interview Guide

The interview guide is broken down into four sections; family members as victims, experiences with the offender, experiences with the criminal justice system, and attitudes about the death penalty. The first section outlines how homicide victims' family

members express themselves as victims and what it means to be a victim. Incorporated with this are brief histories of the crime and the consequences of it. Secondly, their experiences with the offender is addressed. The importance of this lies in the fact that the majority of murder victims knew the assailant at some time. This could establish an affect of their attitudes on the death penalty. Do they feel more resentment towards the offender or do they wish to forgive him? Next, the family members' experiences with the criminal justice system are examined. Many times this experience for the family member is called a "second victimization." Dealing with the system can be an enlightening experience or a dreaded one. Further, this is especially notable when assessing how family members feel about capital punishment because certain officials in the justice system may affect (intentionally or not) a person's decision. The researcher was more specific in asking the respondents about their attitudes of the death penalty. Did the respondent agree with capital punishment before the murder occurred? Why or why not? Did his/ her decision about the death penalty change after the family member was murdered? What thoughts do they have on capital punishment?

These primary questions were added to in the interview guide. Additionally, the researcher asked follow-up questions not addressed in the interview guide as she saw fit. The questions were asked in an open-ended manner so that the respondent could explain in detail. The researcher was also able to contact the respondents to follow-up to certain responses, further providing insight and understanding.

Ethical Issues in Conducting Research

The "Ethic of Rights and Responsibilities considers the fundamental rights of an individual and the corresponding obligations that individuals have to protect those rights"

(Rossman and Rallis 2003: 71). These fundamental rights include the right of free consent, of privacy, of freedom of conscience, of free speech, and of due process (Rossman and Rallis 2003). Anonymity is not justifiable in terms of qualitative research because the researcher is meeting with the respondent. However, confidentiality is something that the researcher must be willing to ensure. There are two elements to this: protecting their identities and holding in confidence what they share (Rossman and Rallis 2003). The researcher used pseudonyms (when applicable), changed identifiable characteristics of places, names of institutions and times.

All participants had a consent form mailed to them by the Attorney General's office. This informed consent requires that the participants know that they are giving permission to be interviewed, and they may withdraw from the study/ interview at any time. Informed consent is necessary to pursue any amount of the research.

Qualitative research "involves building and sustaining relationships with people" (Rossman and Rallis 2003: 77). Therefore, trust is something that needs to be established before and during the interview process. There is an argument that by the very nature of engaging in research that the researcher is deceptive. The knowledge and understanding the participants give to the researcher is "conditional and bounded" (Rossman and Rallis 2003: 78). Minimal deception is what is required. There was no underhanded or obtrusive activity by the researcher. The understanding of this population is at the heart of the research.

Personal Bias

The death penalty is a sensitive topic to many. When doing any type of research, the researcher has personal bias and opinions about the topic being studied. A primary

goal of any research is objectivity (Erlandson, Harris, Skipper, and Allen 1993). While complete objectivity is difficult, it is important to deal with personal bias when engaging in research. As Erlandson et. al. (1993: 15) note, “The dangers of bias and reactivity are great; the dangers of being insulated from relevant data are greater. The researcher must find ways to control the biases that do not inhibit the flow of pertinent information.”

Before this project began, the researcher did have a personal bias against the death penalty. The researcher does not believe that the death penalty is a deterrent. Also, the researcher believes that the system of capital punishment is racially and economically biased- with more people being put to death who are minorities and lower-class. Having stated that, it is important to note that the researcher has not had personal experience with a homicide in the family or dealing with an offender on death row. Feelings may be changed if the researcher was put in the position that these respondents have.

In regards to personal bias and the ensuing research, this research is not aimed to be about the researcher. The family members were the ones being studied. Therefore, every attempt has been made to understand what these family members have experienced as well as why they hold certain opinions about the death penalty. The analysis reflects participant’s experiences, perceptions, and opinions about the crime, the criminal justice system, the offender, and capital punishment.

Data Coding and Analysis

Sanders (1982: 357) identifies four questions the phenomenological researcher asks:

1. How may the phenomenon or experience under investigation be described?
2. What are the invariants or themes emergent in those descriptions?
3. What are the subjective reflections of those themes?

4. What are the essences present in those themes and subjective reflections?

Rich description is a fundamental component of any qualitative research. From that, the researcher becomes more aware of the themes present. Examining something from the point of the other should be a primary consideration for qualitative research.

Understanding something that the researcher has not been a part of is a difficult, but not impossible task.

Coding is a necessary process of qualitative research. This involves putting the information into relevant categories. Strauss and Corbin (1990: 61) identify the process of open coding as “the process of breaking down, examining, comparing, conceptualizing, and categorizing data.” Once the interviews were completed, the researcher was able to more accurately recognize these emerging themes in order to be aware of what it means to be family member of a murder victim. However, it is important to note that themes do merge with other themes. They are fluid in that respect. One quotation could explain a few themes. Therefore, the researcher attempted to accurately place relevant data into the proper categories.

The mechanical procedure the researcher developed was a process of cutting and pasting from the interview transcripts. Specifically, once the interviews were transcribed, the researcher re-read them and cut out pertinent quotes which could be analyzed for data purposes. Once cut, the quotations were pasted on index cards with the respondent’s number placed on the card. After all quotations were cut and pasted, the researcher examined the themes emerging from the data and placed them in their appropriate categories. These themes are included in the data analysis of this study (Chapters 5 and 6).

In terms of personal biographies of study participants, the researcher explored common experiences of murder victims' families wherein the offender received the death penalty. The second phase of the analysis identifies the more specific experiences with the offender and the criminal justice system. The third phase of the analysis outlines their attitudes and beliefs about the death penalty. Throughout this analysis, the goal of the coding process was to identify common themes in the data.

Summary

This chapter began with an overview of qualitative research methods, while briefly outlining phenomenological research methods. The structure of the interviews was presented as well as the interview guide, gaining access to the research participants, ethical considerations, and how to analyze the data. The following chapters will by a thorough analysis of the data.

CHAPTER V

**PRIMARY AND SECONDARY VICTIMIZATION: EXPERIENCES
WITH BEING A VICTIM OF CRIME AND OF THE CRIMINAL
JUSTICE SYSTEM**

This chapter examines the extent to and ways in which participants in the study perceive themselves as victims of crime and of the criminal justice system. Specifically, it will explore how they have been impacted by the murders of their family members, and it will describe ways in which they feel further victimized as a result of their treatment by the criminal justice system. As will be seen, some participants in the study do not identify with or embrace the role of “victim,” yet others perceive themselves to be primary victims of crime. Additionally, some respondents feel that their experiences with the criminal justice system constitute a type of secondary victimization. The primary purpose of the chapter, then, is to explore family members’ various experiences with victimization- both as a result of crime and stemming from their interactions with the criminal justice system.

In describing these experiences of victimization of the crime and of the criminal justice system, this chapter seeks to answer four related questions. First, how do participants in the study identify (or not identify) with being a victim? Second, do they perceive themselves to be a victim of the criminal justice system? Third, in what specific ways do family members feel the criminal justice system (e.g., police, district attorneys,

defense attorneys, and the appeals process) has continued to victimize them? Finally, in what ways do respondents think the criminal justice system can be improved to lessen the negative impacts it has on victims' families? When addressing these questions, specific themes emerged. They include: embracing and resisting the victim role, perceptions of being victimized by the criminal justice system, respondents' attitudes and perceptions of specific criminal justice system's injustices, and respondents' suggestions on the improvement of the criminal justice system.

Concerning victims of crime, the ensuing research categorizes the victims of crime as those family members who have lost a loved one to homicide. Many theoretical perspectives, including the previously mentioned, assume that those coping with a crime and the criminal justice system are those who are the primary victims. Often times, family members of homicide victims also feel as if they have been victimized. As the researcher will explain below, identifying with being a victim is a characteristic that not all adhere to. The following sections focus on the conclusions reached from the data compiled from personal and telephone interviews.

*“To be or not to be”:
Embracing and Resisting the Victim Role*

While most of the respondents in this study did perceive themselves as victims of a crime, others did not want to be labeled as victims. Those who embrace the role of victim do so because they feel a tremendous sense of loss, they experience extreme stress, and their lives have been changed dramatically by the crimes. On the other hand, those who resist the victim role do so because they do not want to be labeled, they perceive victims as being weak and helpless, and they have problems with the political activism of some victim's groups.

Reflecting the sense of loss felt by many respondents who identified with being a victim, one respondent, whose husband was shot twice and killed, said:

My whole family was victimized because he took away our patriarch. He took away my companion of 40 years. He took away the man I loved...I definitely was victimized. He took away my lifestyle. He took away my support.

Others note they identified with being a victim because they do not have their family members to communicate with any longer:

I think of myself as a victim because it wasn't God who took my dad, it was someone else, and now the only time I talk to my dad is when I look at a patch of grass. Everybody else gets to look at their daddy, and I don't. So, that makes me a victim in my eyes.

I definitely feel like a victim because you don't know what hurt is until you lose your babies. You will never understand; you could never imagine the hurt and the pain.

Another respondent, whose parents were repeatedly stabbed in their home, named the physiological stress as well as the increased responsibility as her identity with being a victim:

[Being a victim] is sheer torture. I still have nightmares. I wake up with a sweat, screaming. My memory is shot; my nerves are shot. I am just not anything in the head like I used to be. And, with me being an only child, I am the one that makes decisions now. I am the one that had to pull the family back together, and I didn't know where to start. A victim I will always be; a victim 'til the day I die. I am going to be this way until the day I die.

A woman, whose husband was abducted with a friend in a parking lot and later both were burned alive in the vehicle, stated:

I felt that those guys that killed my husband killed a part of me too. They killed a big part of my life, they killed my [future] children, they killed my [future] grandchildren, they killed my trust. I think everyone that loved him [husband] and her [friend] would be called a victim.

Another respondent from the same case noted:

I think of more him and her [those murdered] as the victims. Yes, I suppose all families are victims; are victims because of what happened to them. It changed our lives.

In addition to a sense of loss and extreme stress, “change” is cited as being a primary reason for identifying with being a victim of crime. One respondent noted:

I mean, it changed my life forever. When I got that phone call, it changed my whole life.

Some respondents clearly resisted the identity of being a victim. One respondent, who has been employed as a police officer, for example, stated:

I don't want to be called a victim. I'm not a whiney victim. I think a lot of it is with me being a police officer. We're used to viewing other people as victims. We're not used to being victims. And, I don't want to be what I look at. These victims- I don't want to be in that class. Not that there's anything wrong with that, it's just that I don't want to be in it. [The offender's] dad was a wreck through the whole thing (trial). He was a nice guy. But, they are victims. If I'm a victim then they are too, but they appear to me as victims, and I don't want to be seen like them because to me they're pitiful.

Another respondent, who also has previously been employed as a law enforcement officer, did not identify with being a victim:

No, I don't [think of myself as a victim]. The whole tag bothers me. It's just a moniker, a label I don't subscribe to. And, there's a fringe group out there of very outspoken victims who push an agenda. Right, wrong, or indifferent, I don't really care. I'm not making a judgment about them; I just choose not to participate in that. That's not me. I don't want people grieving for me. I don't want to sit and relive it every day.

One participant, who was shot and almost killed when the same offender shot and killed his significant other, interestingly did not feel as if he identified with being a victim.

Below is his justification for feeling this way:

I've never felt that way. I mean, I've lost money, property and the whole bit, but I feel the biggest deal on me is I lost that girl. And so, you kind of

get to where, 'What do you have to live for'? And now, I've got a choice as a victim or a loved one of a victim. I can be bitter about being probed or bitter about losing things or bitter about being crippled up. Or, you can say, 'What do you have'? Daughters, good citizens, grand-daughters, I'm still eating, I can still...play golf. I can still actually do about anything I used to be able to do. I can't do it as well. I can't work as well. I can't lift. But, I'm not bitter. I think that you can let yourself be a victim, or you can choose not to be a victim.

Another respondent, whose young daughter was killed, did not feel as if she had an identity to being a victim:

I don't consider myself a victim. I don't know why. I've detached myself somehow.

One participant, whose brother was abducted, killed, and dismembered, stated that she did not identify with being a victim:

I think of myself more as a survivor. I have a problem being called a victim. I don't like the label. [Victims] are just living their life in that mold, the 'Woe is me. This happened. I can't go on.' I think the true victim was my brother.

In one case, two respondents made the claim that a relative of theirs, who witnessed the murder, identified with being a victim "too much":

I mean, it was almost to the point where she was turning into a professional victim- where it was such an impact on her life that she was using it kind of like a crutch on things.

Being identified with a victim seems to be a term that some subscribe to while others do not. It seems that those who identify with being a victim do so because their support system(s) have been taken away while their whole life as they once knew it has been changed or altered. Moreover, it was interesting that a few respondents did note how their futures were somewhat taken away from them when their family member was murdered. For example, discussing what kind of future they would have had if the

primary victim was still with them- having children, grandchildren, etc.- notes that they identify with being victims in more ways than one.

However, there seems to be a negative appeal to some respondents about the label of a victim. Those who did not want to be called a victim cited reasons such as being too “whiney” and not being able to move on with their lives. Perceptions of these respondents seem to indicate that being a victim is a negative connotation that they do not want to be attached to them. Perhaps this is because victims are generally seen as weak, damaged in some way, or “pitiful.” Both types of respondents, those who do and do not identify with being victims, in some ways feel as if they have been victimized by the criminal justice system even more than how the offender victimized them.

*“Does anybody want to serve the victims?”:
Perceptions of Being Victimized By the Criminal Justice System*

The majority of respondents interviewed indicated that they do have grievances with the criminal justice system- whether it be the police, district attorneys, defense attorneys, the court, or the overall system. Various answers are provided to support their arguments; however, it is necessary to note that some respondents did have satisfying experiences where others did not. For those who felt victimized by the criminal justice system, the system is perceived to be overly concerned with the rights of the offenders, to be bureaucratic and impersonal, and to be inconsistent in the punishments it hands down. What the researcher found most interesting was that some respondents did state, “I do feel more like a victim of the criminal justice system” because that specific question was not included on the interview guide. When asked if he thought of himself as a victim, one respondent replied:

Yes, I do because Crime Victim's Week was here not too long ago. They said that 'justice is not served until the victims are.' I thought, 'that's a hollow statement.' You know, that's true, but nobody has seemed to want to serve the victims.

Another respondent stated:

I know this is going to sound kind of crazy, but I feel like I'm almost the victim of the court rather than the victim of losing a daughter by [the offender's] hand.

