

**MASS-PRODUCING THE “WALKING WOUNDED”:
THE TRAUMATIZATION OF THE MANY THROUGH THE
DEATH PENALTY PROCESS**

by

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B.A., Simon Fraser University, 2005

PROJECT SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

In the
School
of
Criminology

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SIMON FRASER UNIVERSITY

Summer 2008

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ABSTRACT

It has been said, when examining a pattern of thinking, if faced with troublesome data, we must either ignore the data or find a new pattern. Despite the abundance of troublesome data surrounding the death penalty, the United States continues to uphold capital punishment. This paper adds to the troublesome data by examining the effects of the death penalty through a trauma lens. The results are astonishing: families of the victim, families of the offender, criminal justice representatives, the offender and witnesses to executions can all be severely traumatized throughout the death penalty process. Symptoms can include, depression, aggressive behaviour, suicidality and substance abuse. Therefore, the impact of the death penalty can produce future violence, instead of providing the justice it promises. It is hoped that the exposure of this cycle of trauma will be used to help abolish the death penalty, making way for a new pattern.

Keywords:

Trauma; death penalty; family of victim; family of offender; death row inmates; effects of capital punishment

Subject Terms:

Capital punishment; Capital punishment – United States; Death row inmates – United States; Prisoners' families – United States; Trauma; Psychic trauma

DEDICATION

To Nina and Alicia

Gandhi said:

"Be the change you want to see in the world."

The change I see
leaves a brighter, peaceful world
Where genocide, torture, and cruelty in all its forms
exist only in history books.

This is the change
I strive to be.

For you.

And because of you.
Your strength
and love

carry me.

ACKNOWLEDGEMENTS

Words cannot express my gratitude to Dr. Liz Elliott for her guidance and support, beginning during my undergraduate degree and extending through an exchange in Europe, and now this Masters degree. You are a shining example of how I want to live life and be true to myself.

To Dr. Brenda Morrison, I thank you for taking over at last minute without hesitation. You made the adjustment easy and I felt safe under your wing.

To Neil Madu, I thank you for your patience and guidance. And I thank you for your spirit.

To the Crim department and my wonderful colleagues. You are: inspiration, support, laughter, dedication, love, passion and compassion. You make the world a better place.

To the Program to Abolish the Death Penalty at Amnesty International USA, and Amnesty International Canada, Pacific Regional Office, thank you for a wonderful experience and inspiration for this work. You are changing the world!

And finally, Mom, Trish, unconditional love is amazing. Thank you.

In loving memory of my father. I miss you.

You are with me always.

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CHAPTER 1: INTRODUCTION

There are few topics in the world more controversial than the death penalty. Proponents argue that capital punishment is necessary to deter future crimes, protect society, provide justice for the victims and their families, and to illustrate society's contempt for such acts. On the other hand, abolitionists such as Amnesty International argue that the death penalty is first and foremost a moral wrong and the ultimate violation of human rights. Further, they contend that it has no deterrent value (or no more than alternative sentences); is arbitrary and capricious; is racially, geographically, economically and politically biased; and costs substantially more than alternative sentences (therefore directing funds away from programs that can truly help prevent violent crimes from happening in the first place). Further, abolitionists argue that there is a great risk of executing an innocent person and that the death penalty continues the cycle of violence.

The arguments against the death penalty are growing in strength; both academic and government investigations are finding the death penalty system in the United States to be deeply flawed. For instance, the American Society of Criminology adopted an official policy position, based on academic research, "publicly condemn[ing] this form of punishment, and urges its members to use their professional skills in legislatures and courts to seek a speedy abolition of this form of punishment" (1989). Government legislated death penalty commissions in a number of US states have substantiated previous studies that

the death penalty is geographically, racially and economically biased, does not deter, and is substantially more expensive than other alternatives, and therefore recommend radical changes or abolishment in their states (American Bar Association, 2007; New Jersey Death Penalty Study Commission, 2002; Illinois Commission on Capital Punishment, 2000).

Van Ness and Strong (2006, 4-5) have said: "One sign that a pattern of thinking is deficient is that we increasingly encounter troublesome data that do not fit. We are then forced to make a choice: disregard that evidence or seek a new pattern." It is apparent that the current death penalty pattern is wrought with troublesome data. Yet, in spite of this evidence and recommendations to abolish, the USA has chosen to ignore (or explain away) the data. It is evident, then, that we need to strengthen the arguments by broadening the lens through which we examine the death penalty.

This paper will provide such support by revisiting the cycle of violence argument through a new lens, a psychological trauma lens. It will argue that the death penalty, as state-sanctioned violence, is a traumatic event, which exacerbates trauma caused by the initial crime and generates new trauma for the various categories of people who encounter the death penalty process: families of the victim and offender, members and representatives of the criminal justice system, the offender, and witnesses to the execution. Previous research has shown that "trauma and violence are integrally linked: violence often leads to trauma and unhealed trauma, in turn, can lead to violence and future loss of security" (Yoder, 2005, 5). Therefore, this paper will also argue that the effects of

death penalty trauma can lead to future violence, thereby defeating its intended goals of deterrence, protection, safety and the illustration of contempt for violence.

The symptoms of trauma (depression, anxiety, stress disorders, increased aggression, conversion into physical symptoms, substance abuse and even psychosis) affect the lives of individuals in their jobs, their families and relationships, and their community. Pragmatically, the symptoms can add to the strain on government and societal resources as their needs for medical attention (both physically and psychologically), financial aid and other forms of social assistance (such as foster care) increase as a result of their state-sponsored trauma. More importantly, trauma can manifest in violent behaviour. If the death penalty creates traumatic symptoms or exacerbates existing trauma, then it can have a causal relation to future violence and crime committed by the death penalty process survivors- a link that is antithetical to the idea of the death penalty as an instrument of justice.

The importance of this argument lays in the scope of damage and potential violence accumulated through the use of capital punishment: 1,099 people have been executed in the United States since reinstatement of the death penalty in 1972, 3,263 people are currently on death row (Amnesty International, 2007a; DPIC, 2008a). Each of these individuals is connected to at least one violent crime and the resulting capital trial and death row imprisonment. It follows, then, that there are over four thousand families of victims, over four thousand families of offenders, and thousands of others (lawyers, judges, juries, prison

guards, chaplains, wardens, the executioners and journalists) in the United States who have come face to face with the death penalty. If the death penalty has the potential to traumatize these individuals and trauma can lead to violence, instead of deterring crime, the death penalty creates the seeds that can lead to future crime. It does not protect society nor offer safety, it damages relationships, well-being and destroys security. It does not provide justice but creates injustice and irrevocable harm. It does not illustrate condemnation of violence– it legitimates its use.

There is very little research that explicitly frames the effects of the death penalty as traumatic. A handful of studies exemplify the traumatic effects of the criminal justice system, including the trauma of testifying in court (de Ridder, 1997; Herman, 2003) and the trauma of losing a family member through murder (Schlosser, 1997). There are also studies that focus on the effects of the death penalty, such as jurors' experiences (Fleury-Steiner, 2004), families of death row inmates' grief and loss (Jones and Beck, 2007), the comparison between grieving patterns of families of the victims and families of the offenders of capital punishment cases (King, 2004), and the psychological experiences of correctional officers involved with executions (Osofsky and Osofsky, 2002). However, of these studies, it is only Osofsky and Osofsky that address the potential of the death penalty process as being traumatic, and then only within their context of working on death row as potentially contributing to post-traumatic stress disorder. This study aims to address this research gap by using published autobiographies, biographies and newspaper articles of survivors of the death

penalty process to illustrate the traumatic effects of capital punishment for those who encounter this 'machinery of death': specifically, the family members, CJS representatives, the offenders and witnesses to executions.

