

Lifelines

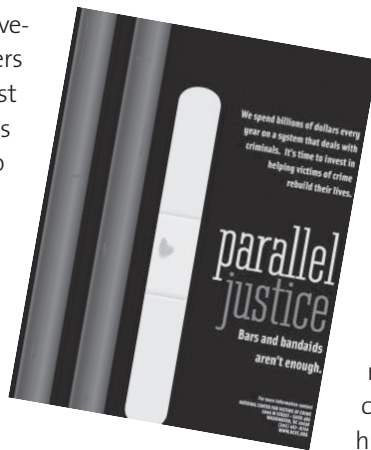
NEWS FROM THE NATIONAL COALITION TO ABOLISH THE DEATH PENALTY • NUMBER 103 • SPRING/SUMMER 2010

Introduction to Parallel Justice

BY PAUL RUFFINS

The concept of parallel justice has many roots. These include the civil rights movement, the women's movement, the victims' rights movement, the restorative justice movement and others that culminated in the establishment of a vast network of programs, laws and policies. The efforts are an attempt to provide necessary services to victims of crime that address their physical, financial, and emotional needs and enhance their inclusion in the justice system to ensure that they are notified, present and heard.

Many of the scientific underpinnings of the parallel justice movement can be found in the groundbreaking book, "Trauma and Recovery, The Aftermath of Violence from Domestic Abuse to Political Terror," by Dr. Judith Herman* of Harvard Medical School. Psychotherapists have long known that deliberate assaults or



cruelty by another person usually traumatize victims far more than accidents producing comparable physical injuries or economic losses. After studying men terrified during warfare and women who had been raped, Dr. Herman concluded that the psychological and social harm experienced by the victim was not solely determined by what the "bad" enemy or criminal did during the incident. Whether the victim ultimately emerged feeling frightened and powerless, or safe and self-confident, was also strongly related to how the "good" people treated the victim after the attack. When neighbors or strangers intervene to defend or comfort a victim, it can reaffirm his or her faith in humanity. Conversely, some victims of sexual assault feel that negative responses by police, hospitals, or family members make them feel like they had been "raped all over again."

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A New Concept for Addressing Crime Victims' Needs: Interview with Susan Herman

Susan Herman is an Associate Professor in the Department of Criminal Justice at Pace University's New York City campus. She received her JD from the Antioch School of Law and her BA from Bryn Mawr College.

Herman, who has more than 30 years of criminal justice experience, is a former Executive Director of the National Center for Victims of Crime, the nation's leading resource and advocacy organization for crime victims.

Following a career in the criminal justice system that included serving as the Special Counsel to New York City's Police Commissioner and work in Philadelphia's prisons, Herman spent many years focused exclusively on victims' issues. Addressing a plenary session at the 2010 NCADP Conference, Herman said, "I want to build bridges between victim advocates and victims of any

kind of crime – and anyone who wants to make our collective response to crime more humane and effective." She developed the "parallel justice" concept as a new framework for responding to crime (see details in "Introduction to Parallel Justice" above). Pilot programs to test the concept, funded with seed money provided to the National Center for Victims of Crime, were launched in Redlands, California, Winston-Salem, North Carolina, and Burlington, Vermont. With the support and participation of law enforcement officials, victim advocates and community leaders in these communities, the programs have begun to foster stronger community policing programs, greater civic engagement on behalf of victims, and a broader responsibility for providing justice to victims of crime.



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A Message from Diann Rust-Tierney

As manager of a non-profit organization, I spend a great deal of time reading about organizational development and management, as well as staying current on our issue. We watch

the bottom line for results as much as our corporate counterparts do.

Recently, I've been reading about the most effective employees and managers: those who succeed learned not only to correctly identify a problem, but also to bring a pragmatic solution to the table.

Relating this to our work, we must continue to do an effective job of making the public aware of the many ways in which the death penalty system is broken. The strongest evidence that we are making an impression is the decline in death sentences being sought and imposed.

