

# TIME TO KILL: MITIGATING DEATH SENTENCES AS SOCIAL WORK

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*This narrative seeks to highlight some of the author's observations as a novice social worker and therapy client in the world where life and death issues resonate daily. One can understand how the death penalty becomes a vehicle for extending, not ending, the violence in our culture if one is prepared to examine broad contexts- including one's own.*

## Background

When I learned of this special issue of *Reflections*, just within two weeks of the deadline, I immediately responded to *this* call. I missed the deadline for the special issue on "Forgiveness," realizing that I was not ready to write about the topic, to tell what is both an exciting and difficult story about working with actual and presumed killers facing the death penalty.

My journey of working with and on behalf of accused and convicted killers was simplistic in its beginning – such an extraordinary job with such an ordinary start. In 1985 I was completing my MSW at Ohio State University, pursuing a self-designed social work degree wherein I chose non-traditional practicum opportunities. I first worked as a social work student in the state legislature, and then as a researcher/intern with the Ohio Department of Rehabilitation and Correction doing research on jail overcrowding and jail standards inspections.

From a starting point of thinking social workers mostly worked as issuers of food stamps, I catapulted into Ohio State's program following the unexpected death of my faculty mentor, Elisabeth Cohn. Without her guidance, I might not have imagined that I would work so close to where power is brokered and people's lives are greatly affected.

Following my admittance into the program, I dove into social work as a place to help others. C. Wright Mills' (1959) ideas about public issues rendered as private troubles (or worse, personal pathologies) solidified my deepening commitment to

social justice. As such, my studies focused mainly on macro practice concerns such as policy and legislative work, community organization, grant writing, and research with very little content in "clinical" matters.

During this time, I was active in the Columbus community at large, the feminist community, and the campus student community, where I served on committees ranging from the legislative advisory committee, chaired by the university counsel, to working on anti-Apartheid efforts with student groups. For this activism, I was awarded several College of Social Work awards and was one of six recipients of the university-wide Graduate Student of the Year awards. I was armed with new knowledge and bolstered by the receipt of these awards, which conveyed to me an appreciation of my work and vision. Nevertheless, like many of my peers, I was anxious about the upcoming job hunt and, belatedly, I went to our Career Services office. I had avoided that office, for a visit there meant I would be leaving the relatively safe and structured world of academia to the world of "you've learned it, now do it" as we referred to the real working world outside of Ohio State. Little did I know how fateful that visit would be.

## Getting the Job

The notice in the weekly job notice newsletter indicated there was a position open for an investigator with the Ohio Public Defender Commission. The duties included making home visits, interviewing clients for their defense in criminal matters, writing reports and working as a member of

a defense team. The ad expressed preference for an MSW. The application deadline was four weeks away.

After deciding to take a chance, it seemed I did everything wrong. I waited until the last minute to respond, and I used a dark tan paper when typing my cover letter and resume back in the days before word processing. The resume was finished as I'd used it for other job applications, but I still needed a special cover letter. I ended up making typing errors that I could only correct with white correction fluid – on dark tan paper! I had to finish the cover letter. It had to be professional. It had to get me in the door. The more I re-typed the letter, the more invested in getting an interview I became. Well, the letter I finally sent went out with three big splotches of white on the paper. I sent it and thought there would be no way I could get this interview from the sheer look of the cover letter.

To my absolute amazement, about 10 days later I got a call from Jane, inviting me in for an interview. They had almost set the letter aside because of its appearance, but thought I might have what it takes because I actually sent it in! They needed to make a decision soon, so could I come in within the next week? I was about to have my first post-MSW job interview! I could hardly contain my excitement. What I lacked in confidence of social work skills, I trusted from what I call the “bar room” skills (that is, the social skills needed to finesse one’s way around a small town bar). You meet all kinds of people there.

Within the next few days, Jane and others set up interviews with the other criminal investigators, the Public Defender for the State of Ohio, and several of the attorneys as well as the other two mitigation specialists. I became intimidated as I wondered who all of these people were and what had I gotten myself into. But I decided that since I'd worked within the state legislature with lawyers and other “important” people, surely I could survive a simple job interview.

The day was full as I was moved from office to office within the beautiful Atlas Building in Columbus. My heart raced as I went to the 11<sup>th</sup> floor to announce my arrival. Chaos abounded with phones ringing and people running from office to office when finally someone stopped to ask who I was and what I needed. From that moment, I was off on a whirlwind of questions.

The primary question was: “What is your position on the death penalty?” What was *this* about and why did they care what I, a social worker, thought about such an issue? I thought the job involved interviewing clients and their families with and for attorneys to gain information about socially and legally disadvantaged people facing criminal charges to develop their defenses. Initially, the question had me stumped. What was the right answer? I surmised being opposed to it would be the logical (and necessary) response if I were to be fully considered for this job.