This paper will begin with a brief look at the historical and current use of the death penalty and the common arguments for abolition (the troublesome data). It will then explain trauma theory and traumatic symptoms, establishing the death penalty as a traumatic event. This trauma framework will then be used as a lens to illustrate the psychological effects of the death penalty process on the aforementioned populations. In conclusion, it is suggested that this paper act as the preliminary foundation for future research, contributing further troublesome data to facilitate the end to this old pattern of state-sanctioned violence and make way for a new pattern of regulatory practice, based on dignity and respect. If deterrence, protection, safety, justice and a display of condoned behaviours are truly the aim, the criminal justice system needs to model these behaviours and values as well.

CHAPTER 2: THE OLD PATTERN: THE PAST, PRESENT, AND TROUBLESOME DEATH PENALTY

A Bloodied History

'The ultimate punishment' embodies many methods of execution in this modern era of the death penalty: hanging, gassing, electrocution, and lethal injection, are just a few. However, throughout history, this gruesome deed included means of bringing death to criminals and those unwanted by society that are unacceptable by today's standards. The modus operandi were brutal (and for the most part, public), the list includes such acts as: crucifixions, impalement, the burnings of 'witches' at the stake, flaying, boiling in oil, breaking on the wheel, burying alive, sawing in half, pressing to death, drawing and quartering, beheading with the guillotine, and, it is hard to imagine, "tearing to death by red-hot pinchers," (Laurence, 1960, 1-3; Bedau, 1964, 15).

The crimes for which a death penalty could be applied were just as numerous: murder, treason, rape, kidnapping, robbery, assault, espionage, desertion, bombing, perjury (during a capital case), and political dissention. Bedau (1964, 2) states that the highest number of crimes punishable by death was reached around 1810 in England, at a massive 223. The result was an overwhelming 2000 to 3000 persons sentenced to death each year. This, the height of executions, led to the trend of abolition. People were becoming so outraged by the excessive number of executions, the brutality of the methods,

and the inequity between certain crimes and their punishment that they demanded the orrission of 'cruel and unusual punishments.'

Though a number of nations still carry out executions for non-violent infractions of the state's law (including homosexuality, adultery, and fraud), the United States has, over time, narrowed down the crimes for which the death penalty is used. Dependent upon each state's legislation, the vast majority of death sentences are meted out for murders with aggravating circumstances such as when connected with crimes of sexual assault, arson, robbery, terrorism; previous murder (mass and serial killers) or murder while in prison of a guard, staff or other prisoner; the category of the victim (children, police officers); and treason (see Bureau of Justice Statistics, 2006 for a list of capital offences by State).

A Hopeful Present

There is a current worldwide trend towards abolition. The United Nations recently passed a resolution for a universal moratorium on capital punishment (United Nations, 2007) and the number of countries who have abolished capital punishment is growing. To date, 135 countries are considered abolitionist in law or in practice,¹ compared with just 16 in 1977 (Amnesty International, 2007a). However, 62 countries still retain the death penalty, including the USA. In fact, the United States, along with China, Iran, Pakistan, Iraq and the Sudan accounted for 91% of all executions in 2006 (Amnesty International, 2006).

¹ To be considered abolitionist in practice, a country will have death penalty legislation on the books, but has not had an execution for a minimum of ten years (Amnesty International, 2007a).

That said, abolition in the USA appears to be slowly joining the worldwide trend. The state of New York finalized its abolition of the death penalty in October 2007 when its Court of Appeals upheld its 2004 decision of unconstitutionality and overturned the death sentence of the last person on death row in the state (Feuer, 2007). New Jersey became the first state to legislatively abolish capital punishment on December 17, 2007, becoming the 15th abolitionist state (Associated Press, 2007). A number of states, including California, Illinois, Florida, Nebraska, Ohio and Maryland, have either state-wide moratoriums on their executions while they examine their death penalty legislation and practices or legislative actions in progress to abolish capital punishment. And at the time of this writing, there is a nation-wide moratorium while the United States Supreme Court decides on a case of whether or not the combination of three drugs used during lethal injection is cruel and unusual punishment (No. 07-5439, *Baze et al. v. Rees et al.* in Greenhouse, 2007).

The number of death sentences and executions in the US are also declining. After reinstatement in 1972, the pinnacle year for executions was 1999, with a total of 98 deaths (DPIC, 2008a). The highest number of death sentences in a year, 3,593, was handed out in 2000. In comparison, 2006 had 3,344 sentences and 53 executions carried out.²

Although use is declining, there is still strong support for the death penalty in the United States. This is in part due to a long history of use and public

² The number of executions in 2007 is lower yet, at 43 (and 3,350 sentences). However, this number of executions is due in large part to the nation-wide moratorium on executions that began in September after the United states Supreme Court announced it would hear the Baze case.

acceptance. Attempts at abolishment are often met with resistance and resolve that the death penalty is necessary to provide deterrence, to protect society against the murderer and future violence, to illustrate contempt for that violence and most importantly to provide justice for the victims and their families.

However, these arguments ignores the previous research that has shown that capital punishment: is not a deterrent; is arbitrary and capricious (and therefore unjust); is more expensive; and has a high risk of executing individuals who are innocent of the crime. The following is a brief explanation of this troublesome data.

The ‘Troublesome Data’

Deterrence

It is often argued that the death penalty is a deterrent for future crimes and that if it is abolished there will be a significant increase in murders. The premise is rooted in classical criminology: criminals are rational thinkers who are motivated by self-interest; if the punishment is far worse than the risk or pleasure of the crime, they will not commit the crime (Beccaria, in Siegel and McCormick, 2006, 10). The death penalty, then, is seen as the ultimate risk- if the threat of losing one’s own life is present, the would-be murderer will be deterred from committing the crime.

However, the assumption being made is that these future murderers are aware that their state has the death penalty and that they take the time to argue the benefits and costs of the crime before committing it. This is often not the reality of murder. A British doctor who spent 35 years working for the Prison

Medical Service found: "Deterrence is by no means the simple affair that some people think ... A high proportion of murderers are so tensed up at the time of their crime as to be impervious to the consequences to themselves; others manage to persuade themselves that they can get away with it" (Roper, 1969, in Amnesty International, 1989, 11).

Further, researchers who have completed thorough reviews of deterrence studies have found no significant deterrent value (Bailey and Peterson, 1997, 138; Hood, 1998 in Simon and Blaskovich, 2002; Donahue and Wolfers, 2006; Fagan, 2006). Other studies on deterrence indicate that the death penalty is no more of a deterrent than prison sentences (Sellin, 1959); that death penalty states continuously have higher murder rates than those states without it, even when controlling for socio-cultural differences between the states (Sellin, 1959);³ and when comparing homicide rates in a jurisdiction before, during and after abolition, there is no statistically significant increase in murders after abolition; in fact, in some states, the rate increased when the death penalty was reinstated, and in some it dropped during abolition (Bailey and Peterson, 1997, 138). Clearly, the death penalty is not a successful deterrent. In fact, the only real deterrence is the obvious inability of the executed to ever commit another crime, a goal that can be achieved through other means.

³ According to DPIC (2008b), in 2006, states with the death penalty had an average murder rate of 5.9, whereas states without had an average of 4.22. Also, countries without the death penalty frequently have lower murder rates than those with it. See Donahue and Wolfers (2006, 799) for a comparison between Canada, an abolitionist country with a much lower murder rate, and the USA.

Arbitrary and Capricious Death

If capital punishment is hailed as a method of exacting justice for the families of the victims and society as a whole, then we encounter further troublesome data. The death penalty does not bring justice; in fact it is very much a system of injustice. It is inherently biased in terms of who's life is taken and who's is not; race, geography, economic class and the discretion of the prosecution are all factors in determining whether a case is tried as a capital offence and whether the sentence is life or death. These factors are indicators of an arbitrary and capricious system.