A recent Rasmussen Reports public opinion poll indicates that support for the death penalty continues to decline. Seventy-three percent of the public describes itself as being somewhat concerned about an innocent person being executed – fully 40 percent respond that they are very concerned. Why then, when a majority of the public has so little confidence in the accuracy and fairness of the criminal justice system, is the death penalty still with us?

Broken as it is, the death penalty fills a void. It fills a void of critical analysis by policymakers. It fills a void created when the voices of stakeholders in the community are shut out or muffled by grief. If there is no vision about what else to do, the death penalty hogs the space it is given. As the saying goes, "nature abhors a vacuum."

Therefore, repealing the death penalty should be about empowering individuals and communities to have a real say about how limited safety and law enforcement resources are allocated. It is also about engaging our community in more informed conversations regarding how we respond to the worst thing that can happen – the murder of a loved one.

This issue of *Lifelines* and those to follow will continue to connect our critical analysis of the problems with the death penalty to a range of policy alternatives that can be part of the solution. In this issue, we focus on the concept of parallel justice as an approach, a new paradigm through which Susan Herman asks us to view the experience of crime. Herman's vision is based on a long career advocating for the rights and needs of crime victims.

You will also meet NCADP's new Director of the Rachel's Fund Program, Mary Achilles. Achilles' assignment is to launch Rachel's Fund by programmatically assisting NCADP Affiliates in building bridges to the victim services community and families of people on death row.

Thank you for being with us and supporting us at every step along this journey.

Yours in peace,

A handwritten signature in black ink that reads "Diann Rust-Tierney". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Diann Rust-Tierney

NCADP Lifelines

NCADP *Lifelines* is published quarterly by the National Coalition to Abolish the Death Penalty, the nation's oldest organization dedicated to abolishing capital punishment. Founded in 1976, NCADP unifies a network of more than 100 Affiliate organizations, thousands of advocates and volunteers, and dozens of prominent national human and civil rights organizations in the fight to end the death penalty in the United States.

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Parallel Justice *From Page 1*

The challenge for the movement for parallel justice is that America has created a criminal justice system that focuses on the rights, punishment, and sometimes rehabilitation of the perpetrator without a comparable set of responses to victims. Susan Herman, then Executive Director of the National Center for Victims of Crime, first developed the concept and practices of a victim-focused set of parallel responses. Its description of parallel justice reads, "Parallel Justice is a framework for responding to crime with two separate paths for justice, one for victims and one for offenders."

"For every reported crime, our society spends enormous resources responding to the incident and trying to apprehend and prosecute the offender. With parallel justice, there would be a second parallel set of responses to help ensure the victim's safety, to help the victim recover from the trauma of crime, and to provide resources to help victims get their lives back on track," Herman says.

There are other models, such as the practice of restorative justice, which also place the victim's welfare as the community's first priority. However, there are several significant differences. Proponents of restorative justice generally agree that the optimal outcome would include reconciliation between the victim and the perpetrator, who would acknowledge the wrong and pay restitution. Parallel justice might include reconciliation. However, parallel justice would be available to victims even when there is no offender identified. This is significant when one considers that most crimes do not end in an arrest. Additionally, it declares that restoring the victim is as much a responsibility of the government as apprehending and prosecuting criminals. Under this model, 911 calls would not only require the traditional police response to investigate and collect evidence, but also make the safety of the victim a high priority.

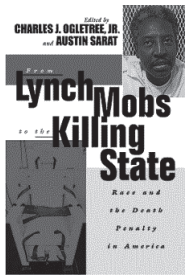
The response could include a victim advocate who works with the police and the victim in the development of a safety plan which would assist in addressing the immediate fears and prevent future victimization. In addition to making victim safety a high priority, a response under a second component of parallel justice would be the inclusion of immediate support and compensation for victims' losses and other practical assistance. A parallel justice response to victims would also include providing victims with opportunities to talk about their experience, the impact the crime has had on them, and what they need from the government and the community to move forward in their lives. Just as important, the government would then coordinate a comprehensive and effective response.

For more information on parallel justice, see the National Center for Victims of Crime at www.ncvc.org

**No relation to professor Susan Herman featured on Page 1.*

"Restoring the victim is as much a responsibility of the government as apprehending and prosecuting criminals."