Things began to get really interesting during my third interview of the day when I spoke with the Public Defender, Randy, who worked in an office filled with violence-themed paintings created by a well-publicized serial rapist with multiple personality disorder. It was during this meeting that I first realized I might really be doing some important, socially significant work if I were hired at OPDC.

Then came my time with Ken Murray, a capital defense attorney. In his tiny office, he invited me to sit in the only available spot as papers, notebooks, and legal books filled his space. He, too, asked me about the death penalty but the question that took me most by surprise was when he asked about my being a member of NOW, the National Organization for Women, and how that would affect any work I would perform with the OPDC. “Don’t feminists hate lawyers?” he asked. I answered that being a feminist affords me the good sense to have a world view that balks at social injustice no matter who suffers and in what way. I further explained that being a feminist is what

might make me most able to do this work as I could see that a non-feminist woman might not be as assertive, direct, compassionate, nor have the ability to stay with difficult cases. Near the end of this interview, I quickly realized that it had been a test from the man I have come to know as one of the most dedicated defense attorneys in capital cases from anywhere in the U.S. Ken wanted to work with people who were going to help save his clients' lives and there was nothing he wouldn't do to create the best working teams he could. This anti-death penalty advocate, I later learned, had a bachelor's degree in social work. I understood then one source of his dedication, passion, and perspective. I passed Ken's 'test' and I evidently interviewed well, because the next day I was offered the job. What a learning experience awaited me. I couldn't have fully understood that this job became the journey of my lifetime.



### Understanding "The Work"

My first day brought me an OPDC picture I.D. card with my fingerprints on it and a badge to use in my new job. A badge – why would I need a badge? Chris, the human resources manager laughingly said, "You'll see soon enough, and you'll need it." The excitement of my new job was turning into fear: fear for my safety (a

badge?), fear of the unknown, fear of not measuring up, fear of not being able to work with all the players – attorneys being at the top of my list. That fear later turned to the fear that we wouldn't be successful in our single mission – to stop people from being sentenced to death and executed. What a clear, focused, and simple mission we had. This mission, though a powerful motivation for continuing our work, is simple, but it's weight is heavy indeed.

In addition to the badge and my new office, I was given several boxes of articles to get through in my first week. In the quiet of my office, I learned that in 1985, Ohio's death penalty statute was less than four years old. In *Gregg v. Georgia* (1976), the U.S. Supreme Court upheld the Georgia law which sought to address some of the inequities of prior death penalty legislation. Many states, mostly southern, passed similar laws in their states within 18 to 24 months of the *Gregg* decision. Ohio joined the list of death penalty states later than many, but Ohio came to influence the work capital defense attorneys across the country. One of Ohio's contributions was in the developing field of mitigation with the creation of a job/working title for those of us who provided social history investigations as part of the defense team being called "mitigation specialists" and now "mitigation investigators." Ohio was one of the first states to actually employ people to do this work exclusively, rather than as part of other positions within their agencies. I became the fourth person hired in all of Ohio and, at the time, I was about the twentieth person hired in the country to become a mitigation specialist. Contrast this with the near 110 known mitigation specialists in practice today across the U.S. As I read I wondered why I had not learned much about legal issues in my MSW program as recommended by Jancovic and Green (1981).

The specialty of the mitigation specialists was in uncovering, understanding, reporting upon, and developing trial and appellate legal strategies based on the mitigation evidence provided in the forms of

in-depth (e.g., 80 to 100 pages) social histories based on detailed records collection and lengthy and numerous interviews; family and client timelines; witness reports; and other social science reports. More often than not, the mitigation specialists were not BSWs or MSWs and many attorneys, claiming to have had bad experiences with social workers, resisted calling us social workers, even those of us with degrees in social work. But, despite our job title, the work was all about social work; social justice, diversity, oppression, violence, mental health, criminal justice, health care, poverty, housing, lead paint, alcohol and drug addiction, and all the rest.