Another participant, whose parents were murdered, described the impersonality of the criminal justice system and her perceptions of secondary victimization:

The victims are victims in more than one way. First of all, you've got to be able to survive what actually happened, and then you have to survive the judicial system which sucks. I went to the representative's office to help change some of the things, and I thought since I talked to him several times, and he said he would call me and have me up, but he never has. So, like I said, the judicial system sucks. You're a victim in oh so many ways.

According to another interviewee:

Definitely. You would have to sit in the courtroom to totally understand. It's like everything is focused on the offenders. And, that's all that matters.

Most respondents did put some blame on the overall system to describe their secondary victimization. In many circumstances, their frustration did not come from only the police or only the attorneys, but from the way the criminal justice system's currently operates.

For example, one respondent explained:

I just realized the system for what it is. It's the system, not the people trying to follow the rules. It's not the people- they're doing their job the way they have to do their job. But the system is just so nitpicky to the point where I don't think they can get anything done when it's just so obvious what the problem was.

Continuing to examine why respondents have resentment to the overall criminal justice system, one respondent claimed:

The criminal system is just messed up anyway, and it's a lot of reasons. For instance, for him, they have electrocuted and put people to death for lesser crimes than this. They have killed innocent people. And, a man with a DUI, he will have a harsher punishment than people that's murdered folks. That's crazy! And, I have told my lawyer this, I said, 'I'm not a prejudice person, but if that would have been a white lady that this boy had killed, he never would have got to trial.' And, if that would have been the judge's daughter, he would have had him killed. I just know they don't do right.

This perceived inconsistency in punishment is one way in which victims and family members of victims are re-victimized. In other words, the contradictions of penalties given to offenders give victims of crime the perceived notion that punishment is variable. Therefore, when the criminal justice system does not meet the standards that family members desire, they perceive the justice system's conduct as disproportionate.

Two respondents expressed disapproval of the criminal justice system due to the politics behind decisions which were being made:

It's the laws. I think when they go to the laws, one Senator or something will say, 'If you lobby for me, I'll do this for you.' 'If you'll go with me on this, I'll do this.' And, I think that is what has happened to our system.

The judicial process rules all of our lives, and most people don't realize how important it is because the decision that judges make touches all. And, if you have to dig to get the information, it's not readily available, and they always say, 'No, it's not political, these judges aren't political.' They are. They're all political.

One respondent made a remark which summarizes the difficulties other respondents have endured with the criminal justice system:

There's nothing like family, and when you lose anybody in your family under any circumstances it's horrible. But, when somebody commits a violent crime against someone in your family, then you have the whole judicial system- it seems you are fighting everybody and you've done nothing.

Even as it is the case that there was some dissatisfaction noted from most respondents, there were two participants who maintained some degree of positive feelings towards the criminal justice system. However, their comments suggested that there is a need for more assistance for family members in the process:

The justice system- I believe in it. I always have. But, during the trial it is so confusing. Things happen and 'Why did that happen?' Most people don't know. Most people can't say, 'Well, I know why they trimmed that out.' And, 'I know why they couldn't use that thing.' They don't have that knowledge, and that's where a lot of my confusion came from. I was totally confused. So, I turned to the law [to understand]. I went and got a job out at a prison. I went to school for Criminal Justice, and I told my professor that the only reason I'm here is because of this case. [I told him] 'Make me understand.' And, he did.

She continued by stating:

I have always believed in the criminal justice system, ever since I can remember. I don't think that everything that happens is right, I don't. I think that everyone screws up, everybody makes mistakes, but for the most part, it's one of the better systems in the world as far as I can tell. It's not fool proof, but it's close.

The other respondent who had a positive experience with most of the criminal justice system (prior to the appeals) stated the following:

I've known people since this that have had a member of their family killed. They can't get information from the police, no one can help them, nobody will tell them what to do and where to go. We haven't had that experience, and maybe it's because [another family member] is so on top of everything.

One participant noted how the criminal justice system lost sight of why they were there in the first place. This sentiment is a recurring theme with respondents, and one that will be revisited. She explained:

[My daughter] got lost somehow in all that for me. Even at the clemency hearing. I told [the victim's services coordinator] I wanted to go. I don't want her to get lost. I want them to remember who she was. Can they tell me who she was? Can they tell me what her favorite color was? Can they

tell me what her favorite toy was? Can they even tell me what color her hair was? I don't think any of them knew that.

Being victimized by the criminal justice system is something that means very different things depending upon the person asked. While there were no respondents that stated completely positive characteristics of the criminal justice system, answers were varied in terms of how they identified with being a victim of the system. Theoretically, the data seem to indicate a similarity with Packer's (1968) due process model. Because the system moves slowly, respondents claimed that the criminal justice system victimizes them repeatedly by "nitpicking" the entire process. The due process model seems to indicate that the overall system focuses more upon the offender and less upon the victims and their families. Therefore, this research indicates that family members of homicide victims desire a model more closely aligned with Packer's (1968) crime control model. The data suggests that speed and efficiency in the criminal justice system is one avenue to lesson their victimization. In the following section, the researcher will analyze respondents' perceptions of how the criminal justice system, specifically the police, district attorneys, defense attorneys, and the appeals court administer injustices where family members feel doubly victimized by the system.

*"What do I need to do to feel as if I belong?":
Respondents' Attitudes and Perceptions of Specific Criminal
Justice System's Injustices*

The focus of this section will primarily be to analyze people's responses towards the police, district attorneys, defense attorneys, as well as the federal appeals processes. As will be discussed, the majority of respondents did not have negative attitudes towards the police (though a minority have experienced anger towards them), but their opinions may have changed when discussing the attorneys. Whether it was reversing a decision

based on inadequate council or putting a stay of execution for the offender, family members of murder victims perceive wide-ranging injustices in the criminal justice system. Again, depending upon the respondent, participants generally experienced varying degrees of satisfaction and dissatisfaction with person's employed by the justice system.

In terms of police processes, reasons for dissatisfaction include the officer's belief that a family member was a suspect in the murder, a perceived lack of desire to locate and charge the suspect, a lack of information given to family members, no support or comfort from officers, and the perceived bias of police officers towards the family member's social class. Most respondents do not even remember having any contact with any police officers. And, those who did have positive contact with police officers or investigators such as the Federal Bureau of Investigation (FBI) officers, noted that the officers did cater to their needs.

In one case, officers knew who the suspect was in the murder; however, they did not put out a warrant until two weeks later. Furthermore, the offender was not caught until four years later- after the FBI got involved. At the time of the murder of her two small children, the respondent and her husband were not at home. They found the bodies later in the day. This respondent noted her disappointment with the officers due to the time it took for them to locate the offender:

Good God. The guy was on the run for four years! I mean, you couldn't be looking very damn hard. You had to get the FBI in to do your work.

The same respondent explained other frustrations that she had with the police:

Well, then when the police got there, the first thing they did was make us go down and make a statement. They took my husband and made him take a lie detector [test]...immediately after we left the house. It was

horrible. That was not necessary. He was so upset that he flunked all three. I mean, you don't jerk somebody right out of their house looking at their two children being stabbed to death and kick them right on the lie detector test. You do not do that.

Only one respondent wished that the police would have talked to her more and kept her more informed of the investigation:

They didn't question me. They didn't even talk to me about this situation. I wish they would have. Then I would have known more.

One participant noted her frustration because the investigators were continually asking questions about the crime that she did not have answers to:

I kept feeling frustration because he kept saying, 'We just feel like you know more than what you're telling us.' And, I kept thinking, 'I don't know anymore.' But, what they didn't realize is that I went into shock. I kept thinking, 'If he just tells me what he wants, I could see if it's there.' I don't think that they had enough psychology to really realize that I was in my own little world because even as we spoke, I didn't believe she [daughter] was dead.

In one case, the primary investigators were FBI agents. This respondent was very dissatisfied with the way they handled the case as well as how she was treated:

They weren't even going to come talk to me. I had to go to them. I got into it with the FBI. I was called a 'know-it-all mother' because I told them 'this is who did it.' When he called me a 'know-it-all mother,' I said, 'Better than being an over-educated idiot.' They were so clueless [about who did this] that they were stopping anybody and everybody. They were so rude to us. It was the way they spoke to us like we were just nothing. We didn't matter.

Another complaint about investigators came from a woman whose brother was killed:

I guess it wasn't really the police more than the investigators, but it was almost like they had the mentality 'You're from a lower class family. You don't get as much attention as you would if you would've been from the rich side.' They never said that, but that was the feeling you'd get. It was almost like, 'Ok, this happened. We don't know what to do about it.' They were doing all that they could, but they didn't want you asking questions. They wanted you to leave them alone.

All other respondents had positive experiences with the police and investigators in their cases. The main response for these opinions was that the police were very responsive to their needs and were protective of them:

[Our experience with the police] was very positive. They couldn't have been nicer. They were keeping us informed all the time- of everything that was going on. I felt very protected.

I didn't have any problems with them. They were very protective of me- especially when this first happened. [The police officer] said, 'Are you going to be all right?' [driving to the crime scene]. He said, 'OK, well, if you get upset please pull over.'

The sheriff's office was really good. They provided us protection to and from the courthouse. They assigned a detective to stay in our attorney's office with us while the trial was going on. We had personal escorts everywhere. There were threats being made that they [offender's friends] were going to kill my son because I turned them in.

Generally speaking, experiences with the police were varied, with more participants having more positive experiences than those who did not. Similarly, respondents' experiences with the district attorneys in their individual cases had mixed reviews. However, there were slightly more people dissatisfied with the prosecutors than there were with the police. Perhaps an explanation for this is that the further the offender and the victim's family are involved in the system, the more perceived injustices occur. Reasons given for the disapproval of the various district attorneys include the apparent impression management strategies the attorneys use to acquire information, a lack of information given to victims' families, and not following the wishes of the family members about how the case should proceed. The analysis below describes these experiences with the prosecutors.

One participant noted how she considered herself a victim of the courts:

Oh, it was the games that they played. When they were trying to get information out of me, I would get myself ‘attorneyed up.’ [The DA] had spread her [daughter] autopsy pictures all over his desk and was trying to shock me, I guess. I think...he figured that if he could shock me and show me the horrific pictures that they have of her, that somehow or another that I would tell him something that he needed to know. And then, at that point [the DA] steps in, and he’s going to give his little hoopla, ‘I’m the great district attorney and I’ll get the seat next to God.’ I think that’s where I focused my anger, was at him.

One respondent was adamantly against the district attorney in her case due to a circumstance that one out of the two offenders received a second trial, and the DA would not request the death penalty. She was also extremely unhappy that he would not give her pertinent information during the trial:

When he was running for office he told me that if it ever came back to another trial he would not be able to go for the death penalty because he didn’t believe he [co-defendant] was there. He made us give him life without parole. And, he’s a friend of [offender’s] mother. We never got to go into the DA’s office to get any information or anything. When he was on trial, his family went into the DA’s office every morning for coffee and doughnuts. We were not given any information about what was going on, what was planned, nothing. As a matter of fact, when it came time for his sentencing, the time was set, we left the courthouse at 10:00 at night; he was supposed to be sentenced at 8:30 the next morning. We got to the courthouse at 8:00. The sentencing had already taken place. They didn’t even call and tell us. His family was all there. One of them came out and laughed at us and said, ‘You’re too late, it’s already over with.’ And we couldn’t even get in the courthouse. Plus, I had to chase him down to get an answer on anything.

When this participant was asked how she found out that the district attorney was not requesting the death penalty for the co-defendant, she replied:

[We found out that he wasn’t going for the death penalty] when we were watching him in the courtroom. I felt betrayed.

In a similar response, another respondent was dissatisfied that the district attorney was not going to request death sentences for all three offenders in the murder of her parents.

This was largely due to the pre-meditation aspect of the crime. Only one offender was noted to know the crime was going to be committed. She responded:

There are things we don't agree with, but the DA has told me, 'Accept it because this is what is going down- this is the story that we got.' They said to get him [primary offender] they were going to have to plea bargain with [the co-defendants]. He asked if it was alright to try to get this, and I said that I would never give the family permission. I wanted the death penalty for all three. So, no, I didn't get what I wanted. It was on record that when the DA came to me that I wouldn't agree with him. But, he told me, 'Well, if we don't do this with [the two co-defendants], then he [primary defendant] could walk out free.' I mean, what choice did I have? I didn't have a choice because if I would have got my choice, they would all have [a death sentence.]

Another respondent to this same case noted her perceptions of the district attorney:

We met with the DA's office on a regular basis, and I feel like had we not been relentless, we would not have gotten the outcome we got. [The townspeople] called his office the 'Let's Make a Deal' show. And, we found out why real quick. He wanted to cut a deal. He said he didn't have everything he needed to get the death penalty on both of them, and he said if we got one of them to turn evidence, the main guy who orchestrated it all would definitely get the death penalty. We did not agree, by Oklahoma laws, they have to talk to the families about this now, and we did not agree to it. We never agreed to it. We wanted the death penalty for both of them, and we really went head to head over it. There was a lot of yelling. My mom and I were there one day with the district attorney, and he was screaming at us. It was very bad.

Another respondent was annoyed at the prosecutor in her case because she felt as if it was their job to notify her about hearings:

Throughout this whole situation, they violate so many of your victim rights. According to the victim's rights, anytime there was a hearing where the defendant is present, you're supposed to be notified. We've had I don't know how many hearings that they haven't told us about. Nobody has.

For those respondents that did have positive experiences with the district attorney in each specific case, the overwhelming response was that the prosecutors would keep them informed of the process, where they were at in the process, and getting any type of

information for the family members that was needed. Below are some statements made by participants that had positive opinions of the district attorneys:

I feel like everyone there kind of really went out of their way to help us, and we were treated with kindness and respect from the district attorney's office through the whole process and the trial.

I felt that during the trials the district attorneys made a special effort to tell us if they had heard what the defense strategy was going to be. They would keep us informed.

Helping us on the victim impact statements, helping us to understand the legal system, or if something was said in the courtroom, and we didn't get it, when there was a break we would talk about it.

Family members' opinions of defense attorneys were generally negative. To a large degree, this is expected. After all, defense attorneys are those that are hired to represent the accused. However, some grave injustices have occurred in the trial processes by defense attorneys that make family members of murder victims perceive themselves as victims of the court. Among those reasons given for disdain for defense attorneys are general disgust for the profession, strategies used to prohibit family members from entering the court room, impression management strategies employed to further the defense's case, the defense strategy of claiming the offender is mentally incompetent, and a prolongation of the process.