Books From the Abolition Library



From Lynch Mobs to the Killing State: Race and the Death Penalty in America

Edited by Charles J. Ogletree, Jr. and Austin Sarat
New York University Press, New York University, 2006

Reviewed by Paul Ruffins



Charles J. Ogletree, Jr



Austin Sarat

Charles J. Ogletree, Founding and Executive Director of the Charles Hamilton Houston Institute for Race and Justice at Harvard Law School, and Austin Sarat, William Nelson Cromwell professor of Jurisprudence and Political Science at Amherst College, compiled this anthology of essays by various scholars. The book uncovers the many reasons behind the disproportionately high percentage of African Americans and Latinos executed in the U.S. since 1977. The essays constitute an academic attack on capital punishment, combining critical legal theory, history and cultural studies, with research methodology from psychology and sociology.

Abolitionists will find a goldmine of information. This book will assist them in their efforts to explain the connection between racially motivated lynchings of African Americans from the 19th Century post-Civil War Reconstruction period well into the 20th Century, and capital sentencing and executions of a disproportionate number of people of color today.

For instance, many argue that capital punishment is biased because the race of the victim is the most important factor in who

is sentenced to death – and who isn't – but few understand how this was confirmed. Chapter Four describes the detailed case information and research methods that proved this point in Illinois, to cite just one example. Research on the death penalty in other states yields similar results. Even if the reader is unfamiliar with the complex statistics involved, it is useful to learn how carefully the factors in thousands of different cases have to be matched in order to draw honest conclusions.

These essays also explain the many overt and subtle ways prejudice influences capital trials. Subtle factors range from defense attorneys unconsciously assuming their clients are guilty, to juries who can't psychologically empathize with a defendant of color, or see the defendant's abusive childhood as a mitigating factor.

Readers may be surprised to learn how many different approaches academics have used to investigate capital sentencing, from interviewing hundreds of death penalty jurors, to filming mock trials where the only thing that changes is the race of the defendant.

"From Lynch Mobs to the Killing State" clearly documents the fact that the historical tie between racism and the death penalty is so clear and strong as to be undeniable. Therefore, the burden of proof should automatically fall on those who argue that in the administration of the death penalty, racism is a thing of the past.

Editor's Note: NCADP and the Institute are working in partnership to raise awareness about the ways in which continued use of capital punishment drains resources from underserved communities. In April 2010, the Institute sponsored a summit in Charlotte, North Carolina, which included a plenary titled, "What's the Death Penalty Got to Do With It? Closing the Gap between Death Penalty Repeal and a Wider 'Inclusion and Opportunity' Agenda."

Recent Death Penalty News

SUPREME COURT HOLLAND RULING POTENTIALLY SIGNIFICANT FOR DEATH ROW PRISONERS

On June 14, the U.S. Supreme Court ruled in *Holland v. Florida* that an appeals court had erred in holding that the one-year statute of limitations for filing a habeas corpus petition under the 1996 Antiterrorism and Effective Death Penalty Act (AEDPA) can be "equitably tolled," or paused, only due to "egregious attorney misconduct" involving "bad faith, dishonesty, divided loyalty, mental impairment, or so forth." The case concerned Florida death row prisoner Albert Holland, whose attorney allegedly failed to do reasonably competent legal work or communicate appropriately with his client. Moreover – despite Holland's repeated prodding and reminders – the attorney missed the deadline for filing his federal habeas petition.

The Court held for the first time that a federal habeas claim can under very rare circumstances be filed after the AEDPA's one-year statute of limitations, in the interest of fairness and justice, and that the Eleventh Circuit Court of Appeals had incorrectly used a "rigid" standard.

The Court sent the case back for further proceedings under the proper legal standard, and indicated that Holland could get relief if his was an "extraordinary" situation in which his lawyer's "conduct constituted far more than 'garden variety' or excusable neglect."

In contrast, Justice Antonin Scalia, writing for the two dissenters, said that ". . . when a state habeas petitioner's appeal is filed too late because of attorney error, the petitioner is out of luck. . ."