As I continued to read the articles of death penalty trials and how to manage them, I came to understand how profoundly my own life had prepared me for mitigation work. Much of my life to that point was filled with providing alternative explanations for people's behaviors and attitudes and their treatment or interaction with me or others close to me. I'd witnessed violence between my parents and several of their respective dating or marital partners. As both were married many times – to each other and to others – their patterns remained much the same: drinking that led to violence in the home (and sometimes outside in very public places) which caused tremendous effects upon my life. I am an only child to my mother, and my father's third child. I mostly lived without siblings with whom to share these stories, but my life crossed paths with my half-brothers' lives enough to share a little. Our father's drinking eventually led to his having a stroke, deteriorating health, and early death. Drinking and his own troubled childhood experiences led my father to drunk driving and, worse for me, violence against my mother and stepmothers, which I witnessed all too frequently. Luckily, I was not the direct recipient of such blows but watching their physical and emotional humiliation shaped me all the same. I spent most of my childhood seeking explanations, not excuses, for why my parents acted the way

they did and why they treated me as they did. I became masterful at providing mitigation, though I did not use such a word, in my own childhood experiences

My father, one of the most generous people I have ever known, was concerned for the rights of Blacks in our community including hiring one of the first black salespeople. He worked vigorously for the Democratic Party, stopping short of running for office, and ran a successful small business, a furniture store for which my brothers and I variously appeared in both taped and live television commercials on the small local NBC affiliate. He donated money or goods for hundreds of community fundraisers and contributed to the local community in various ways. Still, he was destructive in significant ways and to hold deep admiration and extreme fear of the same person was tiring and draining on me.

Attempting to understand the complex motivations for my mother's and father's (and other family members') behaviors and actions taught me to seek explanations, rather than to blame others. In fact, I was (and am) still more likely to look inward for the blame and to seek understanding for the others outside of myself. Children of violence and other family dysfunction often blame themselves for the things that go wrong in the family, which had a powerful and lasting impact on my ability to make judgments about responsibility for actions and behavior.

Seeking explanations rather than blame for people's behaviors seems to me to be more generous in spirit, more likely to result in forgiveness than punishment, and more likely to result in genuine solutions to prevent such actions in the future. I had only to read a small portion of the Ohio death penalty statute to see that I was, quite literally, "made" for this job. Of course, I was helped in this discovery by starting psychotherapy with an MSW within one month of beginning this job. Thus my new professional and personal undertakings intersected – I wanted to mitigate for my own childhood actions and, in doing so,

wanted to find answers that others could genuinely consider in the life and death decisions about murder and capital punishment.

The Ohio statute includes a list of mitigating factors including those factors which are to be considered by the members of either a jury or a three-judge panel in the second phase of a capital trial (called the sentencing, penalty, or mitigation phase). Here, in list form, was a list of paths to forgiveness for juries and judges to follow. As it turned out, I walked around with a lengthy, but not formal, list of mitigating factors, called reframing in psychotherapy. Pushed to pass a death penalty statute, the Ohio legislature wrote specific considerations including age of defendant, mental status, victim issues but added an all-purpose factor which included "any other factor deemed to be mitigating" by the triers of fact (Ohio Legislature, 1981), leaving juries and judges the option to consider other, case-specific issues.

My first few weeks consisted of lots of reading, questioning, sitting in on legal meetings, taking furious notes, purchasing Black's Law Dictionary, attending a state-wide OPDC conference on the death penalty and talking with my new therapist about the similarities in my work and my early years. This was indeed a busy time as I was getting to know my primary mitigation partner, Jane, and getting ready to replace James, the person whose position I was filling.

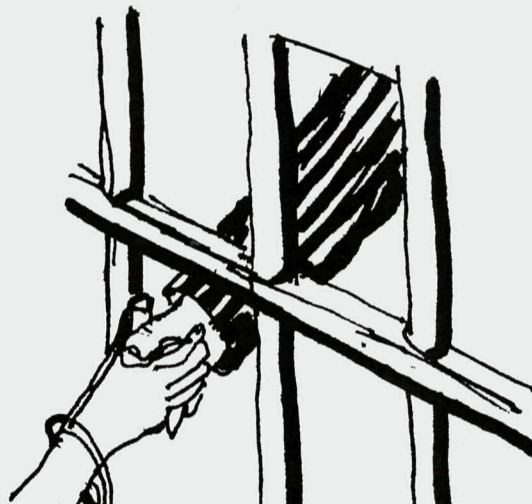
Finally, the big day came: our first trip to Cincinnati. Our office had been called by a private attorney who had been assigned a capital murder trial, involving a defendant who turned 18 the day before he killed his elderly neighbor. He was young, black, mildly mentally retarded, and a part of a lower middle class family. We met with the attorney who provided us with some written documentation and we were off to meet the person at the Hamilton County jail who would become my first capital client.

I had been in jails before; first with my father, later for my own arrests for protesting in Washington and Columbus, and then

while working both as a volunteer in my MSW program and as part of my field experience. I wouldn't say I felt comfortable in jail but it was not a fearful experience being there. What do we do outside of the courtroom that can be taken into the courtroom and, more importantly, the jury room that will convince them to not kill our client?