One respondent noticed the stress even seeing the defense attorney on a recess from trial:

It was just thick tension. [I called him] a fucking idiot.

Another respondent described his dislike for the defense attorney:

I looked upon them as sinful devils because they are trying to defend the man that killed my son, and I didn't see how anybody could have anything to do with them. Of course, they didn't have the emotions into it like I had.

Another respondent described how her mother was angry at the defense attorney because he had subpoenaed her as a witness which caused her not to be able to enter the courtroom:

She couldn't go into the courtroom. You're a victim, and you have the right to go in to all the hearings, but in the trial, the defense council can subpoena you as a witness, and then they had it where everybody was sequestered, and they never called her as a witness. But, she couldn't go into the courtroom because she was a witness. So, she stood outside of the courtroom. But, the defense uses that as a strategy because they don't want you in the courtroom for the jury to see you. She was very, very angry.

One participant expressed her resentment towards the defense attorney:

At one of his [offender] trials, he did get up on the stand, and his attorney was interviewing him, and then we took a...recess. And, his attorney was overheard telling him that he should have been crying. So, when court resumed, and he got back up on the stand, he cried. And, of course, that made the newspapers and television. It was so artificial. But, you know, that's what they go for. They just will do anything.

Continuing with this respondent, she alluded to her perception that defense attorneys attempt to manipulate the situation for the benefit of the offender. She also described the following situation:

It's not just a game for us. But, it's like they're playing games. They dress them up and cut their hair and put on a suit or a coat or whatever. [They] make them look like any old person, and then they act a part. I guess that's one of the more offensive things I see. They're playing a game. There's frustration with what their attorneys can get away with. I know the attorneys have to represent these people. I couldn't look in the mirror and say the things that they have to say. To me, there should be a code of honesty or something. They just seem to go every which way but truth.

Coupled with a poor family environment during childhood, mental incompetence was found to be the primary explanation given by the defense attorneys to describe why

these homicides had occurred. Victims' families perceive these as justifications for an act that cannot be excused. One respondent stated:

He wasn't a dummy. There was nothing wrong with him. And they try to say that because of his child life that his mother had went off and left him and his dad didn't want him. Okay, there are a lot of children that have had bad homes. But, they don't go out and kill people and have premeditated murder on their minds just because they hate somebody.

Another participant stated:

He had this horrible life. His mom didn't want him. You know, the 'Woe is me. I led a bad childhood, so it's ok for me to kill people.'

One respondent noted the actions of the defense attorney that could be considered victimization to both the offender and the victim's family. In this instance, the defense attorney prolonged the appeals process even when the offender was requesting to end the appeals. The respondent stated:

The offender even wrote a letter once [stating] that he didn't want to go through this anymore. But, of course, the defense attorneys are dedicated. They want to save all of them.

The main concern for participants was the overall length of the criminal appeals process. The appeals process is one that, in most cases, takes more than ten years from the time of the sentencing. Furthermore, if an offender is granted a second trial and is still found to be guilty and given the death penalty, the appeals process starts from the beginning. Furthermore, there are numerous steps in the appeals process that is quite time-consuming. While most participants explain that the process is necessary to some degree, the explanations for accelerating the appeals process include not being able to move on with life, no desire to continue with a process that is more offender-centered than victim-oriented, and the explanations for the appeals are perceived as unreasonable.

To most respondents, the appeals process was one that deterred them from moving on with their lives. For example, one respondent claimed:

Nothing's changed. We're still going on, Dad's still dead, Mom's still without her husband, grandkids are still without their Grandpa, but he's [offender] not dead; he's still sitting in there. Yet, we've had to go through all these trials to get him 'the death penalty' that still hasn't been carried out.

The following respondent stated:

It just keeps dragging on. It keeps victimizing us. We have to go through the same things over and over, and it's just ridiculous.

One respondent indicated that he realized that the appeals process has shortened the length of time that the offender receives; however, he still felt that an injustice had occurred due to how many reviews the offender receives:

It seems to me like they could do a review and say, 'Ok, he's good. Kill him' instead of having this long, drawn-out [process].

Another participant noted the emotional preparedness that had to take place before each step in the appeals process:

It's hard on someone who's the family member of someone who's been murdered to go through the delays and the extensions of dates. It's really, really hard because a week seems like a year. It's hard to get yourself mentally and emotionally ready for something, and then they say that it's been delayed. That's the hardest thing. It's just crushing. It is so unfair. And, to not know if there's going to be an end to it.

Realizing that he did not have access to the information he wanted about where the offender was at in terms of the appeals process, the following respondent contended that he was left without any answers:

I've just been going nuts to see what can be done to move this guy along because I'm apparently the only one that's concerned about it. God, I just feel so helpless, not being able to do anything. Hell, I'm afraid I'm going to die before they execute him. I vowed that I would be here when they

took him to the chamber to do it. It's just been a horrible existence the last ten years.

Regarding the overall appeals system, the aforementioned sentiment of not knowing when the next step will take place is a common theme outlined in many responses. Those that do receive letters from the state are allowed access to information about when the next step will take place, but beyond that, multiple factors come into play that could delay the progression of appeals including clemency hearings, having a sentence overturned based on insufficient evidence, etc. One respondent, where the offender had already been put to death, stated:

I think it relieved the tension of if it was really ever going to happen. [The question remained] Is there going to be another trial? It was like knowing you were going to have a car wreck, but no one told you the date.

Another participant noted not being able to move on with her life due to the fact that the offender in the case received a second trial:

I'm just waiting on the trial to start. [I'm] praying that God gives me the strength to go through it because I don't know how I'm going to react this time. [This time] I'm just tired. I'm just tired of hearing about it, and knowing what's ahead of me...and knowing that I can't get on with what I've planned for my life. It's keeping me from doing some stuff.

At some level, it is expected that the appeals process is more centered on the offender than the victim's family. However, family members continue to live each day questioning whether or not the offender will eventually be released from custody or from death row. Resentment of the offender and of the lengthy appeals process is a sentiment shared by many respondents. While bitterness projects itself in various manners, respondents noted their anger with the money being spent on the offender, the number of appeals the offender receives while the victim got none, and the amount of time given to

the offender in an attempt to give him a lesser sentence. Contending that the appeals system is heavily centered on the offender, some participants noted:

I think it's a travesty that they're allowed all the appeals that they're getting because...here it is, six years later, and my husband's been in his grave for six years, and he's still sitting on death row getting fat as a pig. That does not seem like justice to me. My husband did not get all these appeals to say, 'I don't want to die.' Why should he get all these appeals? The courts pick on such trivial things that happened in the trial to get an appeal. I think it's a terrible waste of the taxpayer's money.

This is what makes me angry. The statistics were at the time that we buried our son, by the time the offender is done away with, we would have spent 1.8 million dollars on him. I hate that. He has a clean bed, clean clothes, and square meals. That just really pisses me off. I am saying that I think you should be fair in justice, but all these different appeals are ridiculous.

If they weren't the right people [offenders], I would be the first person to say, 'Let's go find the right ones.' But they were. They had confessed up front. But, we had gone through so many trials trying to get them off.

[The defense attorneys] will look for some little nitpicking thing, so we need a new trial. And, obviously it's been working because we've gone back and back and back.

Similar to the dissatisfactions with defense attorneys, reasons of competency continue to haunt family members during the appeals process. The main reason for this argument is because it is another avenue for the process to be prolonged. One respondent claimed:

Competency, competency, competency, and every time he was found competent. And, we just went back a year ago for the retardation issue on him. I mean, it just goes on and on and on.

The criminal justice system continues to victimize families of murder victims. Where it may be the police in one circumstance, it may be the defense attorney(s) in another. Regardless of the difficulties participants had with the front end of the justice system (i.e., police and attorneys), perceptions of the appeals courts are largely to blame

for secondary victimization. A lack of understanding, the length of the process, resentment of how the process is carried out, as well as belonging to the type of environment that caters to the needs of criminals rather than families all foster feelings of discontent with the criminal justice system.

Theoretically, Roach's (1999) expansion of Packer's (1968) models of the criminal justice system parallels the data with the punitive model of victims' rights. As stated previously, "Punitive forms of victim's rights oppose due process claims because they divert attention from factual guilt and allow the criminal to go free" (Roach 1999: 703). The data supports Roach's (1999) stance that disappointment will exist when victims believe they are not receiving as fair of treatment as the offender. Therefore, they will be more likely to seek retribution of the offender. In the next section, the researcher will analyze responses geared towards improving the system to better meet participants' needs.

*“There has to be something better than this”:
Respondents' Suggestions on the Improvement of the
Criminal Justice System*

With the majority of respondents noting grave injustices and discontent with the criminal justice system, many suggestions were made in regards to how the overall system could improve. Because respondents differed in the ways which they felt victimized by the criminal justice system, responses differed in the ways which they felt it could improve. It is apparent that, in general, family members are lost in a system that accommodates offenders. Many recognize there must be some drastic changes in order for them to feel embraced by the overall system. Those who felt the criminal justice system needed to be developed to better suit their needs noted that they needed to be

better informed of the overall process, they needed to be treated with more respect- particularly in terms of how they are treated in the courtroom, and the system needs to expedite the appeals process when there is no question the offender committed the crime. For one respondent, he claimed that he would have liked to have been better informed of how long the process would actually take and if there are reasons to believe that the case could be retried:

I really wish that they would have been more specific on, if you're going to elect the death penalty, please be advised that if we get a conviction, I would have liked to have known what the percentages are if you're going to have to retry it again, and if that's going to happen.

Another respondent indicated the following:

I wanted more information, and it just didn't seem like I could get that.

One respondent stated her lack of involvement and her desire to receive more information:

I'd notice she [Victim's Coordinator] would call us sometimes, and I'd be anxious, and I'd ask, 'How long is this step?' She was clueless herself. But, I was amazed that a year would go by and there would be no answer.

Being treated with more respect is a common answer when asked how the criminal justice system could be improved. However, respect comes at many different levels. For some respondents, respect is being more caring. For others, being able to show the slightest emotion in the courtroom defines an element of respect. Another aspect that respondents recognize as necessary is, again, be more victim-centered rather than being more concerned with the offender- specifically in regards to victim impact statements. To recount a specific example, family members were wearing jewelry in the shape of angels to represent two children who were murdered. This respondent stated:

His [offender] lawyers were upset and made us take off all our jewelry that was angels. When we were in the courtroom, I felt like we were treated like Kindergarteners because we were told not to talk, not to speak, no emotions.

Another respondent stated:

Lord have mercy! We went through something during that first trial. We really did. I said, 'This is crazy!' How are you not going to show emotion? I mean, this is five people dead!

One respondent was upset at the fact that the jury was only allowed to see pictures of her parents after they were murdered, and she was not able to bring in pictures while they were still living:

The criminal justice system sucks. I couldn't take a picture. Everybody in there got to see the offender's family. You couldn't tell nothing about mother and daddy. There was nothing but blood everywhere. It was horrible. That is all they got to see. I was not allowed to take a picture of how my mother and daddy actually looked when they were happy.

This respondent did follow up and note that she believed that at present day, family members can bring in a picture of the deceased during the victim impact statement.

In another case, one respondent claimed the absurdity of the criminal justice professionals was uncalled for:

Through the trial you're sitting there, and they actually got onto us for drinking water, and were having to hide our water bottles. They didn't want us to cry or make any noise that would disturb anything. They actually told us one time that we were rattling our candy papers. And, he's [offender] sitting out there with his water bottle, like a big shot, and you're just going, 'Wait, there's something wrong with this picture. We're victims and you're guilty.'

When asked how the criminal justice system could improve, one respondent stated:

Come into the century with the rest of us. There are so many things still in play, laws that have never changed from way back. A lot of the rules and laws don't apply to this day in time.

Another respondent noted how she would modify the system to be more nurturing to victims' needs:

There's no personal stake in it with them. It's just a job. I don't think the justice system allows for the emotional side of the people involved, and the fact is, you're dealing with humans, and you have to allow for that.

Victim impact statements are written by victims of crime, or in these types of cases, family members of victims. Before the sentencing of the offender, these statements are an opportunity for family members to describe the hurt that has been caused due to the murder. Family members believe this is a time when their voices can be heard, and to tell people exactly what the crime has meant to them. It is somewhat ironic that for some respondents, this stage was one that they felt most victimized. Therefore, when asked what kind of improvements the criminal justice system could make, some participants noted changes in how the victim impact statement was controlled. In some cases, only a certain number of family members were allowed to give victim impact statements. In others, dissatisfaction came from the fact that family members believed they could not say anything that they actually wanted the court to know. To explain this point, the following respondent stated:

There was a limit [to how many people could speak]. [It's a] time factor. Because sometimes they go on, and it gets really emotional.

Getting the chance to have your voice heard by the court that often silences family members, some participants believe the opportunity should not be limited to only a certain number due to time constraints. After all, they note, the offender and the defense attorney receive much more time than should be allotted to them- especially with the appeals court. So, in this manner, according to respondents, improvements should take

place so they do not restrict victim impact statements based on time or number of people who can give one.

Furthermore, when asked if respondents were given the opportunity to give a victim impact statement, some stated they were not told about this. The following respondent claimed:

It wasn't offered to us. It was strictly the end of it [trial], and the jury went to decide, and they came back with the verdict.

With federal regulations stating that the victim impact statement should be included at some phase of the process (generally before sentencing), it is possible that those respondents who were not given this opportunity had their cases tried before federal law permitted them to be used (Federal Crime Act of 1994).

Another reason respondents see a needed change, or improvement, with victim impact statements is the fact that they are heavily censored in what they can actually say in the courtroom. One participant explained:

There were so many things I couldn't say on the victims' impact statement or it [trial] would have been thrown out.

Another respondent indicated:

They marked out what they didn't want us to say. I told a friend that if we ever write a book, we need to have pictures of those because it's like seeing a typewritten page with all these black lines through it. They want us to say what we want to say, but they don't want us to say everything we want to say. It's very bizarre. You spend a lot of time, and it's gut-wrenching to write down exactly how it's affected you, and then to have someone say, 'Well, that's very fine, but you can't say that.'

One more participant from the above mentioned case noted:

They just kept blacking out more of it. I described the way he looked, they blacked it out. They didn't want the jury to see him as a person. They could sit there and look at that guy [offender] over there, and clean

him up, cut his hair, but I can't stand up there and say my husband had beautiful brown eyes and curly soft hair?

This leads back to the inequalities felt by some of the family members that the criminal justice system does not understand victim's needs.