Continued on Page 5

Recent News *From Page 4*

“This is, on its face, a very limited ruling that does not even guarantee that Mr. Holland’s habeas claim can be considered,” says Ronald Tabak, Co-Chair of the Death Penalty Committee of the American Bar Association’s Section on Individual Rights and Responsibilities. “However, it does send a signal to the Eleventh Circuit that it has taken a far too narrow view of when an exception can be made to AEDPA’s statute of limitations.”

Unfortunately, many people on death row are or have been represented by lawyers who similarly fail to do reasonably competent legal work or keep their clients adequately informed of their rights. At least some of them may have suffered from such outrageously inappropriate representation that, in light of the *Holland* decision, they might secure relief from their counsel’s failures. The ruling can be viewed online at <http://tinyurl.com/holland-ruling>.

EQUAL JUSTICE INITIATIVE STUDY FINDS AFRICAN AMERICANS ARE OFTEN BARRED FROM JURIES

A new study released June 1 by the Equal Justice Initiative, found that African Americans are frequently and systematically prevented from serving on juries for serious criminal trials – including those involving the death penalty. “Illegal Racial Discrimination in Jury Selection: A Continuing Legacy” is the most comprehensive study of racial bias in jury selection since the United States Supreme Court tried to limit the practice in *Batson v. Kentucky* in 1986. Equal Justice Initiative is a Montgomery, Alabama-based nonprofit human rights and legal services organization. The report can be viewed online at www.eji.org.

Lifelines

Keeping Up Between the Lifelines

NCADP provides several ways to keep up with breaking news and action opportunities. Visit NCADP’s web page at www.ncadp.org to join our email list and for links to breaking news, commentary by Executive Director Diann Rust-Tierney and others on our blog and in the Huffington Post, and ways to weigh in with your own involvement.

Sign up with the NCADP cause on Facebook at <http://www.causes.com/ncadp>.

Follow us on Twitter at <http://twitter.com/ncadp>.

NCADP Launches Torch Bearer Program

This spring, NCADP launched its Torch Bearer program, offering supporters opportunities to make monthly gifts to NCADP. Benefits include a special pin to announce your commitment to abolition, quarterly conference calls with NCADP leaders, and early access to *Lifelines*. Please call us at (202) 331-4090, or visit our website at www.ncadp.org for details.

Yes We Can!

I want to help NCADP in its fight to end the death penalty by becoming a Torch Bearer! *All contributions are 100% tax deductible.*

\$1000 \$500 \$250 \$100 \$50 \$35 Other

Please sign me up to be a monthly donor and Torch Bearer at the amount indicated above.

(A reply envelope is enclosed in *Lifelines* as a courtesy to our supporters.)

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Mary Achilles Becomes Rachel's Fund Program Director

NCADP has hired Mary Achilles, a victim assistance expert in the criminal justice, government, church and nonprofit arenas, as the Program Director for Rachel's Fund. In this capacity, Achilles will assist NCADP Affiliates in their efforts to build common ground with organizations that serve the needs of



families of murder victims and of death row prisoners.

Rachel's Fund, an NCADP program, is named for the late activist and abolitionist Rachel King, a former Chairperson of NCADP's Board of Directors. Rachel's Fund serves as a bridge between organizations that are committed to ending the death penalty and those providing needed services to families in the tragic aftermath of homicide.

A Pennsylvania native, Achilles brings to the position an acute sensitivity to and awareness of the emotional issues that victims of violent crime and their families face. Her years of experience working with crime victims informs her expertise regarding the level of support services

necessary to help them overcome trauma, and regain control of their lives.

As an independent consultant, Achilles has provided training and consultative services to a variety of clients, including state agencies, county victim assistance programs and churches regarding empowering and supporting victims of violent crime and families of homicide victims. Her church work included serving as the Consultant/Advisor to His Eminence Cardinal Justin Rigali of the Archdiocese of Philadelphia to create and implement policies and organizational changes related to assistance to victims of clergy sexual abuse.