**"What are you doing here?"**

In nearly every case, we (or I alone) meet with our clients – men and women facing the death penalty at trial requiring jail visits, or who are on death row requiring visits at the Lucasville State Penitentiary where death row was housed at that time. Initially we worked at the trial level but as time wore on we expanded our "practice" of work with clients whose appeals required initial or continuing investigation. Before the first visit with our client, we typically discuss what the attorney knows about the evidence, the case facts, and expectations about what we will be doing for their case. Much of the time this includes graphic information in word and photos, which often make me feel ill and conflicted. These graphics don't make me question my beliefs about the death penalty; but role and responsibility in the justice process. When the victim is female my feelings intensify. As an activist for funding violence against women programs, I question my commitment to these women as well.



During the important first meeting or so, there are typically three activities to be accomplished: the attorneys introducing us to their client; explaining why we are a part of their case; and our beginning to collect personal history information. Oftentimes we get stuck on the second part, especially with the clients who are mentally retarded or unable to understand our conversation due to emotional problems or instability. This is where the question, "What are you doing here?" begins for us.

The question is asked of us by the client, his or her parents, siblings, family members, school teachers, counselors, physicians, ministers, the security guards at the jail, prison or courthouse, victim's family, co-defendants, the criminal investigators on the defense team and everyone else with whom we come into contact. It is a philosophical question when posed as such about the meaning of life. It is apropos in that it always gives me pause. The answer I want to flippantly give is "to save your life" or "to save so and so's life."

But, of course, it isn't that simple. After meeting with the defendant, sometimes for many hours, we begin our outside investigation, which includes interviews of family, friends and anyone else we deem relevant to the story and the detailed records collection. We request and hunt down every conceivable piece of paper we can think of based on what our client told us including the obvious records – birth, school, and medical. Our motivation is high, because we are seeking information to tell a detailed story - not unlike the one I'm telling here - to tell the story of our client's life for the jury so that it can consider, in detail, the mitigating factors and weigh them against the aggravating circumstances in a given case. This is not easy work for jurors either, after they've just found our client guilty of the most heinous of crimes. A client had the presumption of innocence until the jury found him/her guilty. Same courtroom, mostly the same players, and it is now a whole new ballgame. Should he/she live? After all, the jury only makes a recommendation to the court,

leaving the judge to make any final decision. There is much to think about and process as we began to work a case.

As the record collection process proceeds, with all the hurdles one might expect we prepare to meet our client's parent (s). We call potential witnesses (a.k.a. family, friends) in advance and explain our role a bit on the phone so our visit isn't a complete surprise. However, most capital defendants are poor and come from poor families who do not have phones, requiring us to show up unannounced and unexpected. It is in these cases where we get the "What are you doing here?" question. We are white women visiting often predominantly black neighborhoods and we are often uninvited.

The question seems understandable to me. I am embarrassed but I was marshaled by our purpose: to save our client's life. It is nearly a mantra in my mind—a mantra that serves to put the actual homicide and victim's suffering out of my mind and heart. Thinking too long about the horrible deaths would be to make the job too difficult or impossible. I am fighting the good fight – against the injustice of class bias, racial bias, sexism, poor health care, hunger, war, television violence, alcoholism, child abuse, a seemingly indifferent education system and the like – the same problems that helped make it possible for murder to happen in the first place.

### **Death is Different**

I cannot emphasize enough the importance of these people's involvement and willingness to share what they know in making our goal possible. Unlike some areas of social work practice where the social history is largely gleaned from an individual and perhaps some corresponding records or reports, the lay and expert witnesses who tell us what they know do so quite reluctantly. We are not just collecting information to support what we believe to be mitigating factors; we are telling the story of our client, which is often the story of the making of a killer. Each potential witness with whom we speak knows this, inherently, and that

makes their involvement that much more significant.

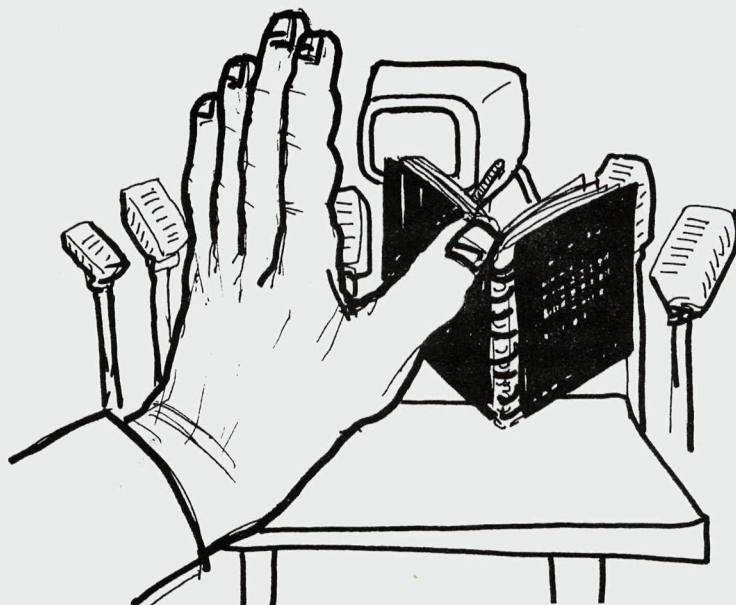
However, there are cases where our client's guilt is really in question. What happens when the evidence is entirely circumstantial and suspect as well, leading to the defense team's belief that the client is not guilty?