The death penalty is racially biased. The US General Accounting Office found in their 1990 study that an accused is more likely to be sentenced to death if the victim is white (80% of people were executed for the murder of a white victim, compared with 14% for murders of African-Americans, and 4% for Hispanic). Offenders are also four times more likely to receive a death sentence if they are African American, compared with Caucasian offenders. In fact, a number of studies have found that "holding all other factors constant, the single most reliable predictor of whether someone will be sentenced to death is the race of the victim" (Amnesty International, 2007b; American Bar Association, 2007; Illinois Commission on Capital Punishment, 2000). The New Jersey Commission did not find an "invidious racial bias in the application of the death penalty in New Jersey"; however, they did find cases with white victims advance to the penalty trial at a higher rate than cases with minority victims (New Jersey Death Penalty Study Commission, 2002, 41-42).

The death penalty is economically biased. Research has also shown that the poor are more likely to receive a death sentence than the rich.⁴ In fact, over 95% of the death row population cannot afford their own lawyer (Amnesty International, 2007c). They are, therefore, given a court-appointed lawyer, many of whom lack any trial experience, let alone experience with capital cases. According to one judge: ‘the constitution guarantees everyone a lawyer, not a good one’ (Wheeler, 2001).⁵

The death penalty is geographically biased. The geographical location of the crime and jurisdiction also play a large role in whether or not a defendant will face capital punishment. Eighty percent of all American executions take place in the south (Amnesty International, 2007c). Further, there are also huge discrepancies in the numbers of executions between the jurisdictions within a state. For instance, Harris County in Texas is infamous as the “pipeline to death row”: it is responsible for a highly inproportionate number of capital cases in comparison with other Texan counties, and, indeed, other counties across the US (Tolson, 2001).⁶

The death penalty is biased by prosecutorial discretion. Because the first decision to seek a death sentence is in the hands of the prosecution, capital

⁴ The argument is easy to follow: those defendants who can afford a litigation dream team can hire lawyers with vast amounts of capital trial experience with proven records of acquittals; they can pay for investigators, crime scene analysts, doctors, psychiatrists and the like to counter the findings of the prosecution’s team of investigators and professionals. And should these defendants still lose and be sentenced to death, they can afford to keep these lawyers (or hire new and better ones) and file appeal after appeal to have their death sentence overturned.

⁵ There have been many extreme cases of poor lawyering: “Stories abound of defendants represented in capital trials by tax lawyers or attorneys who have never before taken a criminal case. In Georgia, a former Grand Dragon of the Ku Klux Klan defended a black man. Texas judges have repeatedly appointed a lawyer famed for falling asleep...” (Wheeler, 2001).

⁶ The state commissions found similar results in Ohio, New Jersey, (ABA, 2007, vi; New Jersey Death Penalty Study Commission, 2002, 43).

cases are heavily influenced by the biases of the prosecutor in charge. The prosecutor is faced with pressures based on "local politics, the location of the crime, plea bargaining, and pure chance" as well as his or her own beliefs (Amnesty International, 2007c). The result is great discrepancies between prosecutorial jurisdictions. Former district attorney John B. Holmes Jr. sums up the Harris County prosecutorial attitude: "If the death penalty substantively fits a given crime and I have enough stuff so that a jury will give it, tell me why I shouldn't prosecute it" (Tolson, 2001). Holmes' statement illustrates the prosecutor's role in deciding whether he or she thinks the crime fits the criteria for a death sentence, whether he or she thinks there is enough evidence, and whether he or she thinks the jury will give the death penalty. In other words, it is not the crime itself that matters, but whether the prosecutor thinks he or she can win the case and get a death sentence from the jury.

The Cost of Death

Simply put, the death penalty is more expensive than other options such as life without parole (New Jersey Death Penalty Study Commission, 2002, 1; ABA, 2007, iv; Amnesty International, 2007d). While the expense argument has been countered by attempts to shorten the appeals process, the fact is the majority of the cost differential between capital and non-capital cases occur within the pre-trial and trial phases, not the appeals (Amnesty International, 2007d). This is because capital trials have two phases, the guilt phase and the penalty phase,

and have other costs that do not exist in non-capital cases.⁷

Further, it costs more to house the offenders on death row than in the general population; for example, California spends upwards of \$114 million per year more than it would for life without parole sentences (Amnesty International, 2007d). The New Jersey Department of Corrections “estimated that eliminating the death penalty would save the State \$974,430 to \$1,299,240 per inmate over each inmate’s lifetime” (New Jersey Death Penalty Study Commission, 2002, 31-32). The courts also spend more money on capital cases than non-capital in the areas of trial costs and proportionality reviews (p. 32).

It could be argued that the financial costs of the death penalty do not matter, that we can not put a price on the value of a life, especially that of the victim: justice is what matters. However, Amnesty International (2007d) counter-argues that having a death penalty “reduc[es] the resources available for crime prevention, mental health treatment, education and rehabilitation, meaningful victims' services, and drug treatment programs [and diverts] it from existing components of the criminal justice system, such as prosecutions of drug crimes, domestic violence, and child abuse.” In other words, the funds that are spent on the death penalty are funds that could be spent on programs that really do help

⁷ The Office of the Public Defender in New Jersey states: “elimination of the death penalty would result in a cost savings of \$1.46 million per year.” This is due to:

additional costs in capital murder trials for pretrial preparation and investigation; pretrial motions; jury selection (which takes four to six weeks in a capital case as opposed to one or two days in a non-capital case); additional staff attorneys (because the office provides two attorneys, rather than one, in capital cases)...; the penalty phase trial ...; the mitigation investigation (a social history investigation of the defendant’s background, which provides mitigating evidence for the penalty trial); enhanced costs for appeals (since more issues are raised and the courts conduct a more searching inquiry in an appeal of a defendant who faces death); enhanced costs for transcripts; proportionality reviews; and post-conviction relief. (New Jersey Death Penalty Study Commission, 2002, 31-32)

eliminate crime. Spending that money on proactive programs that prevent crime before it occurs is far more just than spending funds on an arbitrary and capricious process that creates more victims.

The Risk of Killing Innocents

The element of human error and bias that creates the racially, geographically, and economically influenced imposition of capital sentences also creates an atmosphere ripe for error in guilty and not guilty findings. Indeed, there are countless occurrences of the culpable being acquitted and of innocents being found guilty. The problem with the death penalty is its irreversibility. To date, 128 individuals in the USA have been exonerated since 1972 for the crimes for which they were to be executed. The Death Penalty Information Centre (DPIC, 2008c) lists nine other individuals in the USA for whom there is substantial evidence of innocence but who were still executed. It must be asked: how many others have been innocent of the crimes for which they have been executed? How many more are currently on death row? And how many innocents executed in the name of justice is too many? For many, that number was passed at one.

In sum, there is overwhelming evidence that the death penalty is a capricious sentence influenced by the geographic location of the crime, prosecutorial biases and political pressure, and a racially biased criminal justice system. The staggering results include far too many innocent people on death row and far too much money spent on a system that has never achieved its goal

of deterrence. Unmistakably, this death penalty pattern of thinking is fraught with a staggering amount of troublesome data.

Why, then, does the United States so strongly support the death penalty? Amnesty (1989, 6) has said: "When the arguments of deterrence and incapacitation fall away, one is left with a more deep-seated justification for the death penalty: that of just retribution for the particular crime committed." The desire for retribution has not, and will likely never be swayed by the statistics of racism, financial cost, and the possibility of executing an innocent. It is a highly value-based argument surrounding the belief that capital punishment embodies justice for the victims and their families.