Returning to the length of the process, most respondents felt that the criminal justice system could improve by expediting the procedures of appeals:

I think you've got to move these proceedings right through and give them their time to affect their appeals and do what the jury told them to do.

Another participant indicated she believed the process could be sped up by eliminating the number of "loopholes" the criminal justice system has:

It depends on the crime, and it depends on the circumstances, it depends on if they're guilty. If you know they're guilty, why did we spend all these hundreds of thousands of dollars? We have spent all this money on them [offenders] that we knew committed that horrible murder.

The majority of respondents did, in fact, notice something about some part of the criminal justice system that they would change to make it more victim-centered. It is interesting to consider a criminal justice system that developed a more victim-centered approach than is now instituted. The data indicates that if the system did adopt more active approaches to working with victims of crime and their family members, then their overall satisfaction with the process would increase. However, it is important to note that at some level, the criminal justice system will always be offender oriented. After all, the bureaucratic structure is that which arrests, tries, and sentences offenders. Perhaps an advancement of victims' rights would increase the equality of representation. This is something that is seen as necessary for family members. Seeking answers to questions that are not easily answerable often leads family members down a path that includes

anger, hurt, frustration, and disparagement. One can conclude that family members of homicide victims require a positive environment where they can be heard.

Summary

Being perceived as a victim can take place at two levels: 1) being a victim of crime, or 2) being a victim of the criminal justice system. There are those who resist the label of “victim” due to the perceived notion victims are weak and helpless. However, those who do adhere to the term of “victim” do so primarily because their lives have dramatically changed since the murder.

Victimization does not stop once family members enter the processes of the criminal justice system. This secondary victimization occurs more frequently at the federal level attributable to lack of information given to family members, a slow-moving process, and the perception that many rights victims feel they should be given are lost. Police, district attorneys, and defense attorneys are held in occupations which, unfortunately for some victims, are guided by their strict rules and procedures for solving and defending cases. While at times victims see this as necessary, many times they point out that the bureaucratic impersonality hinders their ability to feel embraced by the system.

The majority of respondents mentioned their resentment of the criminal justice system because many things that are seen to impact court processes (i.e. delays, victim impact statements, appeals, etc.) seem to work in favor of the offender. Even where they felt they should receive some type of representation by the district attorney, some felt that their wishes were not honored. Defense attorneys’ arguments about why the offender murdered, often times left family members of the deceased wondering why the criminal

justice system could remain committed to the representation of the offender who murdered their loved one(s). The inequalities respondents perceived perpetuated their beliefs about retribution and having a criminal justice system that is swift, certain, and severe.

Suggestions of possible improvements of the criminal justice system were numerous. By improving the relationship between family members and the criminal justice system personnel, one could make a strong argument that tensions could be relieved from both the criminal justice system as well as family members. In turn, the possibility exists that the justice system and family members alike could respond to each other's needs in a more productive manner. Certainly, this would largely benefit victims of crime and of the criminal justice system. If certain suggestions, such as being better informed of the appeals process and being treated with more respect from certain officials, were put in place and consciously carried out, victims of crime would possibly be more willing to assist officials in their endeavors and be more appreciative of the constitutional laws in place for offenders.

The following chapter will explore respondents' opinions of the death penalty. Specifically, the chapter will aim to understand how family members perceive restorative justice, their willingness to forgive the offender, the need for closure, as well as their ideas about witnessing the execution.

CHAPTER VI

**REACTIONS TO THE DEATH PENALTY: OPINIONS OF
RESTORATIVE JUSTICE, WITNESSING THE EXECUTION, AND
THE IDEA OF CLOSURE**

This chapter explores the relationship between respondents' support for the death penalty, restorative justice, and the hope that closure will be a resulting factor from the offender's death. All respondents in this study supported the death penalty for the offender(s) in each of their cases. Religious orientation, wanting the offender to recognize the crime, as well as the idea of closure all play vital roles in their justification for the support of capital punishment. There is also the need by some family members to forgive the offender- a personal act that some deem is necessary to move ahead with their lives.

In describing the opinions of the death penalty and the factors that may play a role in those thoughts, this chapter seeks to answer five related questions. First, in what ways does the criminal justice system affect respondents' attitudes toward the death penalty? Second, what are the specific reasons given for family member's support of the death penalty? Third, how do family members perceive the practice of restorative justice and their willingness to participate in this type of program, and what role does the act of forgiveness play in this? Fourth, what are the sentiments behind witnessing the execution? Finally, what role does closure play in their support of capital punishment?

As stated in chapter three, punitive ideology, just deserts, deterrence, and religious orientation are all rationales for supporting capital punishment. This study seems to support all of these bases. In many respects, the practice of restorative justice suggests that by increasing a victim's awareness of the crime and why it occurred, that punitive mindset may not be as prominent. The following sections focus on the conclusions reached from the data compiled from personal and telephone interviews. The analysis highlights several important themes: how the criminal justice system affects respondents' attitudes of capital punishment, willingness to meet with the offender after sentencing, family member's willingness or reluctance to forgive the offender, reasons why family members will, or did, witness the offender's execution, and perceptions of closure.

*“Life doesn't mean life”:
Examining the Role the Criminal Justice System Plays
in Respondents' Opinions of the Death Penalty*

In the previous chapter, participants expressed their disenchantment with the criminal justice system and how they perceived the system to victimize them even after the crime occurred. This section analyzes how the processes of the criminal justice system shape the views family members have of the death penalty. Within the criminal justice system, laws are in place which denotes an offender should serve a certain amount of time depending upon circumstances surrounding the crime as well as how the crime happened. In the case of homicide, two options generally exist for the jury to make a decision regarding the sentence an offender should receive: life without parole and capital punishment. While these laws and policies are in place to spare an offender's life if the crime was not deemed “heinous, atrocious, and cruel,” family members do not see

life without parole as an option due to their belief that criminal justice system policies do not ensure the offender will never be released. Therefore, at some level, the criminal justice system does affect the sentiments of the death penalty of family members because if there were more secure policies regarding life without parole sentences, perhaps there may be more of a willingness for some family members to support the lesser sentence. While not all family members would support this effort, when asked if they would ask for life without parole, they denied this because of the aforementioned reason. One woman stated:

When they say life, it doesn't mean life, and they always give them parole. I certainly did not want that, and I'm not even sure that life without parole means life without parole, and so we decided to go for the death penalty.

Another respondent explained what his family went through when the district attorney approached them about a plea agreement for the offender:

They dangle this carrot in front of you. But, they [district attorneys] come in and they say, 'Hey, they've offered to plead to life, and the benefit is you don't have to drag your family through a trial and get on the stand.' Well, that sounds really great until you find out that life is a set term of 40-whatever years, and it's an 80% crime, so you're going to do 30-something years...only to find out what the definition of 'life' truly is. Well, they don't tell you that at that point. They just say they've offered to plead to life, so I come out thinking, 'Wow, that sounds great! Why would I not do this?' If he's going to be in prison the rest of his life, unless you have a better than average understanding of the criminal justice system, that's something you may bite on.

Understanding the legal system is something that most respondents did not have a clear knowledge about before the crime occurred. Similarly, years after the murder, some continued to be inexperienced with legal terminology as well as the overall system. The participant noted above notes his dissatisfaction with making the decision to offer life without parole or the death penalty without a clear understanding of what is at stake. By

having the beliefs that an offender could possibly be released if given a life without parole sentence, respondents were more likely to support the death penalty. The above-mentioned respondent continued:

Life without parole...can be commuted by the governor. Once it's commuted, which they have done, it can be paroled. Well, tell people that. Don't tell me a bunch of crap about how it's life without parole. I feel like they victimize people twice. It's not life. Life is definable. If you're going to call somebody in and dangle a carrot, give them the calculation, and let them decide. That may make a huge difference whether I decide to set the plea or not.

Another participant noted that because there was a possibility of the offender being released if given life without parole, she did not believe justice would be served:

I don't want him to get life in prison without parole because essentially they get out, and I know once he does, they're [prison officials] not going to put him in general population. They'll have him in a segregation unit for his protection. So, we wouldn't be able to get any justice in that sense. My main worry is him getting out. I mean, he's guilty. I don't want him to have a chance to be free.

As can be seen from these respondents, when the district attorney did want input from the family members about which sentence would be given to the offender, there is the possibility that some family members of homicide victims would consider requesting life without parole. However, due to present laws and policies in place within the criminal justice system, family members are much less likely to ask for life without parole due to the fact that there is a much higher probability the offender will be released into society at some time. On the contrary, if family members request capital punishment for the offender, the likelihood of being released from prison is minimal. It seems that the main concern for family members is the chance of the offender ever being released back into society, and they see the only way to prevent this from happening is for the offender to be sentenced to death.

Perceptions of the criminal justice system; specifically the correctional system, can affect one's opinions of the death penalty. For example, one woman remarked that because prisons were overcrowded, offenders who murder should be put to death:

If we gave everybody just life with a possibility of parole when there was no hope for them- there wouldn't be enough prisons. They are so short-handed in the prisons, there are not enough people to take care of them. Okay, so we can't put them back out on the street because they would do this type of thing again. Then, we keep all of them and don't do the death penalty. We are going to have more prisons, we are going to have to have more people, taxpayers are going to have to pay more money, and there wouldn't be enough room. And people that you can't put back out in society have got to go.

Similarly, another respondent stated:

We have spent hundreds of thousands of dollars on these people. We don't have enough maximum security prisons, and a lot of people are given life without parole now. We don't have them [enough prisons]. So, a lot of them go to medium security prisons. They should never be let out.

Given the fact that more and more individuals are being incarcerated, some family members perceive capital punishment as one way to curb the ever-growing prison population. By executing those offenders who have committed a "heinous" murder, family members believe this is one way to alleviate the overcrowded prisons. Furthermore, and most importantly, family members perceive life without parole sentences as another step closer to being put in a medium or minimum correctional facility- and one more step closer to being released into society. Some family member's justification for supporting capital punishment; therefore, is reducing prison overcrowding and the financial responsibility that comes with it to the rest of society.

Another element the data shows is that the criminal justice system can affect a person's perception of the death penalty merely by having the law in place. In other words, respondents frequently explained that if the law was not in place, then they would

not necessarily be asking for capital punishment. However, because it is the maximum penalty *as described by law*, this perpetuated the families' wishes of what should be the sentence for the offender(s). For example, one respondent suggested that the measure in place for sentencing of offenders should be carried out to the fullest extent of the law:

My own personal opinion is, if you have that much of a lack of self-control that you choose to take somebody's life...I've always believed that if it's allowed by law, regardless of your feelings about the death penalty, if it's the maximum punishment allowed by law, I feel that what he deserves is the maximum punishment allowed by law. If the Supreme Court says we can't do it, we can't do it, but if we can do it, then...I don't have a whole lot of use for you [offender].

This study clearly indicates that the criminal justice system does have some effect on how respondents perceive capital punishment. Issues such as life without parole, overcrowded prisons, and having capital punishment laws in the United States supports the idea that in some ways participants are influenced in their decisions about capital punishment. However, as previously noted, most did indicate they supported the death penalty before the crime even occurred. Nevertheless, some participants in this study may have considered life without parole if these other matters were or were not in place. The next section addresses the respondents' rationales for supporting the death penalty.

*“Why should he get to live?”:
Explanations for Support of the Death Penalty*

As previously stated, all respondents in this study supported the death penalty. Many of the reasons for this mirror the hurt caused by the initial and secondary victimization. Those punitive outcomes of being victimized carry over to their opinions of capital punishment. Family members have experienced pain in more than one way, as was shown in the previous chapter. Feelings of resentment towards the offender tend to increase the more time passes. The resulting factor; therefore, is supporting the death

penalty. Interestingly, most respondents noted they did support capital punishment before the murders. However, they do recognize that their feelings of support have increased because the murders personally affected them. Among the reasons explicated for supporting giving the offender(s) a death sentence include the belief of “an eye for an eye”, belief in the Bible and what religious authorities have taught them, and the need for justice.

Reflecting a retaliatory perspective, many respondents clearly feel the need for revenge for what the offender has done to them. While the death penalty may be the only viable avenue to kill the offender, some participants spoke adamantly about their desire to murder the offender in the same manner he chose to kill the victim(s). One respondent noted:

I wanted to kill him. I think they [courts] should've let me do to him just like he done to my kids. Payback should be hell.

Another respondent indicated her reasons for supporting the death penalty:

There's no need for a trial. He has admitted to killing them. So, he should get the same punishment that he gave them.

This “eye for an eye” approach conjures up many punitive attitudes of family members towards the offender. In fact, a continuing theme when discussing their opinions of the death penalty was the fact that many felt as if they would gain more fulfillment if the offender was put to death in the same manner as they murdered the victims. Likewise, some expressed their desire to murder the offender themselves. While some noted that they felt these emotions immediately after the murder occurred, some felt this way years after the murder happened. In other words, some relinquish thoughts of murdering the offender themselves and turn it over to authorities while others

never abandon the feelings they have of committing the same type of crime in the manner the offender used against his victim(s).

Given the fact that many respondents felt animosity towards the offender from the time of the murder, there is an increased level of bitterness as the process continues.

Once family members are immersed in the criminal process, it seems the more retaliatory they become towards the offender. One participant responded to her perception of the offender and why she thought he deserved the death penalty:

I see all this money going to waste to try to save people like [the offender]. I hate to say this, but he does not deserve to be saved. He's never lived a good life. He's always been involved in unsavory things.

In this instance, the respondent looked to how the offender lived his life prior to killing her husband. Examining and analyzing past offenses and the perceptions of values of the offender are reasons for supporting the death penalty. The seemingly different lifestyles of family members and offenders tend to weigh on the reasons given for supporting capital punishment. For instance, if family members believe that the offender has never lived a morally successful existence, they were more likely to suggest that the offender could never be an ethical individual. Therefore, some beliefs were that the offender may commit another murder if given the chance.

One stated that he was consciously aware of his "revenge-oriented" ideology:

I mean, I won't tell you that I don't want him to be miserable everyday. I do. [There is] some measure of vengeance, I'm sure.

There were quite a few respondents who were aware their attitudes were punitive and retributive. In fact, often times this awareness coupled their support for capital punishment. By understanding their reasons for supporting the death penalty (i.e.

retributive), some seemed to express much deeper support for capital punishment for the offender(s) in their cases.

Questioning the life of the offender when respondents do not have their family member(s), reasons for supporting the death penalty are numerous. The most given response by participants was that the offender deserves to be executed. One woman stated:

He deserves what he deserves. He deserves the punishment that fits the crime. The bad thing is you can't kill him three times. He murdered three people. I will never hear her voice again or hug them. Why should he have the opportunity? He's breathing. For the last twelve years he's been fed three times a day. He has shelter over his head.