Prior to her work as an independent consultant, Achilles served as the first Victim Advocate for the Commonwealth of Pennsylvania. Appointed by then Governor Tom Ridge, and unanimously confirmed by the Senate, she was appointed to her first six-year term in 1995 and reappointed in 2001. Her responsibilities included representing the rights and interests of crime victims. Achilles was successful in creating a "one stop shop" for victims to exercise their post-sentencing rights before three independent state agencies authorized to release the offender.

Throughout her tenure, Achilles led the development of a variety of initiatives, including:

- The creation of a Victim-Offender Mediation Program for Victims of Violent Crime
- Impact of Crime Classes for Inmates
- Crime Victims as Witnesses to Executions
- Programs to address staff victimization with parole agents
- The creation of a model for supervision of domestic violence offenders in collaboration with the Domestic Violence Coalition
- The deployment of the state Keystone Crisis Intervention Team

Additionally, Achilles provided testimony before both chambers of the Pennsylvania legislature on victims and criminal/juvenile justice issues and was responsible for the drafting, lobbying and the implementation of a variety of legislative rights and system changes on behalf of victims of crime.

Achilles started her career with the District Attorney's Office in Philadelphia where she spent fourteen years as the Director of Victim Services. While there, she developed and managed a variety of victim service programs, serving both neighborhood and specific ethnic groups.

Achilles received her Master of Public Administration degree at Temple University in Philadelphia, and her Bachelor of Science degree in Criminal Justice at West Chester University of Pennsylvania. She is a Certified Trainer/Responder for Community Crisis Intervention with the National Organization for Victims Assistance and the statewide Keystone Crisis Response Team. She has served as a member of the National Organization for Victims Assistance Board of Directors, and is the former Vice President of the Coalition of Pennsylvania Crime Victim Organizations. She is currently a volunteer with the YWCA of Carlisle, Pennsylvania Rape Crisis/Sexual Assault Program.

"I am excited to be here working as the Program Director for Rachel's Fund," says Achilles. "Work that is new, challenging and innovative always peaks my interest. Working to build bridges that will lead to common ground between the victims of crime, the traditional victim service communities, local Affiliates and families of inmates on death row is a tremendous opportunity for NCADP and for me personally to create enhanced responses to homicide that address the needs of survivors of homicide and all affected communities. I look forward to working with NCADP, and most importantly, with the Affiliates who are on the front lines of this important work."

Affiliates wishing to contact Achilles about the Rachel's Fund program and how to get started in their communities may reach her at (717) 728-9159, or email her at machilles@ncadp.org.



Herman From Page 1

Herman's new book, "Parallel Justice for Victims of Crime" describes her vision of justice. She recently discussed the concept with *Lifelines* Editor Paul Ruffins.

Lifelines: How did you develop this idea of parallel justice?

Herman: I came to this concept after working in and around the criminal justice system for many years. It begins with recognizing that victims are largely a neglected part of the equation in the criminal justice system where many times, the only official role of victims is as witnesses.

Lifelines: Where does it end?

Herman: It ends with society recognizing that when someone is hurt because its laws were broken, the government has an obligation to provide victims with safety and try to make them whole again. One reason this can only happen largely outside the criminal justice process is that less than 20 percent of complaints actually result in an arrest and even fewer lead to a conviction.

Lifelines: Do you think that having a parallel justice system for victims removes conflicts between victims' rights and the rights of defendants?

Herman: Except for the rare speedy trial issue, there really isn't a conflict between victims' and defendants' rights. Usually what the victim wants is to confer with a prosecutor before a plea or trial, be kept informed about the progress of the case, and speak about the impact of the crime at sentencing. Research shows that the partic-

ipation of the victim at sentencing does not increase the severity of sentences.

Lifelines: Do you see any overlap between the concept of parallel justice and the fact that more families of homicide victims are speaking out against the death penalty? Prosecutors often argue for a death sentence in the name of justice for the victim.