The system in place now requires competent counsel to "prepare for the worst scenario" (a guilty verdict) even in cases where his or her client's guilt is in dispute. This is a heavy burden on defense counsel and the key reason why capital case attorneys refer to these cases as "death is different" (McNally, 1984). This burden requires them to expend energy toward the penalty phase, energy that would normally not be spent on anything but a rigorous defense of their client, their primary responsibility in non-death cases.

In a capital case, winning usually means saving your client's life no matter how: plea bargain or life recommendation at trial. Still, this is difficult for attorneys who think of "winning" as a not-guilty verdict. The viewpoint of the defense counsel can make or break any mitigation work. It is of constant concern for me as it determines the level of support for the penalty phase work investigation I'm hired to do. Of course, in the background is always whether our client will receive the best defense and live.

The road to mitigating a death sentence is winding. Family members who don't want their loved one to die are sometimes forthcoming with information from the very first interview. But that is usually not the case. I generally spend a bit of time getting to know the family's genealogy; then I gradually move the interview to the family dynamics and role expectations. Every family has its secrets or information they would choose to keep private. The exist-

ence of the state's premeditated murder scheme (the state statute which allows for the death penalty) causes many of the issues to become public and that publicity often starts with our investigation (or, as seen by family, the interrogation).



Of course, the same is true even for the other potential lay witnesses such as friends, classmates, or coworkers. They may know of events that they would rather not disclose, and may not do so. Despite the role expectations of many professionals, they, too, are reluctant to disclose information readily, if at all. They experience concern that we will try to blame them for what happened and take away the responsibility of the defendant we are trying to learn about. They may also have relationships with the victims or their families and side with the prosecution. These are difficult interviews for they are seeking information, rather than judgment. Still, when the potential for a witness to go public is there, the burden is heavy – for us as well as for the witness. It is here, I believe, that we battle deep cultural notions of applying blame, guilt, shame, and responsibility and heap it on individuals who go astray. I think this happens for two reasons: social control of the large majority of citizens and a distance-creator for those who

refuse to or cannot see the interdependence of our society – where we all benefit from and hurt from the action and inaction of others. Either way, the road to punishment is made easier as they both keep us distant from each other, thus taking responsibility to its furthest points – death as retaliation and retribution.

Gaining the family's confidence is difficult because they know that any information they provide me will be considered for presentation at a trial and that they will have to live with the consequences of its becoming public. They know, despite what we talk about when we explain our role, that we intend to demonstrate that the client should be able to live because of child abuse, neglect, poverty, and a host of other issues. When viewed in the collective, these cases represent the public issues of today, as Mills (1959) argued. In those capital murder cases where it is known that the defendants were involved and competent counsel pursues mitigation assistance for trial, many of the problems experienced as merely private troubles arguably become manifested as public issues (e.g., murder) while providing an opportunity to make public those troubles experienced in social isolation (e.g. child abuse, alcoholism, domestic violence).

When interviewing the reluctant witnesses, I visit neighborhoods and many other settings, which I never experienced growing up, including rat-infested homes, predominantly black neighborhoods, and prisons. These witnesses each have their perspectives on my client's story. Of course, they have stories of their own which are interwoven with their reports of the interactions and experiences with my client. These stories belie the complex relationships that we each have through our social interaction. What is different about them, in part, is the likelihood of their becoming public through the trial and affecting, possibly permanently, relationships within and outside of families. Nevertheless, I move forward collecting stories and seeking to make sense of the near 40 stories heard about my client in a

*typical* case. Forty stories of the long-term and short-term personal and professional relationships with each person wanting to help with varying levels of commitment and interest need to be sorted. Sometimes it is humbling to remember that even the baddest person touches many lives – beyond the monstrous acts with which he or she is legally charged. These perspectives to tell the whole truth about my client's life become and remain the consummate challenge.