One man, whose grandchildren were killed, replied in a similar manner:

My son thought the worse punishment [would be life without parole]. The offender is an outdoors type of guy. But, they don't. That's what people don't understand. After they've been there for a while, and they drop out of sight, out of mind, they get privileges. They get to go out in the sunshine. They get to play...have a ball and hit it against the wall. It may seem like it's no big deal but to me it is. He gets to do it, but my grandchildren don't get to do it. I just don't want him to have a life. I don't want him to breathe the same air as the rest of the people breathe. They [prison officials] travel him down the road all the time. Any time he has a medical problem they can't deal with in the prison, they take him to the city, and I don't even want him to look around and get to see the highway and the birds and the trees and the sun. I want him to go to the deep, dark place wherever you go when you die.

Most respondents indicated that there must be punishment to fit the crime.

Perceptions of what the offender deserved were not varied much. All believed that death was the way in which the offender should pay for his crime. In many circumstances, respondents believed the offender received "too much"- things they did not deserve. Participants saw only one thing the offender deserved- death. All other material and nonmaterial items received were privileges that were not necessary.

By reviewing respondents' sentiments of secondary victimization, this research concludes that the appeals process is one that family members are particularly upset with. By comparing offenders to those who have been murdered, respondents affirm the inequities they have experienced with the criminal justice system. In terms of this, support for the death penalty is justified in the following manner:

Why keep him alive? [Victim] got no trial. She got no appeal.

They don't deserve [life]. They didn't give my parents any kind of choice, so why should they have any kind of choice?

By examining the situation in association with their family members, participants supported the death penalty because they saw the offender continuing with the process while the primary victim received no second chance. As previously mentioned, as the inequalities between offender and family members mount, it seems that the more retaliatory family members become towards the offender.

Some respondents believed that the offenders were not able to be rehabilitated. Some of these sentiments have already been examined. However, as one respondent noted:

If you've got a rabid dog, you shoot him. These guys, that's about what they are. They're monsters.

Another shared this sentiment:

I just feel like they don't deserve to live because they laughed about it [the murder]. They kind of got a high off it. So, you know they would be a threat to the community.

As discussed previously, if a family member perceives that the offender has never led a moral lifestyle, they will feel *more* strongly about supporting the death penalty than if they believe that there was a possibility the offender could be rehabilitated. Even as

that is the case, this research indicates that regardless of family members' perceptions of whether or not the offender can be rehabilitated, they would still support capital punishment.

As stated in chapter two, a person's religious beliefs can have an influence on whether or not somebody supports the death penalty. In this study, some respondents did have to consider their religious affiliations when reflecting on capital punishment. Some met with their pastors; others read the Bible. Interestingly, one participant is Catholic, a religion that is traditionally opposed to the death penalty. She noted that if it had resulted in this scenario, she would have given up her religion in order for her to support capital punishment for her son's murderer. It did not result in this. In another instance, a woman responded:

I met with my pastor. He said, 'Technically, if you're talking about him committing a crime, and the worst punishment for that crime is the death penalty, then that's what he deserves.' So, that gave me a little peace.

Another woman stated:

My Bible tells me, 'The law is for the lawless.'

Another woman noted:

In my way of thinking, and the church I believe in, if you have no regards for human life, then nobody should have regards for your human life either.

Interestingly, a respondent's religious beliefs could be the reason that some oppose the death penalty while the same factor could result in a person's support for capital punishment. Respondents in this study came from a multitude of religious backgrounds. Regardless of religion (or no religious preference), all family members supported the death penalty. For those who cited religion as justification for supporting

capital punishment, there were varied biblical references given. Talking with pastors and priests about their beliefs in the death penalty tended to give those respondents who sought the advice of these religious authorities more clarity on the issue than they previously had. Additionally, most family members who did meet with their pastors or priests found agreement about capital punishment.

According to participants, there is an inherent need for justice to be served. While all support the belief that the offender should pay with his life, most remarked that they were disenchanted with the manner which capital punishment has been carried out in recent years- by lethal injection. Speaking of justice, one woman stated:

It's bizarre. And, it's just frustrating when all we want is justice. I mean, these two executed our children! They hadn't done anything wrong! They [offenders] gave the death penalty to them [victims] just because they wanted to. It's not that we want something that isn't the law. We want justice.

This relates to one of the reasons that some support the death penalty- it's the law.

Therefore, justice is something that family members see as for the law-abiding.

However, they feel that often times justice is denied to them in an effort to cater to the offender(s).

Respondents feel that justice, many times, comes at a price. The lengthy process, inequalities between victims and offenders in the justice system, as well as the "humane" manner in which the offender's death is carried out by the state are all seen as adding to the frustrations family members feel. One respondent noted:

It's too easy now. You [offender] can go out and cause all this pain on these people; you kill, you stab them, you beat them, and then you just go to sleep.

Many more participants stated similar reasons for being disenchanted with the manner in which the death penalty was carried out. Although all were in favor of capital punishment, most disagreed that the offender should be allowed such an “easy” way to die. Again, the inequalities that family members perceive to be in place are reasons for them to be more punitive in their beliefs about what should happen to the offender.

Another woman claimed that because the offender has been leading a life not conducive to society’s expectations, it would be better to carry out the death sentence:

There’s no sense in him sitting down there. It [death penalty] would really be more humane. You know his life is bad [in prison].

The participants in this study supported the death penalty for a variety of reasons. Retribution seems to be the primary explanation. The “eye for an eye” philosophy is prevalent when discussing reasons family members support capital punishment. Theoretically, being victimized by the offender and the criminal justice system leads to the agreement of the death penalty. Radelet and Akers (1996), Specter (1994), and Young (1992) describe the more substantive reasons victims of crime and their family members support the death penalty. Just deserts, feelings of retribution emerging from lengthy court proceedings, and religious orientation are all ideas supported in this study. The next section addresses participants’ willingness to engage in some type of dialogue with the offender for a better understanding of why the crime occurred and what role forgiveness plays in restorative justice.

*“Why would I want to talk to him?”:
Respondents’ Explanations for Rejecting or Agreeing
to Dialogue with the Offender*

Many people in this study indicated that they have no desire to request a meeting with the offender to talk about why the crime occurred. Family members expressed

doubtfulness that they would receive the truth from the offender. Furthermore, continuing with the punishment-oriented sentiments by family members, most agree that there is no reason to dialogue with the offender because there would be no need to speak to someone who did something to hurt them. Additionally, when asked if they would ever consider meeting with the offender to discuss the crime, some respondents noted that the only question they would ask would be, "Why?" But, most expressed hesitation to trust that the offender would be willing to take responsibility and apologize. Two respondents had meetings with the offender while on death row. There are two primary reasons for this: 1) to get the truth about the crime and why it happened, and 2) for the offender to apologize. Interestingly, both women who met with the offenders, still noted their desire to have the offenders executed. Others said that they wanted to meet with certain offenders; however, they did not know enough about the process to make that request.

One respondent who did not want to have a meeting with the offender stated:

There's nothing in my soul that makes me even want to have a conversation with him because I feel like any conversation I would have with him is full of crap anyway. It's not going to bring my dad back, so what's the point?

Another man noted his rejection of the process as well:

There's nothing he could tell me that would make me understand in any way what he did, so what's the point? I don't want to hear him say that he's sorry. That does nothing for me. And, it would piss me off even more if he didn't offer an apology. I'm damned if I do, and I'm damned if I don't.

By denying the chance to dialogue with the offender, some respondents, such as the above, believed that they would receive nothing out of the process. In fact, some indicated they would most likely feel more upset with the offender if they did discuss the

crime. For these reasons, some respondents expressed their contempt for this type of process.

Believing that the offender would only justify his actions, one respondent reported the following when asked if she would ever want to meet with the offender:

No. I guess the reason being because he could come up with the most farfetched stories in the courtroom. He justified everything in his mind. He never, ever made any admission that he did anything at all.

One woman claimed that her and her sister had a family feud due to the fact that her sister attempted to save the offender's life once sentenced to death row. King (2003) indicates that this is a common problem for some families where one is against the death penalty while all the others support it. Furthermore, the offender in this case has already been executed. This participant contended:

She fought it [death penalty] the whole time- for sixteen years. It made a lot of trouble in my family, a lot of hurt feelings. She met with him on a regular basis. She bought him a TV for his cell. She sat on his side at the execution. I don't care if she saw it her way, but I'm not going to change my way, so we didn't talk.

In this case, family relationships were at odds due to the fact that one family member supported talking with the offender and understanding his actions while the other did not. While this is the only case in this study where family members disagreed on discussing the crime with the offender, the literature suggests if family members believe in these differing values and beliefs about how to manage their emotions once the offender received the death penalty, the disagreement can be a lifelong struggle between the family members.

One woman, who did meet with the offender after he was sentenced to death, indicated she did so because she wanted to find out what actually occurred the night her

daughter and grandchildren were murdered. She explained that after hearing multiple theories in the courtroom, she wanted to go to the source to figure out what really happened. Perhaps what made this meeting successful was the fact that the offender did speak candidly about that evening and took responsibility for his actions. Consequently, she did have the ability to forgive him for his actions. However, as stated above, she still believed he needed to pay for the murders. She noted:

I have forgiven him for what he did. We [herself and her daughters] wanted to talk to him because they had questions that they had that were unanswered. We wanted to get his side of what happened. When we all left, we all felt very good from the standpoint that this was something we had prayed about. We had resolved some questions [about the crime]. He said he was sorry. And so we left with a calmness, having been able to talk to him.

The other woman who met with the offender stated that she was not angry with the offender- something that many people could not understand. She repeatedly visited him prison, with the hope that he would apologize for killing her daughter. She explained:

I kept thinking that he would tell me what happened. I went to see him when he was on death row because I kept thinking that 'If I go there, he will just tell me.' I kept waiting for him to say, 'I did this and I'm sorry.'

In these two instances, having unanswered questions was the primary reason for meeting with the offender. Throughout the court process, there are multiple accounts given as to what exactly happened during the victim's last moments. Only the offender can answer these questions. This study indicates that the family member must perceive the offender as willing to be honest about the crime for the family member to want to discuss the crime. This should not be confused with if the offender *is* open and honest.

Others did express that they may want to meet with the offender(s), but either they have not or they have tried, but the offender(s) denied the request. Again, reasons for the request to meet were to get answers. For those respondents who have thought about meeting with the offender(s) or if the offender ever tried to contact them, they stated:

I will if I can at all. I will talk to one of them. And if I can't talk to them face-to-face, I will write them a letter. I haven't asked anybody yet because I didn't know if I could yet, but if I could do it right now, I would.

I wouldn't not do it; I wouldn't run away from it. But, it would be nothing that I would initiate on my own.

Forgiveness is a difficult thing to do- regardless of the situation. But, for some family members who have lost a loved one to murder, it is nearly impossible. However, as noted above, those who have met with the offender in some type of restorative process, indicated that they have already forgiven the offender. This is not to be mistaken with the belief to end the death sentence for the offender. For family members, simply forgiving the offender does not translate into believing they should not be executed. One woman stated:

I am forgiving him for what he did, but that doesn't take away the fact that I want him to pay for his crime.

One man stated the following when asked if he thought he would ever forgive the offender:

I guess I already have because I feel sorry for him. But, he's not going to hurt anybody else since he's in prison.

As will be detailed below, it seems that forgiveness by family members is something that is done for them- not the offender. It is to make the family member feel more complete and whole rather than to give the offender any peace.

Some respondents focused on their religion to help them with forgiveness:

I had to forgive him because it's what I had to do. For the life of Christ that I'm living- I forgive.

I don't know if I can ever get there [forgiveness]. I feel like as a Christian that is what I am supposed to try to do- I am supposed to strive for it.

Interestingly, respondents turn to religion for many answers about supporting the death penalty as well as the idea of forgiveness. It seems; however, that for many respondents, it is simpler to accept the idea of capital punishment rather than forgiveness when turning to religion for answers. This does not mean, though, that those respondents who do seek answers from their church do not realize they need to forgive- it is just more difficult for them to do so.

The majority of respondents expressed that forgiveness was something they were not willing to do. The two primary reasons for this were that they felt the offender was not deserving of their forgiveness, and that they felt incredibly victimized by the offender so that there would never be a sense of forgiveness given to him. Respondents claimed they could not foresee a circumstance that they would forgive:

He doesn't deserve forgiveness. It was premeditated. He hurt more than my husband; he hurt my family.

I'll never forgive him. I don't care if they cut his toes off or execute him. He's taken [my dad] from me, and I didn't do anything to deserve that.

I hate him. I will not forgive him, Christian or whatever.

How could you forgive something like that? He came into my house and stabbed my babies that many times.

In these instances, forgiveness is an act that is not likely- regardless if the offender has been put to death or not. Perhaps the difference between family members that can forgive versus those who cannot is the level of retribution one feels. Maybe the element

of time is a factor- the more time has gone by after the murder, the more or less willing somebody is to forgive. Again, this depends on the quality of service the victims perceive the criminal justice system has given them.

Most of the participants did not feel that they had the desire to participate in some kind of dialogue with the offender. Similarly, most did not feel any sense of forgiveness towards the offender. Even though some reported their increased sense of understanding by meeting with the offender and, in turn, forgiveness; they still had strong beliefs that the offender needed to be put to death. The next section discusses the need for family members to witness the execution as well as the notions behind why it is/was important for them to observe the offender's death.

*“I want to be the voice for my loved one”:
Respondents’ Motives for Witnessing the
Offender’s Execution*

Witnessing the offender's execution is something that all respondents favored. While some respondents have already witnessed the execution, the majority have not. Interestingly, responses of both groups are similar concerning why it was/ is important for them to be present when the offender was/ is put to death. For those cases where the offender has not yet been executed, participants generally spoke of the day and what they thought it might be like. Expectations of what the offender will say, if the offender will address the family and take responsibility for his actions, as well as a sense of closure seeing the offender dead were common replies when asked what they believe the day will be like. Reasons given to support the idea of witnessing the offender being put to death include: being there for the person who was the primary victim, retribution, and to see

the long process come to an end. When asked the question if she had to think about going to the execution, this woman responded:

No, not at all. I think because I could not be there and see my daughter murdered and my grandchildren murdered by him, that I felt it was very important that I be there to stand up for them. That's just the way I feel. There's nothing I can do to change what happened, but if I can speak out, or I can just help anybody along with that type of journey, then I feel that I've done something in honor of them.