However, as the body of this paper will show, instead of providing justice, the death penalty can traumatize the victims for whom it is supposed to bestow justice and create more victims through its process. In their study on deterrence, Adler and Summers (2007, A13) poignantly ask: "do we save this particular life [the inmate on death row], at a cost of the lives of dozens of future murder victims?" Considering the arguments above and the findings of this study, this paper counters: saving this particular life will save countless more from death penalty related depression, substance abuse, suicide, and future violent acts which in turn creates a new cycle of harmful behaviour.

CHAPTER 3: THE TROUBLE OF TRAUMA

Defining Trauma

There are a number of official definitions for psychological trauma, however, for the most part, they all contain several elements: a) an actual or perceived threat of death or serious injury, that b) overwhelms the ability to cope or respond healthily to the event, and c) results in feelings of “intense fear, helplessness, or horror” (Bloom, 1997; Herman, 1997; DSM-IV-TR, 2000, 463; Yoder, 2005, 10; Briere and Scott, 2006, 3). The major contention between the definitions is whether or not a threat to psychological integrity should be included. This paper will include it because, as Briere and Scott (2006, 4) argue, “highly upsetting” events such as “extreme emotional abuse, major losses or separations, degradation or humiliation, and coerced (but not physically threatened or forced) sexual experiences” may be just as traumatic as a physical threat. They therefore define psychological trauma as including any event that is “extremely upsetting and at least temporarily overwhelms the individual’s internal resources” (p. 4).

Importantly, “the critical element that makes an event traumatic is the subjective assessment by victims of how threatened and helpless they feel” (Van der Kolk and McFarlane, 1996, 6). In other words, the same event may be traumatic for some individuals, yet merely stressful for others. Age, previous traumatic experience, degree of preparation for the event, length of the event, the

meaning attributed to the event, genetics, spirituality and the availability and quality of social support can all influence whether or not an event will be traumatic to the point of life disruption (Yoder, 2005, 11).

Moreover, trauma is not just experienced when an overwhelming event happens *to* a person, symptoms can also arise for those who actively participated in causing harm to others, as illustrated by the 'shell-shock', combat fatigue' and Post-Traumatic Stress Disorder commonly experienced by soldiers and combatants (Herman, 1997, 20; Yoder, 2005, 14). Further, not all trauma is induced by a single incident. The event can be long term and continuous, and/or made up of a series of events. This is often referred to as cumulative, continuous, chronic, sequential, multiple or plural traumas (Yoder, 2005, 12).

Trauma can also be transferred through generations (historical trauma or intergenerational trauma), where the event occurred in the past but the effects are cumulative and are seen in individuals and group attitudes and behaviours in succeeding generations. For example, researchers have found that children and grandchildren of Holocaust survivors show trauma symptoms as though they, themselves, lived through the concentration camps (Herzog, 1982, in Bloom, 1997, 63). And finally, secondary trauma or vicarious trauma often occurs to individuals such as psychiatric professionals, social workers, rescue workers and humanitarian personnel who do not experience the traumatic event firsthand but are somehow engaged with those who were. These individuals often experience the event and the trauma vicariously through the people they are helping (Yoder, 2005, 14). In all, trauma to the psyche "refers to the wounding of your emotions,

your spirit, your will to live, your beliefs about yourself and the world, your dignity and your sense of security” and can manifest in a number of psychological and physical symptoms (Matsakis, 1996, 17).

Effects of Trauma

These wounds do not bleed like a cut, nor do they mend like a broken arm. Instead, the traumatic event is so overwhelming that it interferes with the body’s organic responses to danger. Normally, we react to a sense of imminent harm with an automatic and instinctive heightening of awareness and sharpened senses (Herman, 1997, 34; Bloom, 1997, 18). However, when faced with a traumatic event, these natural responses are modified or damaged; Herman (1992, 34) explains:

Traumatic reactions occur when action is of no avail. When neither resistance nor escape is possible, the human system of self-defence becomes overwhelmed and disorganized. Each component of the ordinary response to danger, having lost its utility, tends to persist in an altered and exaggerated state long after the actual danger is over. Traumatic events produce profound and lasting changes in physiological arousal, emotion, cognition and memory.

Trauma can manifest in numerous physiological and psychological symptoms and disorders that generally fall into seven major categories: depression, anxiety, stress disorders, dissociation, somatoform responses (physical symptoms brought on by the psychological trauma), brief psychotic disorder with marked stressor (including hallucinations or catatonia), and drug

and alcohol abuse (Briere and Scott, 2006).⁸ Some examples of symptoms include (Briere and Scott, 2006 and Herman, 1997):

1) *Emotional symptoms*

- a) Higher intensity of emotions, especially related to grief and depression, including: sadness, and being quick to anger.
- b) Lower intensity of emotions
- c) Suicidality
- d) Irritability

2) *Avoidance*

- a) Loss of interest in daily life, such as in previous activities that brought joy, spending time, talking with friends and family, and going to work
- b) Emotional numbing
- c) Avoiding people, places or objects that may trigger memories or emotions related to the traumatic event

3) *Physical symptoms*

- a) Fatigue,
- b) Sleep disturbance (insomnia, oversleeping)
- c) Panic attacks

4) *Hyperarousal*

- a) An unrelenting expectation of impending danger
- b) Senses in a continuous state of alert and overdrive
- c) Lowered or exaggerated startle threshold

5) *Intrusion*

- a) Reoccurring flashbacks of the traumatic event
- b) Nightmares

Often, the trauma survivor will have more than one of these responses. For example, substances are often abused in the attempt to self-medicate the symptoms of the other responses (p. 30). A number of these symptoms are experienced with normal stress as well, but, again, the difference between the normal reaction to stressful events and trauma is the intensity of the emotions and symptoms and its ability to take over one's life.

⁸ For a more thorough description of these responses, please see Chapter 2 in Briere and Scott's *Principles of Trauma Therapy: A Guide to Symptoms, Evaluation, and Treatment* (2006).

The Death Penalty as a Traumatic Event

The death penalty can be a traumatic event for a number of people because of its lengthy process and fixation on death and the original crime. Our attention is usually first drawn with the commission of the crime that results in a trial and death sentence. There is little doubt that experiencing or witnessing a violent crime is a traumatic event; likewise, an execution can be traumatic for the prisoners and those who carry out or witness executions. Both events meet Briere and Scott's (2006, 4) criteria of being "extremely upsetting and at least temporarily overwhelm[ing] the individual's internal resources" because they involve seeing or aiding the unnatural and untimely death of a human being.

However, it is essential to note that it is not merely the original crime and execution that are traumatic. The various stages within the death penalty process- the capital trial, appeals process and length of time that the offender is on death row- can be equally damaging, as can life after execution and life after commutation or exoneration. The entire process is cumulative, continuous, sequential, and cyclical. The result, as this paper aims to show, is a traumatized population who, in many cases, may retaliate with more violence: a cycle of trauma deeply connected to a cycle of violence.

To illustrate this cycle, personal accounts of individuals from families of victims, families of offenders, CJS members (including jurors), offenders and witnesses to executions will be examined through this trauma framework to establish the effects of the death penalty process as traumatic for the many people who encounter it. These personal accounts were found in news articles,

autobiographies, edited books of death penalty experiences, and a broader literature review. Many of the stories were gathered during an internship with Amnesty International USA's Program to Abolish the Death Penalty (PADP) in 2007. Articles were also found through daily scanning of death penalty email newsletters during the internship. Personal stories were purposefully chosen from a broad range of sources to illustrate the depth and breadth of traumatic experiences of individuals who come face to face with the death penalty process.