### **Seeking, Granting, and Getting Forgiveness**

In this process of social history/story development, I become very intimately involved with many details of the family's life. To counter some of the multiple perspectives, I ask the same or very similar questions in each interview, tailoring the interview when the relationship type or duration call for a change as well as cross-checking information contradicted by witnesses. They are stories of bad choices, child abuse and neglect, mental illness, disability, poverty, alcoholism and drug abuse, and unresponsive social institutions designed to aid us such as schools, hospitals, and churches. Where were the people who are supposed to care? What were they doing instead of paying attention to the children whose stories I'd come to tell?

Early in this work, I realized that I and my clients and their families had more in common than I ever expected. We differ, however, in that I have never acted violently or physically against another person; I witnessed enough of that and somehow I never turned on others in my fear and frustration. Thankfully, I had someone who provided me with patience and as unconditional love, my maternal grandmother, Ruth. Children experiencing family dysfunction should have someone who shows them the kind of consistent caring that I found in my grandmother. I realized this to its fullest one day while listening to the state's closing argument during the penalty phase of a trial against my client, Debra Brown. The



prosecutor argued that several of Debra's siblings experienced the same environment growing up and they did not become killers. Indeed, but he neglected to add that every sibling had someone - a relative, a teacher, a coach, or a minister - who treated them as special by spending time with them and valuing their personhood. Debra, for a variety of reasons, never found such a person to show a genuine interest. Rather, her mother's boyfriends, her brothers, and several male cousins molested or raped her and she was leery of male attention. One evening at a local nightclub she found herself falling in love with a man "because he looked at me like he could see me." This man, who himself was left in a dumpster as an infant, would soon beat, rape, and otherwise control her and later threaten her with her life if she did not participate in several murders with him. Fear of being murdered kept Debra in line and involved in several heinous crimes for which she was sentenced to die in two states.

The environment-did-not-affect-the-siblings argument touched me personally in that, while continuing in my own therapy and moving through the anger and rage against my parents, I came to understand the incredible significance of my grandmother's affection and attention. Indeed, it was so great it may well have saved my life and surely provided me with the strength to remain resilient. The physical violence in my home involved county sheriffs and ambulances at our house because people threatened each other with fists or guns or pushed people through large plate-glass windows or took a baseball bat to my car or took every item out of the kitchen cabinets to sort because I put a can of soup back in the cabinet with the label facing the wrong way. Violence and intimidation don't seem to need a fancy or engraved invitation to join a family and when escorted by alcohol, are quite damaging. I saw it in my family and I see it in others.

Though it was slow in coming, the defense team, when it worked well, was becoming like a family, people working

together, valuing each other's roles and ideas towards a common goal - life. My family of origin made it possible for me to play a significant role in my new family. This new family was not without its arguments or strife. We would disagree on whether I was working for the attorneys or the client. Or I would argue about acting according to my Code of Ethics. I didn't always "win" these arguments but realized that the many evenings and early mornings of yelling and screaming and begging for someone to stop something was, strangely, paying off.

To deal with our many emotions arising from this work we used gallows humor, which served as an outlet for the ever-mounting tension as the deadlines approached. In fact, we joked about the word "deadlines" and wondered at the origination of the term. In one instance, we made jokes about the "Bingo case" as we learned that the parents would sell all of the family's belongings to get money for Bingo in the hopes of hitting it big for their large family of five children. We sang the "Bingo" song, all to mask our sadness and frustration that parents would make such severely poor life choices and that such choices ultimately played a role in a vicious crime.

Together, we worried about getting the records; how would the jurors be selected; would a witness show or say the same things on the stand as in private; would the guards permit an attorney room visit for the mitigation investigators; what would the victims say at the hearing. We remained concerned about the racial and class biases which, it seemed we could not adequately address in our presentation of information because of rules, expectations, or courtroom protocol. In fact, in many cases we wouldn't be there at all but for such bias..

Was my work, then, also about fighting class and race biases? I've had many clients and witnesses ask me what a white, educated (read middle class) woman is doing working in such a field - especially when the victim was female. They express suspicion as if I, an outsider by most defini-

tions, could not possibly represent any compassion on behalf of their loved one to such an unfeeling system. Thus, I look like the state's ticket to the electric chair when, in fact, nothing could be farther from the truth.