Another woman remarked how she would be present for her murdered son:

If he could be fluttering around or something, he would be really angry for what he was cheated out of. So, I'll be there for him.

Another participant from this same case responded:

It seems like possibly, it may be the last thing that I could do for [my son]. He is the driving force behind everything.

For those respondents who expressed the willingness to be present at the execution of the offender(s), it seems they express that their murdered family member would have wanted them to be there. In fact, when asked if they believed the murdered family member(s) would have wanted the offender to be put to death, many respondents indicated they did believe this is what their family member(s) would have wanted.

One man, who actually witnessed the homicide, indicated that he would be at the execution, but also notes the aggravation he feels with the way the death penalty will be carried out:

I feel like I owe it to [the victim]. You know, I saw him blow her brains all over my fireplace. It's got to almost be too quiet to just watch him go to sleep.

This last statement is a continuing response throughout this study. In Chapter 5, it was discussed how respondents felt dissatisfied with the way capital punishment was administered. While talking about the death penalty, the same notions arose about how

they perceive how unfair it is for the offender to merely “go to sleep” after the murdered victims were not given “such a luxury.” One woman, whose parents’ murderer has been executed, explained what the experience was like for and her son:

It is a big let down to a lot of people because they think of death as being a horrible thing- this is like going to sleep and not waking up. Most of them just close their eyes, and you might see their chest rise and fall a couple or three times, and then it stops. It’s not the traumatic thing that you see on TV. [My son] was disappointed because it was just so easy. He said, ‘Grandpa didn’t die that easy.’

Another woman struggled with her decision to watch the execution for fear of bringing more trauma to herself:

[The execution] was not as bad as I’d thought it would be. I mean, I was really worried about it. The fact that I’m going to see this happen, does that make me a bad person? Will I have that picture in my head the rest of my life, watching that guy die? Is it going to affect me for the rest of my life? It didn’t. It’s so painless. I mean, the guy laid there, he closed his eyes, they asked him if he had anything to say, he said ‘Nope,’ and just like that he closed his eyes, and that was it.

Other times, there is resentment built up for the offender that family members express their happiness for when the day comes when the offender will finally be executed. As previously noted, for those family members that have already witnessed the execution, they denote a sense of being disillusioned with the death being carried out due to the fact that it was “too easy.” However, for those respondents that have not yet seen the execution of the offender, they perceive the day will bring a sense of joyousness. One man, when asked if he was planning on witnessing the execution, simply stated:

Oh yeah, absolutely. I’ll be there with bells on.

Another man expressed his expectations for the day the offender in his case would be put to death:

I don't have any feelings at all about him. I can't wait until he's dead. I don't know [why it's important to be there]. I guess I hope he's going to look at me. I just hope there's going to be something there...I intend to go down there to attend the execution. I want to wait until they know where they take the bodies out and where they load them up. I want to go to the Medical Examiner's office and wait for them to return the body to the private funeral home. Then, [I want to] follow him and find out where he's going to be buried because I want to piss on his grave. I really want to urinate on this guy's grave. I mean, call it childish, I don't give a damn. To me, it's like an insult. I can't do nothing else to him. I can't beat him up; I can't shoot him. I have to wait for other people to do it.

For those family members who have not yet witnessed the execution, there seems to be an idea, realistic or not, of what the execution will bring to them. Whether it is a sense of relief, an element of revenge, or closure, many family members perceive the execution will provide something to them that they have been searching for.

One woman, who had already witnessed the execution, indicated how happy she was the day the offender was put to death:

I was happy. I was tickled pink. Everybody was great to us that day. [I went] because I wanted to make sure that son of a bitch was dead and would never kill nobody else's kids because if he could kill my two, he could kill anybody's.

Because the process takes many years, many family members see it as the most important thing they could do to see it come to an end. The idea of closure will be addressed in the following section; however, many families explain that by witnessing the execution, it will, or should, bring some sense of finality to the process as a whole.

When asked why she would want to witness the execution, this respondent stated:

It won't give you closure, because I don't think there is such a thing as closure in a situation like this, but I need to be there to represent my sister.

Another member of this same family indicated:

I just need to see it to an end.

One woman noted:

You can't call it closure because you can never close it, but it's like one more step that's completed. It's just like it's finally over. You don't have to worry about an escape from prison or another appeal...or another appeal where they'd turn around and give him a life sentence or life with parole even.

The preceding section addressed family members witnessing the execution and their reasons behind that decision. For those family members who have not yet witnessed the execution, they assume the day will bring some pleasure and/or bring some element of closure. For both populations (those who have already witnessed the execution and those who have not), the primary motive for being able to be there for the offender's death is to stand up for their loved one(s) who were murdered. Perhaps because the primary victim is excluded from the process, family members want to ensure that their voice is accounted for- that the offender understands what brought him to being executed. For those family members who have already witnessed the execution, they responded in a similar manner to those who have not witnessed the execution: they have some sense of finality to the process, they were happy the offender is no longer part of their lives, and they wanted to be in attendance to see that justice had been done. The following section will provide an in-depth analysis of family members' perceptions of closure- and whether they feel they can attain a sense of closure once the offender is executed.

*“I want to move on with my life without him in it”:
Perceptions of Closure and the Importance of
Moving On With Life*

All respondents indicated that there was no such thing as “closure.” While the sense is that once the offender is executed there will be some finality to the whole process, closure will never fully be achieved. For them, to have closure means that they

must move on with their lives as if nothing happened. This is impossible for these family members. Even as this is the case, most participants stated that they would like some sense of closure, and this would happen at the time of the offender's death. Perhaps, to many, closure is more geared towards closure of the process instead of closure of losing their family member. Others claimed that they still would feel no sense of closure even if the offender was not executed due to the fact that their family member had still been murdered. One woman noted she would never feel closure from losing her husband, regardless of when the offender was executed:

[My husband] is always going to be gone. Just last week we had a big family picture made, and it's just not complete because he's not in it. There were 15 of us, but he wasn't there. So, things like that will continue happening from now on. There will never be closure. The boys will still miss him, and I'll still miss him, and it never ends.

One man gave a similar response to this, stating that there will never be closure:

It's so abstract. What is closure? I don't know. This will be with me until the day I die. Every time I look at my son, I think about my dad. I think about my dad every time I look at my daughter. I'm pissed that they didn't get to see him.

Many like these respondents indicated that finality is a term that can never be accomplished. Because their family member is no longer with them, they cannot move past the event as if nothing has changed. Family events still take place, life events still occur, and eventually, people must move on with their own individual lives. However, to family members of murdered victims, there will never be a sense of closure due to the fact that they must endure all of these events without the presence of their loved one.

Another woman gave an analogy to indicate her idea of closure:

After the Murrah Federal bombing, one of the aunts of someone who had died in that incident said it really well. [She said], 'There will never be closure until they close my coffin.' There won't be closure because it's

with you forever. And, I think it's kind of like getting cut. The scar's going to be there, and it's always going to be there, but it will heal, and it will get better, but it will always be there.

When asked, one man said that he did not believe he would receive any kind of closure, even after the offender had been executed:

[It's] probably kind of like when you lose a parent. You spend a week going through everything, and you finally lower the casket, and it's ok. Maybe that kind of closure. It'll be a closed chapter. But, when I wake up everyday, it's there, and him being alive or dead isn't going to change a lot of that. So, I don't believe in the word closure.

Another participant stated she would never have closure:

I think one day there will be, but it will be probably one minute before I leave this earth. She will never leave me.

Although this participant had already witnessed the execution, she indicated:

We watched him die, but it didn't bring any of our family members back.

These responses all point to the perception that closure will never be attained- regardless if the offender is executed or not. Even for those family members where the offender has already been executed, there is no complete closure. In fact, many respondents expressed that they were adamantly against using the word "closure" to describe their feelings because it is something that can never be reached.

One woman indicated that she hoped that when the offender was executed that there would be some sense of closure; however, because she perceived herself to be a victim as well, she felt that she would never have ultimate closure:

Okay, yes. I won't have to worry about him getting out and killing me or somebody else. No, it is not going to help bring my mother and daddy back, and there is never going to be a total closure because he did that to me. He made me a victim. He made there be no closure to my life. He took my security away, he took my parents away from me. He took traditions from my family that will never be the same.

The other way which family members believe in some sense of closure is when the offender is executed, because then they will not have to live through the court processes anymore. In this way, they do not have to continually re-live the crime. They can go on with life without having to revisit the idea of what will happen to the offender. In a sense, the idea of closure to the process means closure of the ordeal. One man claimed that closure of the process would be all that he would need:

So, that's closure enough for me. I'm more interested in getting on with life. You see the Christmases and the things that go on that affect your mom, and those are the things that bother me, and I want those things to go away, if they ever will. But, bringing it up all the time when they have court, doesn't let it go away. It just brings it back up.

The claim that this respondent makes is a sentiment shared by many family members. The need to continue with life without the struggles of the criminal justice system is something that seems appealing for all respondents. Likewise, respondents see that the only avenue for this to be possible is the death of the offender.

Another respondent indicated his need for some closure, and believed that once they executed the offender he would receive some:

I hate him for the misery that he has put me through. You know, I'll always have some misery, but hopefully when they execute him, maybe I might be able to start having better thoughts. I don't know. My feeling is that when they eventually execute him that maybe I can...I don't like the word 'closure' because I want to remember [my son] forever. Maybe I can start to heal some then. I just hate the guy.

When asked if she perceived herself as a victim, this respondent indicated that closure was what was needed for her not to feel like a victim:

In a way [I feel like a victim] because I need closure to the case. The family can't move on with their lives like they are supposed to until this case is closed. [I will feel closure] when he is put to death.

For another respondent, he noted that while there would be no sense of closure, there would be some fulfillment once the execution was carried out:

I feel sorry for people who don't get to see it through. You know, fulfilled. There's no closure to it, but there is a fulfillment.

Opposing this point of view, one woman, whose case has already resulted in the execution of the offender, claimed that what brings closure to a family member is him/herself:

The mistake is that everyone thinks that this is closure, but it's not what gets you closure. What gives you closure is yourself. You have to say, 'They're not going to control me anymore.' The courts aren't going to, what he did isn't going to. But, it's not really the closure [that people want to witness the execution]; it's the fact that you saw it with your own eyes that most people want to go.

One final element of closure is the ability to move on with each family member's life. Throughout the process, they are surrounded by police, attorneys, judges, media, concerned friends, and others that are continually discussing the crime and everything associated with it. While the attention is warranted to some degree, many feel that after some time, they should be able to continue on with their lives, accept what has happened, and live for themselves without the murder being dredged up every day and looming over their heads. One woman explained her moving on with her life and why it was important:

...the whole family wants to know if you're ok. It's all around you. It's when you get to the point that the trial's over. They're in prison. They're getting their three squares a day and a pillow and a blanket at night, and you're still doing this to yourself. There's a point in there where you have to come to terms with it. 'I want to be down. I want to be depressed. I want to hurt every day, and just be miserable the rest of my life', or 'I'm tired of this; I want a life of my own.' Because they have made their life yours when you have to live around everything that goes along with them and what they did. You don't have a life of your own anymore. There comes a point where, if you want your life back, you have to say, 'No

more.’ About five years later [after the murder] I decided I am not going to let them tell me what to think every morning. It’s one more day since it was overdue. ‘I am not going to let them make my life miserable. I have two beautiful boys. They’re growing up, and I’m being dumb by not participating because I don’t feel good.’ It’s an excuse. Somewhere in there you have to stop living what they’ve done and live again.

While this sentiment was shared by a few respondents, it seemed that others had a much more difficult time getting on with their lives. Being consumed with the crime and everything involved with it (i.e. court processes) made it nearly an impossibility.

Regardless if the offender had been executed or not, some family members expressed the hope of closure and the belief that once the execution has/ had been carried out they could possibly attain some closure. However, moving on with life seems to be something that takes place within the individual- not dependent on external forces. But, different ideas of closure mean various things to each individual family member. Some relate closure to the execution of the offender for “fulfillment” purposes, others do not believe in closure, while some look to their inner-self for closure.

Summary

This chapter discussed how the criminal justice system affects family members’ perceptions of the death penalty, the reasons given to support capital punishment, respondents’ justifications for denying or accepting the possibility of engaging in a restorative justice process with the offender, sentiments behind witnessing the execution, and the role of closure. Theoretically, supporting the death penalty is largely due to the punitive measures most family members adhere to, which is contradictory to restorative justice for many.

The criminal justice system shapes respondents’ attitudes towards the death penalty in a few ways: life without parole is not adequate because perceived loose

policies do not ensure the offender will not be released in the future, already overcrowded prisons would be more crowded if criminal justice administrators gave lesser sentences than capital punishment for crimes that warrant the death penalty, and just by having laws in place that denote some crimes as punishable by death relates to the family member that they want the maximum punishment- which; therefore, is death.

All respondents favored the death penalty at some level. While some supported it for retributive reasons, others drew on their religious teachings, and some desired the death penalty in search of justice. Drawing from the theoretical model, support for the death penalty begins at the initial victimization and continues throughout the criminal processes and secondary victimization by the criminal justice system. Additionally, because there was a general sense that respondents did not want to meet with the offender and discuss the crime, this also led to an increase of support for the death penalty.

Meeting with the offender is something that not all respondents agreed on. Those who rejected this idea suggested that because the offender has victimized them, they would not want to engage in any type of discussion with him. Furthermore, perceptions of the offender not being able to openly talk with the family member about the crime and take responsibility directed the respondents' attitudes about denying dialogue with the offender. However, those that expressed a willingness to participate in talking with the offender, or for those who already had, did so primarily for their own satisfaction- not for the offender. Receiving answers, gaining a sense of peace, and being able to forgive are the key reasons given for the desire to meet with the offender.

Some respondents have already witnessed the execution while others have not. Even as this is the case, many responses were similar with these two populations in

regards to actually being present when the offender was having his sentence carried out. Being there for their family member who was killed, an ending to a drawn-out process, and some sense of fulfillment, or closure, were all answers respondents gave when asked why it was important for them to be in attendance at the offender's execution. For family members, it is ultimately the last thing they could do for their loved one, the last step in the criminal justice process, and the definitive moment when the offender will not be in their lives any longer.

For most, closure is something that will never occur. While some hope for it, family members realize that nothing they can do or say will bring back their loved one. Respondents did indicate that possibly the closest thing to closure will be when they witness the execution. More importantly, it seems that some participants recognize that closure is something that requires them to actively participate in moving on with their lives. Some family members suggest that it is only when one can accept what has happened and not rely on external forces (such as other people or the execution) for their well-being that they can become fulfilled.