CHAPTER 4: FINDINGS: THE “WALKING WOUNDED”

“I know people, some of the walking wounded, who feel the constant pain and shock and frustration of being caught in the mad loss of their loved one. And others, equally wounded, who live with the imminent threat of execution for their loved ones” (Sheppard, 1995, 61).

Families of the Victim and Offender

While Schlosser (1997, 47) found “a severe trauma like the murder of a loved one [can] induce depression, phobias, changes in personality, and substance abuse,” the past decade has seen little work furthering this connection between trauma and families of murder victims. What is more often forgotten or ignored (or held with disbelief) is that families of the offender sentenced with death can also be traumatized by the death penalty process and the violent loss of their loved one.

The reasons for disbelief seem logical enough: how can the experience of a family who has lost a loved one through murder be the same as the family of the one who murdered him/her? However, as King (2004, 206) uncovered, both of these families go through similar experiences: loss, financial concerns, negative experiences with the criminal justice system, social stigmatization and isolation, stress on the family and physical and emotional problems (insomnia, headaches, stomach-aches, weight gain or loss, alcohol or drug abuse, feelings of betrayal, rage, withdrawal, and hopelessness), all of which are symptomatic of trauma, or exacerbate existing trauma.

The Trauma of Loss and Grief

Both families of the victim and of the death row inmate experience the trauma of losing a loved one through violent and unnatural causes. "Both sides suffer from the initial shock: victims' families are shocked and horrified by the murder itself, inmates' families by the arrest of a loved one for a horrible crime. Each side tries to come to grips with the new reality" (King, 2004, 205). For the victim's family, the loss is unexpected and sudden. For the offender's family, they are informed of the impending death and agonize throughout the wait much like families of terminally ill patients. Both lose their loved one before his/her time and at the hand of another human being. And both grieve through similar processes: "Denial is a common coping mechanism on both sides, followed by anger" (King, 2004, 205). The loss "can take a toll, resulting in anger, depression, and frustration" (Sharp, 2005, 10).

For families of the victims, their traumatic journey begins on the day they find out their loved one was murdered, or in some cases, the day they see it happen. "If a family member actually witnessed the murder, the nightmares and flashbacks often revolve around details of the killing. For other survivors, the moment when they first learned about the murder becomes the traumatic event, relived again and again" (Schlosser, 1997, 48). The day the policeman walks up to their door, the moment they identify their loved one in the morgue is etched in their mind forever and produces inconsolable grief.

As Antoinette Bosco (2001, 13) writes, the day she received the news of her son and daughter-in-law's "brutal murders" was the day she learned first hand that "if the death is caused by murder, there is a collapse of heart and soul that

cannot be described.” Irene Cartwright, whose son was executed, “found herself overcome with lethargy, unable to do anything but sit and think about what happened” (MVFHR, 2006, 5). Misty was 14 when her father was charged with a capital offence; she was 28 when he was executed. Afterwards, Misty suffered from severe depression and attempted suicide near the one-year anniversary of her father’s execution (MVFHR, 2006, 6).

Moreover, listening to the testimonies or seeing the evidence for the first time can be just as real and vivid as seeing the murder in front of you: when Bosco went to pack up her son’s and his wife’s belongings she walked into their bedroom where the murder took place, blood was everywhere (along with the presence of evil, she writes): “When my eye went to the bullethole on the wall, I was suddenly attacked by a coldness and my body started to shake” (2001, 23). The trauma of loss is undeniable: “I found myself screaming, sometimes aloud, sometimes with silent cries tearing at my insides. I tormented myself, wanting to know who was the faceless monster that had brought such permanent unrelenting pain into my family. I wanted to kill him with my own hands. I wanted him dead” (Bosco, 2001, 13).

This need for revenge is a common response to violent crime. When comparing the justice received by victims who went through a court process with those who went through a restorative conferencing process, Strang (2002, 130) found that almost half of the court victims who experienced a violent crime (45%) said they would like to harm their offenders (only 9% of the conference victims, also of a violent crime, stated similar sentiments, a difference which will be

examined later).

According to Jones and Beck (2007a, 285-286), families of death row inmates experience both non-finite loss (where the loss of a loved one proceeds slowly and for an extended period of time) and disenfranchised grief (where the mourners are “denied the ‘right to grieve’ by the larger society”). The families also grieve the loss of their own selves, “several mothers said that they felt like they had been a ‘good mother’ until the crime had occurred” (p. 291).

Overall, the grief experienced by both of these families can be overwhelming beyond that of normal grieving patterns because the loss of the loved one in both circumstances is violent and unnatural. For the families of murdered victims the loss is sudden and unexpected, for families of the offender, the expectation of death is prolonged. For both, the grief can be traumatic.

Families and the Practicalities of Loss

Along with the emotional turmoil that comes with the death penalty process, families of both the offender and the victim also suffer from practicalities that occur from the murder or execution of their loved ones. Both types of death result in unexpected funeral responsibilities and costs (King, 2004, 205). Both violent ends can create a new set of children without a parent (or, in the cases where the executed killed his or her spouse, children with no parents). Both can result in single-parent families, taking away not only a source of emotional support, love and parental guidance, but also an income, leaving a grieving family often little choice but a life of poverty and social welfare.

The loss also changes the structure of each family, “with added responsibilities shifting on to other members” (King, 2004, 205). The stress can result in family and marital problems, sometimes resulting in divorce. The trauma can be exacerbated when family members disagree on the death penalty. As will be mentioned below, some family members do not want the offender to be executed and some do, this can split the family in two. Families of the accused also face a potential chasm between those who wish to support the inmate and those who do not.

The trauma of the death penalty can also affect one’s daily life: “The sense of personal invulnerability that allows someone to lead a normal life -- to leave the house, drive a car, say good-bye to loved ones before a mundane errand, confident of seeing them again -- may be utterly destroyed” (Schlosser, 1997, 48). The lethargy, depression, or physical symptoms can inhibit the survivor’s desire or ability to go to work, to go get groceries, visit with friends or even get out of bed. The impact of this trauma: loss of employment, friends and social support.

Families and the Trauma of the Criminal Justice System

Further, the loss of lives is not the only traumatic event at the hands of the death penalty; instead it is a cumulative process. Families are dragged through the entire death penalty process, whether they choose to witness any of its spectacle or not. Statistically, this process lasts an average of ten years (DPIC, 2008a), a figure that is, in itself, a factor of the traumatization. Some spend more than twenty-five years on death row (15 have done so in Texas, 32 in California);

the longest sentence to date is 34 years (Gary Alvord from Florida). And the focus is always on death and another untimely end. This lengthy process and morbidity can have harmful effects: "A lengthy trial and multiple appeals delay the normal grieving process, prohibiting closure, and subjecting both families to the retelling of traumatic events over and over. Both groups report feeling neglected and abused by the criminal justice system" (King, 2004, 205).

For both families, the course of investigating the original crime and the subsequent trial and appeals process is an event unlike any other. It can either retraumatize the families or can continue to intensify hate and rage by having to relive the initial crime, by being ignored or mistreated by the criminal justice system and its employees, by being denied the capacity to move on from the grief. For example, de Ridder (1997), Herman (2003), and Orth and Maercker (2004) have all investigated the potential retraumatization of the victim when testifying in criminal trials. The potential exists because the adversarial court system is often in conflict with the needs of the traumatized individual, such as the need to tell one's own story in one's own words instead of through directed questions and cross-examinations.

The expectation of help and communication from the criminal justice system during capital cases can also be traumatizing. Families of the victim look to the prosecution to help them find justice and keep them informed. The offenders and their families look to the defence attorney for help and expect someone, the jury, and the lawyer, to believe in their innocence. Instead both often encounter disbelief, denial, discounting, blaming the victim, stigmatization,

and denial of assistance from the CJS and the people that represent it (Matsakis, 1996, 90-91).

