

RESTORING LIVES, RESTORING JUSTICE

*Suzanne E. Neuhaus**

We have a professional and ethical obligation to restore justice to the fullest extent in all cases, and to create healing opportunities for the wounded among us, including crime victims and survivors, offenders, and the community. In some cases, providing the opportunity for victims and offenders to participate in a facilitated dialogue with a trained facilitator is appropriate, either pre- or post-adjudication, when each victim and offender desire the opportunity to meet. As a Victim-Offender Dialogue Facilitator, I have had the indescribable privilege of witnessing tremendous healing and restored justice far beyond the inadequacies of the criminal justice system's response. The voices of those with whom I've worked drive me to challenge the system beyond its comfort zone into a world of possibility. Consider D, whose daughter was killed in a drunk driving crash. He said: "I don't want to be a victim for the rest of my life. I don't want to be angry and bitter and filled with hatred and rage, but I think that's what the system wants for me. I deserve the right to heal, and I have a right to confront him—who better than I? He deserves the opportunity to heal, too;" or L, whose

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sister was shot to death while visiting a friend, caught in the cross-fire of a gang-related dispute: When my sister died, my mother died right along with her. She could barely function, leaving me to care for her, as well as my younger brothers and sisters. Yet after finally meeting with the three boys responsible for her murder, I got my mother back. She needed to forgive them—we all did. Just look at her today (the day of L’s wedding)—she’s radiant, and there’s joy in her heart. I couldn’t have had this day without my mother;” or E, whose nephew stabbed her teenaged son (his cousin), leaving him in a permanent, vegetative state: “Why is it I am no longer able to be his aunt? I loved him and cared for him when my own sister failed him. I am angry even still, and I have every right to be, but why can’t I tell him I still love him? I may be ‘the victim,’ but I haven’t stopped being his aunt. He will always be a part of me—he will always be a part of our tribe. I have begged to confront him in our native tongue ... it’s our language, but the system doesn’t speak it. He has a responsibility to our family, and the system will not allow him the opportunity to fulfill it.” Working with each of these crime victims/survivors and their families continues to be an indescribable honor and privilege—to witness the transformation that continues in each of their lives to this day. They are the driving force behind my willingness to speak up and out.

Victim-Offender Dialogue and victim-sensitive offender programming is controversial. It is something that those not intimately connected to the crime may never get to understand, but perhaps the system needs to get out of the way and honor the humanness behind the crime committed and the power of the human spirit to heal. Restorative practices that provide opportunity for dialogue between victim and offender show that such interactions yield positive outcomes, including both victim and offender satisfaction with the criminal justice system overall. Unfortunately, the system struggles to fit a very gray process into their very black and white operations, policies and procedures. Fortunately, the desperate pleas of crime victims and survivors to meet with the person responsible for the crime committed against them and their families are being heard, and movement in favor of permitting dialogues is underway.

Healthy, well-adjusted people who believe they are capable, worthwhile, and deserving of love do not intentionally and

maliciously harm others. Hurt people hurt people. In my experience, the most common characteristic of serious and violent offenders is that they witnessed violence primarily in their homes. While some have defended “tough on crime” legislation by virtue of its perceived effectiveness in reducing crime, crimes involving family violence continue to rise.¹ That said, what are we doing to prevent perhaps the greatest causative factor of serious and violent crime? Children witness violence everyday, and children living in violent homes are most often left in them or returned to them. These children grow up believing the world is not safe and that violence is effective in maintaining personal safety, a lesson well-taught and reinforced in their homes, in their communities, and by our government. The fearful child becomes the bully and the bully becomes the offender, first as a juvenile, then as an adult. No doubt many of their crimes, though arguably inexcusable, could have been prevented.

On a personal note, my own brother was murdered. I can vividly recall the events after receiving word of his death on that first day and the minutes, months, and days after: the shock, the horror, the fear, the disbelief, the overwhelming sense of hopelessness and genuine helplessness, the isolation and despair, the anger, the hatred and the grief – all wrapped up in an instant and sorted out over time in the months and years that followed and remain still to come. No one was arrested or prosecuted. Shortly after his death, I accepted a peace officer position with the then California Youth Authority, now the Division of Juvenile Justice. I believe my brother and the experience of his death led me to work with people who harmed others. What I’ve learned is that “Justice” is not easily defined – it’s not always sought, it’s not always fair, and it’s certainly not “one-size-fits-all.” I’ve learned that the system is imperfect, however, it is not solely responsible for bringing about justice. I’ve learned that people are. Healing human beings, balancing human relationships, protecting all people, especially the weak and marginalized, and including all voices impacted by crime in the process of confronting it is necessary to ensure a just, healthy, and safe society.

¹ Domestic Violence Counts: a 24-Hour Census of Domestic Violence Shelters and Services, (2010), <http://www.cpedv.org/documents/Resources%20NNEDV-ca-summary.pdf>.

After working in the system for nearly 23 years, I know better than to solely seek justice from the system for my brother's killer, but I do trust that justice will be done, and I accept that how justice is accomplished in my brother's "case" may never be revealed to me. I don't have to like it or understand it, and I get to miss my brother every day. My hope is that his killer has reconciled his behavior and that his life is good. I have come to believe that in doing so, he will be held accountable beyond what prison walls alone could yield – he will have had to look at himself in the mirror, acknowledge what he has done, and make amends to a greater power than me...a greater power than our system. I respect not everyone gets that I feel this way or agrees that I ought to, but this is my story, and this is how I am able to live a happy, faith-filled life –it's not always easy, but it is a choice I make each day. I choose not to allow my brother's killer to consume my life, and I choose not to have the value of my brother's life diminished in any way by his death at such a young age. I choose not to define myself solely as a victim or as a survivor, nor do I define my brother solely as murder victim – those labels are but a part of our stories. Instead, I work to honor my life experiences for what they are and draw from them in my work.

I recognize that this response is not true for all survivors of homicide, in fact, perhaps not for the majority of them. I not only accept that, I get it. I have had the privilege of participating in support groups for homicide survivors and many experience overwhelming and deep-seeded grief, rage, and they understandably harbor feelings of hatred and vengeance that impact their ability to function, much less move forward. Most feel abandoned by friends, family, and Church, including our own, and the sad reality must be stated—many have been abandoned. Ours is an offender-focused system, and victims remain far from the center.

While we struggle to reform our system of justice, we cannot dismiss the reality that crime continues to plague our homes and communities. Moreover, we constantly take money and resources from the prevention, intervention, and educational programs that have successfully worked to keep crime and victimization from happening in the first place. We cannot dismiss the reality that people will be intentionally harmed and that most will receive no compensation, no personal assistance, no advocacy. Further, those that have criminally, negligently, or intentionally caused harm may

or may not be prosecuted, and even for those that are, they will not likely be confronted with the impact of the choices they have made. Offenders rarely participate in programming that encourages them to examine the consequences of their behavior, including the impact they have had on human lives – even though doing so causes far less suffering and increases the possibility of effecting real change – far greater than simply “doing time.” Offender rights far outweigh victim rights, and the sad reality remains true that crime victims and survivors actually have no truly enforceable rights in this State. What happens if restitution is not ordered? What happens if the prosecutorial team prevents a victim from making an impact statement if their hope in the outcome is not consistent with the prosecution’s? What happens if they are not notified of their rights? What happens if they are not protected? What is their recourse? Rights that cannot be routinely enforced in accordance with the laws of our State can hardly be defined as rights. Balancing victim and offender rights does not mean decreasing offender rights—it means establishing and enforcing true victim rights.