This suspicion and eventual trust, however limited, taught me about mercy and forgiveness - words I'd heard many defense counsel ask or beg for and I'd heard clients and their family members beg for the same - when they could muster the courage to do so. I've thought a lot about mothers begging for their children's lives from the witness stand, defendants asking that their life be spared, defense counsel begging for mercy for their client and "to not hold my client accountable for mistakes I may have engaged in here," I've imagined this begging from the jurors' point of view, by the victims begging for justice - either directly to the judge or through the prosecuting attorneys. The trials often seemed to come down to begging for justice (the purview of the victim) and begging for mercy (the purview of the defendant). I've heard those words in my sleep and they rock me with their power. The intensity of emotion it takes to ask to not be killed or to ask that someone be permitted to live is enormous. Imagine life taking such a strange turn that the same person, who couldn't ask for help from family or friends, now finds him or herself engaged in the ultimate asking - begging to be permitted to live. My own stomach would turn to mush as I listened and watched in horror the pain of the parents' and siblings' testifying and how their faces changed as they turned to directly look at the jurors and ask them to save their loved one's life. According to jurors I've interviewed following capital trials, listening to those requests was psychologically damaging to them whether or not they supported the death penalty when the trial began. I think the makers of such laws will need forgiveness and reconciliation one day when the vast damage of the system is understood by more thoughtful people and I hope

people who think like mitigation specialists are there to help them.

There are so many parties involved in the aftermath of a murder and so many people who need to ask for forgiveness. Questions abound about who can or should forgive whom for what, but only the obvious forgiveness relationship is spoken aloud - that between the victim (via the jurors) and the defendant. However, so many questions arise when the private troubles of families become owned by the community. Many relationships that co-exist, peacefully or not, should be named in writings such as this, for there is much healing needed from the capital murder trial, appellate, and execution process. Whether or not the defendant "shows remorse" is often the key issue presented in the media. I know my father never showed remorse and, while he never faced a criminal charge, he hurt many people in his wake. I know my mother never showed remorse and neither of them ever asked me for forgiveness. Their act of asking would have signaled that their troubles were not my fault. Had they asked for forgiveness, I would have understood I was not to blame.

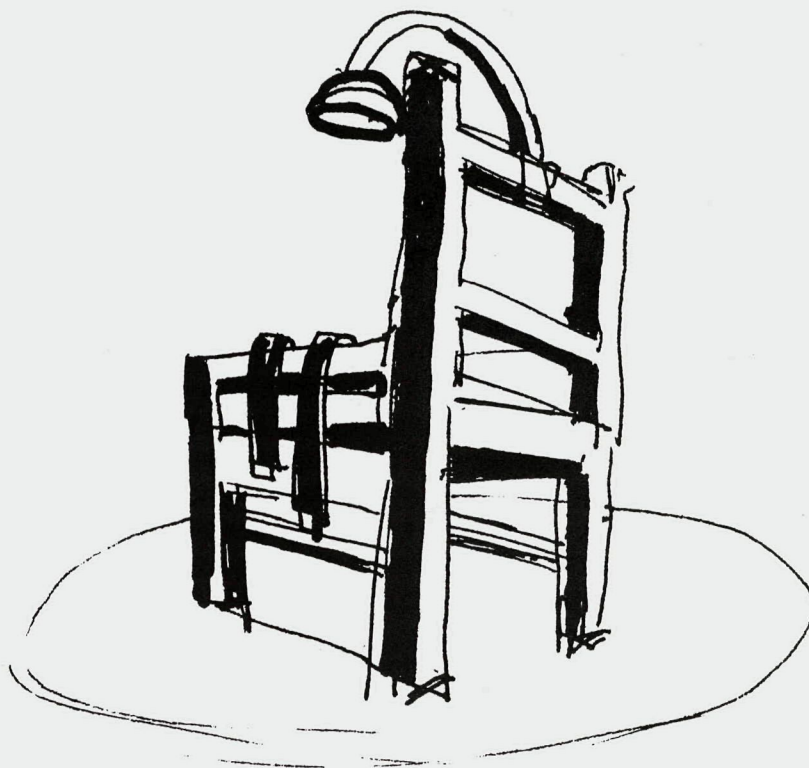
### **My "Work" Today**

I was originally opposed to the death penalty because it seemed wrong for the state to take a life in order to show the value of life. Now, in addition to that, I am opposed to the death penalty because the pain of the trial and subsequent appellate processes seems rarely to result in the justice it seeks to provide. Rather, the initial act of violence has a ripple effect: on the many workers in the police, correctional, and court system; on the families of the defendants and the victims as well as the many people interviewed as even merely potential witnesses; the communities where the murders occur. This effect perpetuates the adversarial, competitive, and divisive beliefs contributing to the culture of violence in which we live. It seems it is cyclical with no definitive beginning or cause but can have a definitive end for the

very few numbers of those executed, especially in light of the numbers of murders each year (Coconis, 1994).