That lack of answers tormented me and my family, adding to the shattered peace that had taken over our lives. (Bosco, 2001, 20)

According to Matsakis (p. 90), “when the people, institutions, caregivings, and others to whom the trauma survivor turns for emotional, legal... or other assistance” react in this way, the survivor can experience secondary wounding.

Families and the Trauma of Social Isolation

Both families face the reaction of their communities and society to the murder and death penalty process, a reaction that can deepen their trauma. King (2004, 205) states that “both groups feel stigmatized and powerless... Both groups may feel isolated, as though no one understands what they are going through.” Families of death row inmates and the executed often become social pariahs, shunned by society for their connection to the offender. As Jones and Beck (2007a, 282) state: “perhaps no greater stigma exists than that which accompanies the death of a loved one due to execution.”

This stigmatization can be a form of secondary wounding, especially when community support is needed (Matsakis, 1996, 91). Misty remembers the days she walked into the courtroom during her father’s trial: “People gave us dirty looks, just because we belonged to our father. You wonder, what did we as kids do to deserve this... People look at it like, the whole family must be bad” (MVFHR, 2006, 6).

A reason why the community reacts like this is explained by Jones and

Beck (2007a, 283): “In order to support the death of an individual, the prosecution and the media must make the individual appear subhuman and monstrous.” However, the individual’s family and friends hear these treatments of their loved one and either experience disbelief, hurt, and anger with the media and prosecution, or believe the stories and experience dissonance with their previous views and feelings for the offender. Parents in particular may also experience feelings of guilt and some form of responsibility for how the offender ‘turned out’. Further, as Sharp (2005, 14) points out: “some relatives, particularly parents of the accused, find themselves vilified in the media when the offender’s life is examined for mitigating factors.”

Families of the victim can also be ostracized, especially if they do not support the death penalty as other family and community members might think they should. “A victim who is opposed to this kind of terminal solution [the death penalty] is sometimes seen as a traitor” (Bosco, 2001, 14). The inability to understand how families of victims could be opposed to the death penalty can result in hurtful comments and actions:

When I tried to present a different position [rather than death penalty as the only form of justice for survivors], forgiveness and non-violent punishment, a few [of the people in her Survivors of Homicide support group] would be confused by me, not able to understand how I could want anything but torture and death for the killer of my kids. Their reactions made me painfully uncomfortable... one member reacted to my anti-death penalty position with hostility, berating me for ‘judging’ her and the others, telling me I thought I was better, holier than they were. (Bosco, 2001, 47)

This path can both exacerbate trauma and prevent healing. According to Herman (1997), social support is an important factor in whether or not an individual will develop traumatic symptoms, if the individual has a strong social

support system, he or she is less likely to have the event overwhelm him/her; she also found it plays a large role in helping to heal the trauma after it occurs. Therefore, for these family members of the victim and offender, the lack of understanding and acceptance of differing viewpoints on the death penalty can lead to social isolation, trauma and a hindrance to healing.

Trauma That Never Dies: Children and Generational Trauma

The cycle, or web of trauma, does not stop with the many individuals traumatized during the death penalty process. Instead, it reaches out to the following generations. Known as intergenerational trauma or historical trauma, the children growing up in the death penalty process can also experience lasting emotional and psychological effects that manifest in myriad outcomes.

While there are no quantitative studies on the children of death row inmates and the effects thereof, studies on the children of the general prison population have relevant findings: as of 2005, “more than 1.5 million minor children have an incarcerated parent” (Sharp, 2005, 14). Research shows that children of prisoners often end up in prison themselves: for example, a literature review by Jones and Beck (2007b, 193) found that:

Children of incarcerated parents are five times more likely to be incarcerated than children whose parent was not incarcerated, and at a young age, they often display a number of warning signs for criminal behavior including aggressive, hostile or anti-social behavior; engagement in drugs and alcohol; running away; and school truancy.

Sharp (2005) reports that “depression, school problems and aggressive behaviour” are common for children with an incarcerated parent. King adds that the children of the families of victims and death row inmates “are traumatized,

filled with anger, resentment, confusion, and feelings of abandonment” (King, 2005, 206).

Sometimes, the trauma suffered by the children of murdered victims is twofold: first they lose one parent to a violent crime, and second their other parent is taken away from them, accused of murdering the first. Sam Reese Sheppard (1995, 59), the son of the infamous Dr. Sheppard case (upon which the TV series and Harrison Ford movie “The Fugitive” was based), explains thus: “At the age of seven I suffered the trauma of the murder of my pregnant mother... Five and one half months later, the state of Ohio asked a jury to condemn my father to death. First the trauma, then the terrorism, from violent death to the threat of more violent death.” Sheppard’s experience illustrates how the death penalty can continue the cycle of trauma.

The symptoms in each of these categories- grief, loss, feeling isolated, being made unwelcome- can contribute to nightmares, anxiety, depression, suicide, aggression and so on. These are symptoms of trauma. Kilpatrick, the director of the National Crime Victims Research and Treatment Center “found that about a quarter of the people who lose an immediate family member to murder subsequently develop full-blown PTSD. About half develop several symptoms of PTSD. About five percent of the survivors ... were still suffering from full-blown PTSD more than ten years after the murder, and 22 percent were still experiencing one or more of its symptoms” (in Schlosser, 1997, 48). The death penalty process takes this trauma and compounds it for the family. It also places the family of the offender in the line of traumatic fire. Sheppard (1995, 60-

61) describes the carnage of the death penalty in his family:

The trauma of murder, the subsequent terrorism of the threat of the death penalty and the following years of prison visitation and further court actions blew our family apart. My mother died by murder. My father served ten years in prison for a crime he didn't commit. Later exonerated, he could not survive in a society that vilified him. My paternal grandmother committed suicide. My paternal grandfather died of massive gastric ulcers soon after the first courtroom battle. My maternal grandmother committed suicide. At least three members of the family drank themselves to death, and one died of drugs. The remaining family live apart throughout the United States. Most are unable or unwilling to speak of this tragedy.

The prevalence of death penalty related traumatic symptoms within this one family is overwhelming.

If families of the victims suffer lethargy, social isolation, substance abuse, suicidality, and in some cases, the wrongful conviction and execution of another of their families, they are not receiving the justice promised by capital punishment.

The Criminal Justice System Members

The professionals and observers involved in death penalty cases also face traumatic situations at death's hand. For the families, it is a lengthy process that begins with the crime and continues through the trial, appeals, death row and after execution. For the people engaged in the legal and prison systems, the continuation of traumatic events takes a different route. They may only be involved in a particular capital case for a portion of the process (such as judges during the trial or prison guards during the death row phase); however, they are often involved in more than one case throughout their careers. Furthermore, as argued earlier, trauma and trauma symptoms are not confined to a box of time

where individuals are only traumatized during their involvement with the event. Instead, it is experienced as a continuum of trauma and symptoms. Lawyers may only spend a few weeks in trial with traumatic details and evidence and heartbreaking or gruesome stories, however, their preparation begins long before, and the nightmares may continue long after. Prison guards may only enter the picture when the offender arrives on death row, but they may spend an average of ten years with each inmate and, depending on the state, can have a vast number of inmates in their care at the same time and over the length of their career. The traumas compound upon each other. The following is an illustrative examination of the CJS representatives traumatized during the capital trial and during death row.

On Trial: Lawyers, Judges, and Juries (Oh My!)