The following chapter concludes this research. It provides a summary of the study, entails a discussion of the social significance of the research and how it adds to the literature, gives practical as well as policy implications, discusses the limitations of the research, and gives suggestions for future research about criminal victimization, restorative justice, and capital punishment.

CHAPTER VII

CONCLUSIONS

The goal of this project was to examine perceptions family members of murdered victims have of the criminal justice system and capital punishment. Specifically, the research sought to: examine the experiences of murdered victims' families with the criminal justice system. In particular, the questions focused on (a) whether there was a sense of inclusion or exclusion by the system, (b) if the family members have, or believe they will have, a sense of closure or finality due to the proceedings from the case, and (c) if there is an overall satisfaction with the criminal justice system and their processes; and (2) examine how these experiences with the criminal justice system shape family members' views of the death penalty.

This project began with an in-depth analysis of the historical background of the victims' rights movement and capital punishment. In an effort to understand victims' needs within the criminal justice system, this research examined disenchantment victims have of the criminal justice system as well as those ideas supporting and opposing the death penalty.

The study relied on a conceptual model that attempted to link how the criminal justice system affects opinions of capital punishment. This study examined how, by the initial victimization, the due process model Packer (1968) brings forth leads to secondary victimization to family members of murdered victims. By excluding them from the

process and making the criminal process lengthy, family members perceive the justice system as catering more to offenders than victims. In turn, this leads to what Roach (1999) describes as the punitive model. This latter model suggests that because victims are not served by the justice system, they become more retributive towards the offender as well as some members of the criminal justice system. Consequently, there is a decreased willingness for victims to enter into some type of restorative justice program, or even talk to the offender about the crime, because they feel they would not feel any sense of fulfillment from the experience. Lastly, due to the retributive stance family members have towards offenders and their decreased willingness to dialogue with the offender, there is going to be more support for the death penalty.

In the first phase of the analysis, this researcher examined primary victimization by the offender as well as the perceived secondary victimization family members have experienced. Included was an analysis of experiences that family members had with certain members of the criminal justice system. Suggestions given by respondents on how the criminal justice system could improve to be more victim-based concluded the chapter. The second phase of the analysis focused on how the criminal justice system affects opinions of capital punishment as well as individual responses justifying support for the death penalty. Also included in this chapter was perceptions of meeting with the offender to discuss the crime, why it is/ was important for the family members to witness the execution, and an analysis of closure and the significance of it when family members support the death penalty.

In order to support these claims, this research utilized qualitative methods by conducting face-to-face and telephone interviews. The target population was family

members of murdered victims in which the offender in the case received the death penalty. Interviews centered on their experiences with the criminal justice system, experiences with the offender(s), and their opinions of capital punishment.

Discussion of the Research

Whether or not one perceives him/herself to be a victim is largely an individual decision based upon perceptions of what a victim is. This research suggests that family members who have lost a loved one to homicide are victims. However, not all subscribe to this label because they see victims as weak and too dependent upon others. Even with these differences in family members, it seems to have no bearing on their views of the death penalty. What is important in this; however, is that by adopting the term “victim” to oneself could significantly affect how they perceive to be treated by the various administrators in the criminal justice system. Expectations abound by all family members, but perhaps they are even more salient when they perceive themselves as victims of a crime.

Past studies point towards negative experiences with the criminal justice system and how that influences victims’ perceptions of the criminal process. Participants’ responses about their experiences with police, attorneys, and the appeals courts support the literature. Lack of information, perceptions of hostility towards family members, and beliefs about inequalities between offender and victim all play vital roles when examining secondary victimization. As shown in chapter 6, the theoretical implications as well as applied experiences of family members in regards to the criminal justice system can shape opinions of the death penalty and the degree to which one supports it.

Nearly all of the dissatisfaction respondents talked about was with the lengthy

appeals process. By having a due process model structured in our society, family members of murdered victims view themselves as receiving second-class care from criminal justice system administrators. Some experienced discontent with police officers and attorneys; however, this research points to the federal level where family members experience most of their secondary victimization. At this point, family members see themselves as frustrated, angry, and discouraged with the process and how it caters to the offender(s) instead of seeking justice for them. Additionally, the lengthy process that due process advocates to ensure there are minimal mistakes made for the offender can cause frustration for the family members of the primary victim. As the theoretical model suggests, it is this secondary victimization where many of their punitive ideologies develop.

Roach (1999) suggests that the punitive model of victims' rights occurs when victims perceive the due process model as ignoring their rights while focusing more upon the offender and his rights. A more retributive attitude will ensue towards the offender when this happens. Theoretically, this punitive model leads to a decrease in willingness to meet with the offender to discuss the crime which, in turn, leads to an increase in support of the death penalty.

The dilemma the criminal justice system and victims alike are faced with is these two competing models with their own values and ways to administer justice. On the one hand, we need to ensure proper precautions are taken so as to eliminate bias, errors, and inaccuracies for those who are accused of a crime. Due process assists in this undertaking so that attorneys, judges, and juries do not convict the innocent, incompetent, and set sentences that are not just. On the other hand, victims of crime and their families

see the process as moving too slowly and the practices involved with criminal justice catering to the offenders- a perception which leads to punitive ideologies. The crime control model, which views criminal justice more as an assembly line, is the type of system that seems to be more conducive to victims' needs. The impasse, then, is that these two models seem to not be able to co-exist within the same criminal justice system. Whereas one seems to accommodate one party, the perception by the other is that they are pushed aside.

Roach (1999) describes the non-punitive model of victims' rights as engaging more in mediation and restorative justice policies in order for the victims to take control of their own interests and well-being. In the United States, we generally do not readily adopt these mediation policies because they are new ideas, and punitive beliefs are what we have been socialized to believe. While this is certainly not the case for every individual, in a general sense, society is punishment-oriented. What is excluded in this is any alternate way at examining policies aimed at restoring offender, victims, and communities.

The question bears to be asked: Can families of murder victims and offender(s) ever effectively unite in the same criminal justice system so that both party's needs are met? This would require some restructuring of the current system, but the researcher's belief is that it is possible with restorative justice programs and adopting new ways of working with offenders and victims alike. While it is recognized that this change would not occur quickly, over time victims and family members may tend to have a more positive outlook about the criminal justice system as well as the offender. Furthermore,

the offender could recognize the full extent of the damage caused due to the crime he/she committed.

In terms of this study, participating in the restorative justice process is something that not all were open to, but others had already met with the offender while others suggested they would like to do so. Research indicates that those who desire to meet with the offender do so because it will bring about a sense of peace, or restoration. Many family members have unanswered questions that only the offender can answer. Restorative justice relies upon two willing parties to open up and speak honestly about the crime. When family members perceive the offender to be closed and dishonest about why the murder occurred, this is when even more punishment-oriented beliefs come about. Support for capital punishment is included in this.

It is important to note; however, that even those willing to meet and discuss the crime with the offender still support the death penalty. While this does not contradict the literature, there is also not overwhelming support. Restorative justice can bring a sense of fulfillment for victims and offenders. When discussing this type of program in terms of capital punishment, the justification from this research supports the idea that meeting with the offender was beneficial to the family member and she perceived the offender to be engaged in the process as well. Regardless of this mediation process, the perception was that the family member could feel more complete once meeting with the offender. Likewise, the offender could open up about why the crime occurred. Where this is beneficial to both parties, the family member still believed the offender needed to be punished. This researcher believes that once the execution takes place, the victim will be relieved to have been able to receive the answers she needed while the offender can be

executed knowing he could be honest with the victim's mother about why he killed her daughter and grandchildren.

As previously noted, the literature indicated victims of crime are more likely to support the death penalty when they perceive the offender is receiving more rights than themselves. The participants in this study supported this claim. While most suggested that they were in support of the death penalty before the initial victimization, some agreed that they felt even more strongly about capital punishment after the murder of their loved one(s). Reasons for this varied, but for the most part family members supported capital punishment because it was the final step in the long process to avenge their loved one's murderer. This retributive stance indicates the environment from which they hold these pro-death penalty views. However, a few participants did note that their views were not solely based upon retribution so much as the viewpoint that people need to be punished for their actions and the most favorable way to do so is to carry out the maximum punishment the law sets forth.

Witnessing the execution is, in some ways, an avenue for the family members to release much of the contained feelings held due to the process as well as the negative feelings of the offender. One element of this is closure. This study supports the literature suggesting that family members of murdered victims do not perceive there will ever be complete closure. However, by witnessing the offender being put to death, there comes a sense of some fulfillment for family members. Some respondents do not seem to need the death penalty for their sense of well-being. They note that this comes from within themselves- not dependent upon external forces. For those cases where the offender has not yet been executed, it is believed that family members are somewhat dependent upon

the execution for some sense of finality. It is more expectations for fulfillment. For those where the offender has been executed, they note that they did not feel the enjoyment they thought they might. They expressed that they did have a sense of finality to the process; however, there was some disappointment with the manner in which the death penalty was carried out. Therefore, this seems to add to the already disillusionment of the entire criminal justice process.

Significance of the Research

This research does add to the already existing body of knowledge about criminal victimization and capital punishment. By examining support for the death penalty by way of the criminal justice system as well as restorative justice programs, this study demonstrates the process which can indicate why families of murdered victims come to strongly support capital punishment. The already harsh feelings family members may have towards the offender due to the primary victimization is expanded upon throughout the entire process. By incorporating their feelings of meeting with the offender, this research aimed to understand why they would not desire to discuss the crime and what effect, if any, that has on their support of capital punishment.

It is necessary to incorporate a broad understanding of what factors are included when researching why some support and others oppose capital punishment. By using this researcher's conceptual model, linking each factor to one another so each develop with the previous element, the knowledge-base for criminal processes and how that incorporates to support for the death penalty is that much greater. Furthermore, examining the reasons why some subscribe to being a victim while others do not is, to the researcher's knowledge, something that has not been explained when researching capital

punishment. By understanding perceptions of how family members of murdered victims are treated within a system that has traditionally catered towards offenders, the research has gained significant insight to why family members hold the opinions that they do.

Applied and Policy Implications

This research has both applied as well as policy implications. This study has the potential to provide useful insights for those who are victims of crime, practitioners of criminal justice, as well as service providers for victims. Understanding how family members of murdered victims feel within a system that is often reserved for offenders is particularly useful for those persons involved with providing any type of service to victims of crime. Being able to explain how the criminal justice system is set up and some of the inequalities family members may perceive is particularly salient when discussing a capital case. If family members were aware of the process and some of the hindrances from the beginning, there is a possibility they would not be as disenchanted with the criminal justice system. Therefore, this could lead to an increase in the overall well-being of the victim's family and to the criminal justice system professionals.

Furthermore, there are some policy implications that come from this research. The due process model of the criminal justice system is seen as the type of system that accommodates offenders. In turn, this leads to the punitive model of victims' rights. As a society, it would not be wise to adopt a crime control model due to a decreasing amount of safeguards for those who are accused of a crime. However, the punitive model of victims' rights cannot be sustained in our criminal justice system because as more and more criminal acts are committed there are increasing numbers of victims who desire to have something more within the confines of the system. In other words, these two

models of the criminal justice system and victims' rights must, in some way, shift to allow for a more victim-centered system than is currently in place. This does not necessarily mean the criminal justice system needs to advocate for the crime control model. Rather, they simply need to adopt more policies to incorporate victims into the due process model. Perhaps they can begin by implementing mediation by two willing parties. While this program has not been completely embraced by our country, great strides are being made to engage in this due to its effectiveness elsewhere.

The victims' rights movement was such that immense advancements were made to include crime victims into the process. This research; however, points towards increasing dissatisfaction with the criminal justice system. By integrating victims' needs into the process- especially the appeals process- victims may not feel as excluded. Whether these needs are mediation, more involvement with the attorneys, or treated more with respect, this could lead to less punitive ideologies. Whereas the victims' rights movement was effective to a degree, this research indicates there are many more obstacles to overcome and more policies to be made for victims of crime.

Limitations

There are at least three limitations of this research that should be taken into account when interpreting the results. First, a regional bias is present due to the fact that most of the interviews were conducted in one state. There were a few telephone interviews with persons out of state. For this research to be generalizable to the entire population, more states would need to be included. Due to budgetary and time constraints, the researcher was only able to schedule interviews within a set location. By interviewing subjects from different regions of the nation, the study would have probably

received much more varied answers in regards to experiences with the criminal justice system and opinions of the death penalty. Much of this has to do with the fact that different political regions may tend to hold different opinions about these topics.

Secondly, the time frame since the murder occurred was generally more than ten years ago. There were a few respondents from the same family where the murder happened approximately six years ago. Whereas it is beneficial to have a wide array of respondents, it is also important to have diversity in regards to how long ago the homicide occurred. Perhaps people did not respond to the cover letter because the crime happened only a few years ago. In that respect, family members may not have been emotionally available to discuss the crime with a researcher.

The third limitation is related to the previous drawback. Because so much time has past since most of these murders occurred, the researcher found that many of the details of the crime were not remembered by the family members. While the study was not entirely focused on the crime so much as perceptions of the family members, this missing data allowed for minimal gaps in the recollections of the respondents. The importance of having this information is to better understand why the respondent feels the way he/ she does. For example, by not remembering experiences with the district attorney, that information could impact the way in which the respondent feels about the process as a whole. In other words, this study was retrospective in nature because some respondents lacked accuracy when recalling their memories of their experiences.

Suggestions for Future Research

This research has opened many avenues for future studies. Given the conceptual model in place, it would be interesting to examine exactly how family members who do

engage in a restorative justice program view the death penalty. There were only two respondents in this study who actually visited the inmates while they were on death row. Future studies could analyze their perceptions of capital punishment before and after the meeting(s) to determine whether or not this type of program is an indicator of their pro- or anti- death penalty opinions.

Another area for research would be to investigate the attitudes of the death penalty when a close family member is the murderer of the victim. Determining whether or not the process of the criminal justice system played a role in the opinions of the death penalty may be shifted from the current study to adequately account for this population. Furthermore, attitudes towards the death penalty may be completely altered if it was a close family member who was the offender.

Likewise, in regards to perceptions of secondary victimization, because so many murders are acquaintance-related, sometimes family members are suspects- hence, leading to police officer's withholding information from the family members. Future research could apply an additional methodology in which historical analysis of documents, including police reports or case minutes from an investigation, are utilized. By doing so, the researcher could gain a clearer understanding of the law enforcement processes that occurred and understand if that has any bearing on the perceptions of the family members and their beliefs of secondary victimization.