In 1999, there were more executions in the U.S. than any other year since the early 1960s. I attended my first execution, the first for Ohio in 32 years, of a “volunteer” named Wilford Berry who, though mentally ill, was executed because he expressed a wish to die and wanted to stop all the appeals in his case. I met Mr. Berry early in my work but he did not become a client per se. His team thought I might be able to talk to him about his wish to die. I was as unsuccessful as was the string of experts and family that followed me. It was a very cold, clear February night. A near full moon set as a backdrop to the prison doors. Following a five-hour vigil, the execution occurred at 9 p.m. but took 20 minutes, 10 minutes longer than anticipated. Outside, victims’ families were present, but they were outnumbered nearly 3 to 1 by opponents still hoping for mercy from the newly sworn-in governor, Bob Taft. It was reported that Governor Taft, a Catholic, was struggling with his decision but, in the end, carried out “the law of the state of Ohio.” The crowd cheered when Mr. Berry’s death was announced but soon a somber and peaceful mood overtook the police-lined crowd. There was tearful singing and prayer for all those involved in this case and for those people whose lives have been touched by violence.

I was able to follow this Ohio murder media extravaganza with the Journey of Hope, an event that focuses each year on a state that is likely to begin regular executions. The Journey of Hope members include mostly families of murdered people who are opposed to the death penalty. I volunteered in Memphis for that leg of the Tennessee journey last year, truly the most hopeful event I have ever attended. These people, deeply and directly touched by violence in their lives, found their way to forgiveness and beyond. It would be remarkable enough if they found room in their hearts to forgive their relatives’ killers. But these people are actively involved in the



abolition of the death penalty, creating a community of their own. Their stories differ in the facts of each case and somewhat in their paths to forgiveness. Many of them cite religious values or insights as the root of the strength for forgiveness and some don’t come to forgiveness until well after the person responsible has been convicted. Nevertheless, their message is unified: the death penalty does not promote healing and serves to further divide and maintain the pain. They want to create a world where violence is a thing of the past – whether it is by individual killers, such as those who affected their lives, or whether it is the government seeking the final retribution. To me, they are the true mitigation specialists in this broadening national drama.

Following my attendance at the execution, I thought I might stop doing this work; after all, I have a comfortable job teaching in a social work program in an abolition state, Michigan. However, in May, the Michigan legislature introduced legislation to reinstate the death penalty after 130 years of not having such a criminal penalty. So I

was motivated to act, in concert with many Journey of Hope members, against this legislation. As of this writing, the legislature has dropped this issue from its legislative rolls for now as more people have expressed a desire to maintain the abolition stance of the state than those who support the death penalty.

Recently, I accepted work as an expert for a case at the federal level of appeals with Debra Brown, mentioned earlier. This constitutes my twelfth year working with her and on her behalf. I've worked in two states on her various appellate cases and in Ohio we won her a commutation to a life sentence based on the battered women's syndrome and a sympathetic outgoing Democratic governor and his wife. Debra now faces the death penalty in Indiana where we hope to work to spare her life. Although she has 11 siblings, not one has ever written or visited, in part because of shame, in part because of financial resources, and in part because of the chaotic existence in which most of the family lives: in and out of jail or treatment or bad relationships; and in and out of condemned or substandard housing in neighborhoods filled with folks just like them. Her mother has died since we first met Debra and her father remains struggling with schizophrenia, an illness he's had for many years. There really is no one for Debra but Ken and me, and it reminds me of what I've heard from many clients – no one really paid attention to them until they came to jail facing this capital murder charge. I think of the Hallmark card television commercials and print ads where it seems everyone has someone who cares about them. But I have only to remember the souls on death row to remember that Hallmark and Kodak don't speak for every citizen's life experiences. Imagine the Kodak moment showing a child being beaten, a person being executed, the despair of isolation, a person trying to read a bus schedule who cannot. If we had such witnesses to problems, perhaps we wouldn't need social work.

What has always been clear to me is that social workers need to be involved in this issue because of the inequity in sentencing and

what it represents about second chances. At the micro level of practice, it seems clear to me that if the money and time spent trying to execute this small number of people tried for capital murders each year were turned towards violence and alcohol prevention or intervention programs, we would likely reduce the number of killings. Imagine putting those millions of dollars into improving schools, providing families with the resources they need to be full participants in this society, providing adequate health care and meaningful, stable employment where racial discrimination does not prejudice police or correctional decisions. I've worked hard to eliminate the death penalty so that we can focus on preventing other violence in our lives. I've listened to clients and been changed by their sad and terrifying stories. I do not think this experience is limited to working with capital defendants. Rather, it is my sincere hope that all social workers will listen to their clients no matter what the setting or presenting problem with the same intensity and follow-through that I use with my clients. To do less is to ignore social work's purpose and denies that execution is not the only way to kill one's spirit. □

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