Prosecutors, defence attorneys, judges and juries are all susceptible to trauma during capital cases (during trial, sentences and appeals). The prosecutor, judge and jury all make decisions about whether another human should live or die. Brown, a former prosecutor says: "Advocating and arguing for the death penalty is one of the most difficult things that I have ever had to do" (Merwin and Brown, 1992, A8). Defence attorneys have the enormous pressure of trying to sway the judge or jury to the side of life. All may come to know the defendant in some capacity, especially the defence attorney, who may grieve his/her death sentence and execution. They are also faced with gruelling evidence and emotional testimonies about the often disturbing and brutal things

one human can do to another. James Merwin, a criminal defence attorney reports:

When I review the facts of the prosecution's case, I am frequently repulsed by the gratuitousness and the ugliness of the violence... As I prepare my client's case for trial, I become preoccupied; I lose sleep; I become unusually irritable and even reclusive; I become fatigued, frustrated and sometimes even depressed ... During the trial, all the pressures I feel increase and my feelings are magnified: My highs get higher and my lows get lower. And when things go badly, I feel it was my fault (Merwin and Brown, 1992, A8).

Merwin's descriptions of his emotional and physical responses are all symptoms of trauma; for example, higher and lower intensities of emotions are typical of people who have been traumatized, as are sleep disturbance, irritability and avoidance (reclusive, as Merwin called it) (Briere and Scott, 2006; Herman, 1997).

The process can also be a traumatic roller coast for capital juries, twelve random members of society, who are asked to take the life of a stranger into their own hands and determine whether he or she should die:

I was crying, driving home from the trial. It caused tension between my husband, myself and my friends. (Former capital juror, in Fleury-Steiner, 2004, 1)

We were so upset after imposing death, we were still standing in the parking lot crying for about 30 minutes. Six months passed before I stopped thinking about it constantly. (Former capital juror, in Vandiver, 1995, 75)

These exemplars are indicative of overwhelming emotions and the impact the death penalty trial had on their lives. The weight of this responsibility is enormous and traumatic for the jury members, lawyers and judges.

In Prison: Till Death do Us Part

Prison staff and others in this final stage of death also face trauma. Carrier (2007) reports for *Agence France Presse* that “from the chaplain who shares the condemned prisoner’s final hours to the guard who attaches the needles and the prison director who orders the fatal injection: the relentless march of ... executions is taking a heavy toll.” There from the moment the offenders enter death row until the second the life is forced out of them, prison guards, wardens and chaplains often spend more time each day (or five out of seven days) with the condemned than they do with their own families. Just as the families of the offenders grieve throughout the anticipated death of their loved one, these personnel can mourn the prisoners’ looming death as well.

The added dimension to their experience is that it does not end with one execution. Instead, depending on the state (California currently has 669 inmates on death row, whereas Colorado has one (DPIC, 2008a)), the staff may encounter a steady stream of inmates throughout their career. Death Row Chaplain Carroll Picket was with 95 death row inmates during the final hours of their executions. He says:

It takes a toll on you, and you never know what the toll is. I had a triple bypass two years after I retired... [The death row guards] were good officers but this experience changed their lives. Of course, they all quit after a while. Some of them got sick, had a nervous breakdown, a lot of them went on to work in a private prison, where they wouldn’t have to take part in executions. (Carrier, 2007, np)

After studying the stress of the job for death row guards, Osofsky and Osofsky (2002, 368) found: “As would be expected from the nature of their jobs in a maximum-security prison, the officers reported, in both the interviews and

CAPS 1 surveys, high incidences of exposure to traumatic events including assaults, injury, and death.” The authors found little clinical depression in the staff, but explained this lack using Milgram’s infamous work: the ability of the ‘normal’ human being to circumvent responsibility, guilt and even trauma by believing their role in horrendous activities are limited and justified because they are following the orders of a superior, or in the case of executions, the rule of law. Regardless, there were other signs of trauma. Osofsky and Osofsky (2002, 367) found, that though many staff had only been around for just one or two actual executions:

Officers commonly described powerful affective experiences of worry, guilt, and at times, varying degrees of transient depressive feelings related to their complicity and role in the killing of another human being. They frequently talked about their getting to know the inmates as people, the difficulties they experience, and how their views become more complex over time.

The prison wardens are also confronted with the potential for trauma. They are faced with a predicament similar to that of the prosecutor and jury, who each face the responsibility of someone’s death. However, whereas judges, juries and the prosecution all make decisions on whether the person *should* die, the warden sets the *actual* machinery of death into action, a responsibility that has led one warden to refer to himself as “an agent of wrath” (Osofsky and Osofsky, 2002, 362). Another former warden, Jim Willett, explains: “You see that person lie there, perfectly healthy, and you know that within minutes he’s gonna be dead, and he’s gonna be dead because I’ll give the signal to kill him. That just doesn’t happen in real life” (Carrier, 2007, np).

The effect of such responsibility is potent. Cabana (1995, 163), a former warden of the Mississippi State Penitentiary, says he “suffered the anguish and torture of carrying out the execution of other human beings”:

It [playing the warden’s role in executions] is a journey, frankly, that, much like my experiences as a veteran of the Vietnam conflict, I have never returned from, and probably never will. (Cabana, 1995, 171)

Perhaps the most obvious staff persons likely to be traumatized by the death penalty are the actual executioners. Although there are various methods in place to lower a person’s level of responsibility, they are still aware of their role and still face its psychological consequences:

I worried about my relation to God. My mother warned me that I would go to hell if I took part in an execution. I had difficulty sleeping and concentrating the days before and after the execution.” Eventually he gave up his role and sought psychiatric treatment. During the course of lethal injections completed at Angola there have been four Executioners, a fact related to the stress. (A former executioner, in Osofsky and Osofsky, 2002, 364)

It is apparent that those involved in the death penalty process as either employees or representatives of the criminal justice system are exposed to a traumatic event. Though these individuals enter and exit the process during a particular stage (the trial, imprisonment), they may endure several separate cases (as mentioned above, Death Row Chaplain Pickett was there for 95 executions) and, therefore, experience cumulative trauma. Regardless of the number, these individuals suffer a variety of symptoms, which adversely affect their lives.

Perhaps it is somewhat expected (though not acceptable) for the families of the victim and offender to experience trauma through the death penalty process; they are intricately linked to the process, emotionally involved in a way the other

process survivors can not be- it is their loved ones who suffer violent death. However, the fact that the state's own employees and juries of randomly selected members of society are also subjected to state-sanctioned trauma is a compelling finding- one that continues the illustration that if the death penalty process is producing mental and physical suffering for so many members of society, then, again, it is not providing safety or protection.

The Offenders

It has been argued by many that the death penalty amounts to cruel and unusual punishment for the offender (Amnesty International, 1989). It is, at the very least, traumatic. From the moment the decision has been made to seek the death penalty, the offender is faced with his or her own mortality and impending death in a way that only terminally ill patients experience. As will be discussed below, this is compounded by the trial and sentencing process, the circumstances of death row, and finally, the execution itself. For 'offenders' who are actually innocent of the crimes for which they have been sentenced to die, the death penalty process is especially traumatic. As is life after death row for those who have been exonerated.

Trauma of Trial and Appeals

Just as the families of the victim and offender and various trial personnel can be emotionally damaged by the lengthy procedure and disturbing evidence of a capital trial and penalty phase, so can the offender. In some cases, the murder happened spontaneously, either in a moment of rage, desperation or self-

defence. In these cases, as well as for those that occur less impulsively, the murderer can be traumatized by his or her own actions, unable to believe they were capable to do what they did and faced with a stream of self-loathing, nightmares, and questions about why they did it. The trial and appeals process forces the offender to relive these moments and answer these questions with little sympathy, compassion or understanding.