Gender could have another significant impact when analyzing the death penalty. Because all of the offenders in this study were male, it would be interesting to research the difference in perceptions of capital punishment among family members if the offender was a woman. While the majority of inmates on death row are males, there are

a few females that are sentenced to death. The majority of violent offenses that occur in the United States are committed by males. However, female incarceration is increasing. When examining capital crimes, there is the need for further examination of female offenders and to understand if the perceptions of capital punishment would be different for family members of the victim.

One could also use this researcher's conceptual model to examine the differences in experiences between the families of homicide victims with those family members who are related to the offender who is/ was on death row. Specific research questions could be: Do family members of the offender perceive the due process system as catering to their needs? Do they perceive the criminal justice system as being punitive-oriented? What were their experiences with police, attorneys, judges, and the appeals courts?

Finally, one could examine how family members view capital punishment and the criminal justice system if an offender, who was once on death row, was released back into society or given a life sentence. This may happen when evidence comes forth exonerating the offender. However, to study family members' reactions toward the death penalty would be appealing because they may have supported capital punishment beforehand, but because it was shown to not be effective, they may change their attitudes.

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Appendix A

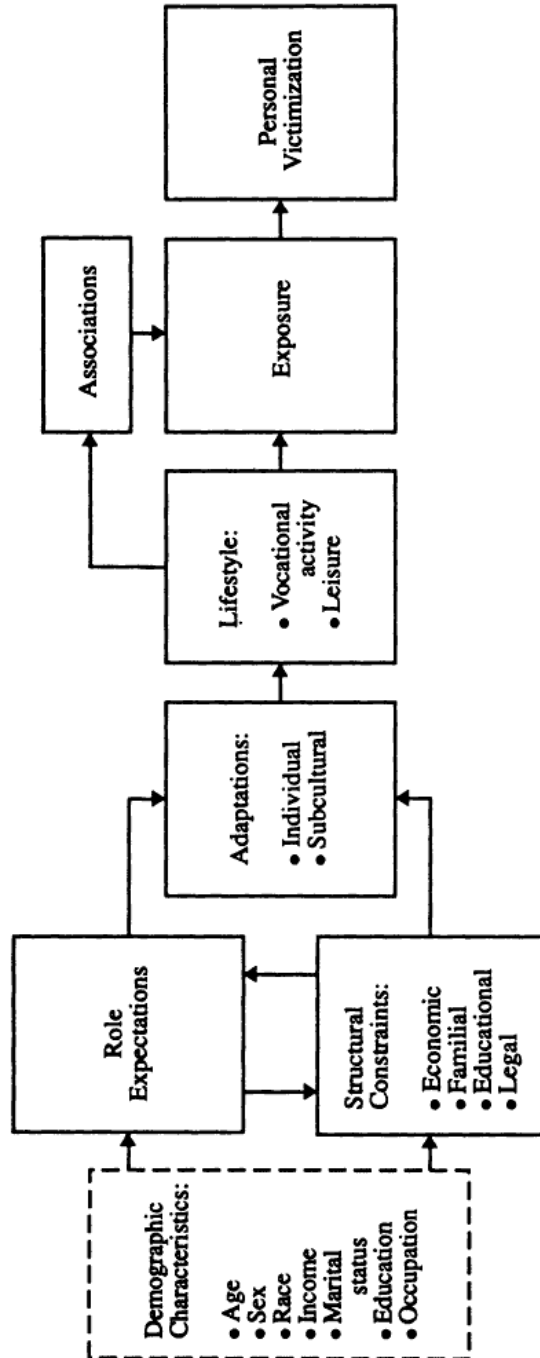


FIG. 1.—A lifestyle-exposure model of victimization. Source: adapted from Hindelang, Gottfredson, and Garofalo (1978)

Appendix B

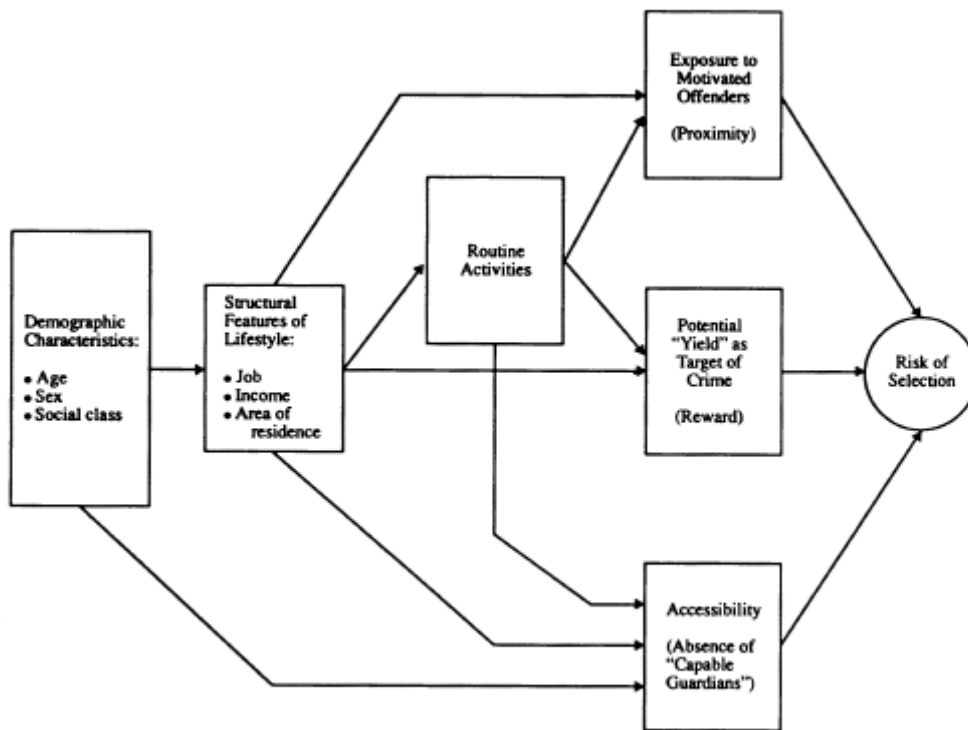


FIG. 2.—A target-selection model. Source: adapted from Hough (1987)

Appendix C

CONSENT FORM

Instructions and Notification of Voluntary Participation and Anonymity

Title of Research: Families of Homicide Victims Speak: An Examination of Perceptions of the Criminal Justice System and Capital Punishment

Investigator: Jaime L. Burns, M.S.

This study is being done in partial fulfillment for a Doctor of Philosophy Dissertation at Oklahoma State University. It is research that will be done to understand families of homicide victims and their experiences with the criminal justice system. Specifically, this research aims to understand how family members have interacted with the justice system and how that has impacted their decisions to support or oppose the death penalty. You are being asked to participate in this study because you are a family member of someone who has been a victim of homicide wherein the offender received the death penalty.

If you agree to participate in this research, you will be asked to answer questions about the crime, how you have interacted with the criminal justice system, and your perceptions about the death penalty in Oklahoma. Your responses will be audio taped. Interviews could extend for a duration of between 1 to 4 hours, depending on the amount of information you divulge.

Please note that some of the questions the researcher will be asking could produce feelings of emotional or psychological stress. Because of the nature of the topic, sensitive questions could be asked. If this is the case, you are more than welcome to not answer any question the researcher asks. If you do feel upset by any of the questions, you can contact your local Victim Services Center, a local counseling service, or a local minister. There are no benefits that will come to you by your participation in this project. This is for educational purposes only.

The research is and will remain anonymous and confidential. The audio tape will be destroyed once it is transcribed. Important to note is the fact that no identifying information will be placed on the transcription. Names, if given, will be given pseudonyms. The data will be stored in a locked file cabinet in the researcher's office. She will be the only one with access to the key to the file cabinet. The data will be kept until it is no longer needed (i.e. the dissertation is complete and approved). Also important to note is that the Bureau of Social Research on the Oklahoma State University campus will be transcribing the interviews. They are under confidentiality agreements to ensure that any information divulged will be kept confidential. Because some exact quotes will be used in the final analysis, there is a possibility that somebody could identify you by the remarks that you make. However, the researcher will do all that she can to protect your identity. The OSU IRB has the authority to inspect consent records and data files to assure compliance with approved procedures.

Enclosed you will find a pre-stamped envelope. Please use this for the return of the consent form. Because the researcher will need your contact information to set up an interview time, please note below how you wish to be contacted.

Your participation is strictly voluntary and anonymous. As a research subject, you can discontinue research activity at any time without reprisal or penalty. There are no risks to withdrawal from the research. **DO NOT COMPLETE TO THE CONSENT FORM IF YOU ARE UNDER THE AGE OF 18.** There are no penalties or rewards for your participation.

If you should have any questions about the consent form or research project, please feel free to call Jaime Burns at (405) 744-6107. For information on subjects' rights, contact Dr. Sue Jacobs, IRB Chair, 415 Whitehurst Hall, (405) 744-1676.

I have read and fully understand the consent form. I sign it freely and voluntarily. A copy of this form has been given to me.

Signature of Participant

Date

By signing, you are agreeing to participate and to be contacted by the researcher.

PLEASE STATE BELOW HOW YOU WOULD LIKE TO BE CONTACTED BY THE RESEARCHER TO PARTICIPATE IN THIS RESEARCH.

Name: _____

Address: _____

Phone #: _____

Email: _____

Please also note that the researcher will travel to a location that you would like to use as a meeting place.

Appendix D

Interview Guide

History of Crime

When did the murder occur?

Was the offender someone the victim knew?

Family Members of Victims

What has the loss of your family member meant to you?

Do you think of yourself as a victim?

How has your life changed since the crime?

Tell me about how you see your life now that your family member has been murdered.

Experiences with the Offender

Did you know the offender?

Have you seen and/ or met with the offender since the murder?

What is it like to see the offender?

Can you explain how you feel about the offender?

Do you think you'll ever forgive the offender?

Experiences with the Criminal Justice System

Do you believe that the CJS accepted you as a crime victim?

Did the CJS include you in important decisions?

In your opinion, are you satisfied with the way the CJS handled, or is handling, the case?

In what ways do you think the CJS could improve?

Do you think you have been treated with respect by the CJS?

Do they notify you when important dates are taking place?

Did they, or have they, ever asked for your opinion in matters pertaining to the case?

Do you feel that the CJS helped you gain a sense of finality, or closure?

Attitudes About the Death Penalty

Describe your thoughts about the death penalty before the murder occurred.

Describe your thoughts about the death penalty now.

Can you tell me why you hold these views?

In your opinion, do you think that the CJS has played a significant role in your perception of what you believe about the death penalty?

Appendix E

Oklahoma State University Institutional Review Board

Date Thursday, November 10, 2005 Protocol Expires: 10/9/2006
IRB Application AS0615
Proposal Title: Families of Homicide Victims Speak: An Examination of Perceptions of the Criminal Justice System and Capital Punishment

Reviewed and Processed as: Expedited (Spec Pop)
Modification

Status Recommended by Reviewer(s) **Approved**

Principal Investigator(s):

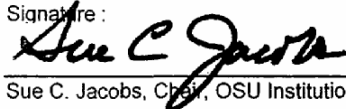
Jaime L. Burns
006 Classroom Bldg.
Stillwater, OK 74078

Gary Webb
006 Classroom
Stillwater, OK 74078

The requested modification to this IRB protocol has been approved. Please note that the original expiration date of the protocol has not changed. The IRB office MUST be notified in writing when a project is complete. All approved projects are subject to monitoring by the IRB

- The final versions of any printed recruitment, consent and assent documents bearing the IRB approval stamp are attached to this letter. These are the versions that must be used during the study.

Signature:



Sue C. Jacobs, Chair, OSU Institutional Review Board

Thursday, November 10, 2005
Date

VITA

Jaime L. Burns

Candidate for the Degree of

Doctor of Philosophy

Dissertation: FAMILIES OF HOMICIDE VICTIMS SPEAK: AN EXAMINATION OF PERCEPTIONS OF THE CRIMINAL JUSTICE SYSTEM AND CAPITAL PUNISHMENT

Major Field: Sociology

Biographical:

Personal Data: Born in Twin Falls, Idaho, On July 8, 1977, the daughter of Stephen and Carole Dick.

Education: Graduated from Jenks High School, Jenks, Oklahoma in June 1995; received Bachelor of Arts degree in History and Sociology from Ouachita Baptist University, Arkadelphia, Arkansas in June 1999; received Master of Science degree in Sociology from Oklahoma State University, Stillwater, Oklahoma in December 2002. Completed the requirements for the Doctor of Philosophy degree with a major in Sociology in May, 2006.

Experience: Employed by Oklahoma State University, Department of Sociology, Teaching Associate, 2003 to present; Teaching Assistant, 2001 to 2002; Research Assistant, 2000 to 2001.

Professional Memberships: Mid-South Sociological Association, Oklahoma Sociological Association, Midwest Sociological Society, American Society of Criminology, American Society of Victimology.

Name: Jaime L. Burns

Date of Degree: May, 2006

Institution: Oklahoma State University

Location: Stillwater, Oklahoma

Title of Study: FAMILIES OF HOMICIDE VICTIMS SPEAK: AN
EXAMINATION OF PERCEPTIONS OF THE
CRIMINAL JUSTICE SYSTEM AND CAPITAL
PUNISHMENT

Pages in Study: 151

Candidate for the Degree of Doctor of Philosophy

Major Field: Sociology

Scope and Method of Study: The purpose of this project was to examine the sentiments of murdered victim's families where the offender received the death penalty. Specifically, the research aimed to explore their experiences with the criminal justice system and how these experiences shape their views of the death penalty. There were twenty-three participants who were interviewed about a variety of issues such as experiences with criminal justice system administrators, perceptions of secondary victimization, Restorative Justice, forgiveness, closure, and opinions of the death penalty.

Findings and Conclusions: The data support the conceptual model for this project. Due to the initial victimization, a due process model of the criminal justice system is enacted. Because this type of system caters more to the offender, perceptions of secondary victimization build within the family members. As this occurs, family members become more punitive in their ideas about what should happen to the offender and how he should be treated within the criminal justice system. This punitive ideology continues throughout the whole process which, in turn, leads to a decreased willingness to dialogue with the offender about why the crime occurred. Finally, this leads to an increase in the support of capital punishment. All respondents supported the death penalty. Interestingly, all indicate they did so even before the murder happened. However, it seems that as the lengthy process continues, the more retributive many become; hence leading to increased levels of punitive emotions.

Advisor's Approval: _____ Dr. Gary Webb _____