Herman: One commonality here is that victims don't all feel the same way. Some want retribution or long sentences, some want perpetrators to get treatment for mental illnesses or drug problems. In fact, victims' views about sentencing are as diverse as the general public's views. That said, it's also inappropriate for prosecutors or politicians to say that any sentence is "for the victims." Sentences should be imposed for the good of the community at large. Victims must be heard, but should not have the power, or even the burden, of deciding what a sentence should be.

Lifelines: How does parallel justice work when the victim isn't "innocent," like a drug dealer shot for his cash?

Herman: I believe you are either a victim of crime or you're not. Even if you have a criminal history, or you are in prison, if you weren't committing a crime at the time the crime was committed against you – you are a victim of crime, and should be offered assistance and resources.

For information on obtaining the book, "Parallel Justice for Victims of Crime," and the parallel justice "Bars and band-aids aren't enough" poster pictured on Page 1, visit the National Center for Victims of Crime website at www.ncvc.org.

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Patricia Jojo Neher

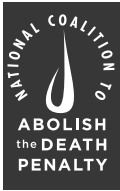


Patricia Jojo Neher was recently elected to the NCADP Board of Directors. An experienced advocate for death row prisoners and the Director of the Florida Death Row Advocacy Group (FDRAG), Neher has worked tirelessly since 1997 to improve living conditions on Florida's death row. She is also actively involved in helping the loved ones of

death row prisoners understand the legal steps to come, answering their questions, and offering a network of emotional support. Currently a licensed realtor in the District of Columbia and Maryland, Neher previously owned two small home-based businesses and a retail outlet. Having grown up overseas as the daughter of a Foreign Service Officer, Neher is fluent in Spanish, French and Italian.

Neher says that her perspective grows out of her work with death row prisoners. Her first-ever visit to death row was a defining moment for her. "You expect 'monsters,' then realize some might be innocent, most have been abused, and that even those guilty of terrible crimes are still human," she says.

Neher learned that most of the public has a misconception about what it is like to have a death sentence. "I want people to understand that the problem with capital punishment isn't just the actual executions, it's the cruel and unusual ways people are treated during the years, maybe decades, they're on death row. Their terrible crimes are their responsibility and they're paying the price, but prison conditions are our society's responsibility." FDRAG fought for basic human necessities like having enough toilet paper and food without cockroaches in it, and helped with the right to provide individual fans to each prisoner in the un-air conditioned Florida death row prisons. "We'd be ashamed to treat animals this way," Neher declares. "We must never forget that death row inmates still deserve basic decent treatment as human beings."



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NCADP Welcomes New Affiliate: Utahns for Alternatives to the Death Penalty

Abolitionists in Utah recently formed the newest NCADP Affiliate, Utahns for Alternatives to the Death Penalty, which is heading the state's repeal effort.

UTADP's Executive Director is Ralph Dellapiana, a capital defense attorney who understands the law and the need to create the environment in which to pass repeal legislation.

To learn how to generate support for repeal, Dellapiana and other Utah abolitionists attended NCADP's last two annual conferences and the 2009 Abolitionist Leadership Training Institute.

The training helped the fledgling Affiliate proactively prepare for Utah's first execution since 1999. Death row prisoner Ronnie Lee Gardner was executed by firing squad June 18.

"Because it would be by firing squad, we knew it would be a high profile execution," Dellapiana said. Following discussions with Abe Bonowitz, NCADP's Director of Affiliate Support, UTADP's founding was announced sooner than anticipated in a news conference at

Salt Lake City's Matheson Courthouse, where Gardner's death warrant was issued. The purpose of the event was to introduce UTADP, expose the flaws of capital punishment, and highlight its failure as a criminal justice policy.

With support from NCADP staff, UTADP created a website and refined its talking points about capital punishment. Additional activities concerning Gardner's pending execution further established UTADP as the leading voice against Utah's death penalty. The effort generated widespread interest and resulted in a number of new UTADP members.

"We're exhausted but energized by the pace of the past few weeks," Dellapiana said. "NCADP staff will join us in August to guide us in long-term planning so we can move forward in a strategic way. We really appreciate having NCADP's continued assistance."

Find UTADP online at www.utadp.org.