The trial and appeals processes have sets of legalistic rules and procedures that prevent the offender from telling his/her side of the story in his/her own words and completeness. In most cases, they are prohibited from saying anything under the guise of protection against self-incrimination. As already discussed in regards to victim testimony during trials, this silencing of voice and loss of control are just two of the many factors that can make an event traumatic (de Ridder, 1997; Herman, 2003; Orth and Maercker, 2004).

Another characteristic of traumatic events is “the presence of life threat” (Briere and Scott, 16). An undeniable presence in capital trials and appeals, to be sure:

The cruelty of the death penalty is not restricted to the actual moment of execution. Its unique horror ... is that, from the moment the sentence is pronounced, the prisoner is forced to contemplate the prospect of being taken away to be put to death at an appointed time. During each stage of the appeals process, the prisoner may suffer an agonizing conflict between the desire to live in hope and the need to prepare for possible imminent death. This conflict can make some prisoners so despondent that they choose to drop their appeals and submit to execution as if it were a form of suicide” (Amnesty International, 1989, 61).

The average ten years that a prisoner spends on death row is due, in large part, to the appeals process. While the process was established as a

check and balance system to ensure no innocents are executed and that the rule of law is followed, the length of anticipating one's own death has serious repercussions. As the United Nations Special Rapporteur on Torture reported: "[f] persons who have been sentenced to death have to wait for long periods before they know if their sentence will be carried out or not... if the uncertainty ... lasts several years ... the psychological effects may be equated with severe mental suffering, often resulting in serious physical complaints" (1988, in Amnesty International, 1989, 62). Again, it must be asked, is this justice? Revenge, yes; retribution, maybe; but justice, no.

Trauma of Death Row

Death row is not a nice place to live. It is not meant to be. After all, it is punishment. However, death row is the extremity of the controversial treatment and living conditions of prisoners in the USA. Former death row inmate Sonja (Sunny) Jacobs (1995, 159) describes her experience: "I was wrenched from my family, from my children, from my grandchildren, from my friends, from my work that I loved, and placed in an isolation cell, the size of a shoe-box, with no sunlight, no companionship, and no work for nearly six years." This is psychological, emotional and social warfare against the prisoners and, by extension, their families and loved ones.

According to Johnson (1981, 4), "death row is barren and uninviting. The death row inmate must contend with a segregated environment marked by immobility, reduced stimulation, and the prospect of harassment by staff." Kupers (2007, 70) describes death row at Terrell Unit (Texas) as "concrete,

cinder block, and stainless steel... and there are lights on at all times.” The only windows are narrow, horizontal and high up, the coveted windows have views of the parking lot, the other windows offer a glimpse of a concrete wall. Prisoners are single-celled and spend close to twenty-four hours a day within it and “are permitted almost no human contact, except with officers” (Kupers, 2007, 71). In other words, the prisoners are “subjected to extremes of noise and sleep deprivation”, severe prohibition of social contact, and any opportunity for self-expression and almost total idleness (71). And this goes on for an average of ten years for death row inmates, sometimes for more than twenty.

The results of these conditions are inevitable and known. Kupers (2007, 75-76) exclaims:

It has been known for as long as solitary confinement has been practiced that human beings suffer a great deal of pain and mental deterioration when they remain in solitary confinement for a significant length of time. Human beings require social interaction and productive activities to establish and sustain a sense of identity, self-worth, and well-being, as well as to maintain a grasp on reality... Under these extreme conditions, symptoms begin to emerge.

For instance, Grassian (1983, in Kupers, 2007, 77) found that prisoners who are confined under the conditions found in death row and supermax prisons (also known as ‘security housing units’, or SHUs), for lengthy periods develop the following symptoms: “massive, free-floating anxiety; hyper-responsiveness including startle; perceptual distortions; derealization experiences; difficulty with concentration and memory; acute confusional states; ... [and] sudden, violent destructive, or self-mutilatory outbursts...” Termed ‘SHU Syndrome’, these are

symptoms of psychological trauma and are caused by a state-inflicted process (Grassian, 1983, in Kupers, 2007, 77).

Not all death rows are as extreme as Terrell; some allow more recreation time and other activities. Some even allow televisions, much to the public's chagrin. Some are less strict about prisoners engaging with each other. Social contact is also available to some extent in the context of visits. However, the visits and the rules surrounding them can add to the traumatic landscape. In some cases, the procedure of visits, when they do happen, are seen as a purposeful attempt by the prison at diminishing social support. According to Mumia Abu-Jamal (1991, 996-998)⁹:

Visits are an exercise in humiliation. In Pennsylvania, as in many other death states, non-contact visits are the rule. It is not just a security rule; it is a policy and structure which attempts to sever emotional connection by denying physical connection between the visitor and the inmate... Thus a prisoner is as isolated psychologically as he is temporally and spatially. By state action, he becomes 'dead' to those who know and love him, and therefore, dead to himself.

As mentioned above, lack of social contact is a factor that can have tremendous psychological effects on death row inmates. Social support- the knowledge that there are people out there, especially loved ones and family, who care for and believe in the prisoner- is a large factor in whether or not an event will have traumatic effects. Williams and Poijula (2002, 6) note that "the absence of social support" can increase the risk of posttraumatic stress disorder.

⁹ Mumia Abu-Jamal is perhaps one of the most famous death penalty cases in the USA. A journalist and former Black Panther activist, he was sentenced to death in 1982 for the shooting death of a police officer in Pennsylvania. However, there are a number of circumstances that raise doubts about his guilt and the way the case was handled.

Trauma of Execution

Death row inmates experience the traumatic wait for death for an average of ten years. The agony is terminated, along with the prisoner, with the trauma of a death unnatural. It may seem strange or even unuseful to discuss the trauma of the death itself, after all, regardless of the pain the offender underwent during the execution, he or she is quickly dead and therefore can not suffer the after-effects of such trauma, so what does it matter? It matters because the pain the executed can be subjected to is often excruciating and the United States professes itself to be a nation based on human rights, which treats its citizens with respect and dignity, *all* citizens. It matters because of changing standards of decency – we recognize that subjecting people to torture is wrong, even if done to kill. This is why the method of execution has changed from the barbaric drawing and quartering through the ages to lethal injection.

However, the killing of one human by another, even through state laws, will never be a completely painless event. It is traumatic to die before your time, to know the exact date and minute, to get up – without resistance (usually) - on a gurney or into a chair that you know will help bring your end and let a number of people kill you.

Then, there are the executions that go horribly wrong. Reports of 'botched' executions describe scenarios that would repulse the most hardened viewer; the pain felt by the offender is nothing less than traumatic. Radelet (2007, np) describes several incidents where, during electrocution, the heads and legs of the person caught fire, executions took two or three sets of electric jolts and over 17 minutes to complete, reports of sizzling sounds, smoke, sparks and the smell

of burning flesh, and prisoners gasping for breath. He also chronicles several lethal injections where the staff members could not find veins, so took numerous jabs and over 45 minutes to an hour to insert the needles (at least one prisoner, a drug addict, helped the technicians find his own vein for injection), syringes coming out of the arm and spraying the chemicals all over the room, violent reactions to the lethal chemicals such as “heaving chest, gasping, choking, back arching off the gurney, etc.” and other botched executions that resulted in prisoners groaning in pain, “violently gagging.” Autopsies have found needles inserted the wrong way (pointing away from the heart, against the flow of blood) pushed all the way through the vein into the soft tissue, chemical burns over a foot long, and other signs of obvious pain (Radelet, 2007, np).

Trauma of Innocence

Since 1973, 128 individuals have been exonerated from death row after spending years in prison for crimes they did not commit (DPIC, 2008c). Having already established that life on death row is traumatic, it is hard to imagine the emotional and psychological damage individuals endure when they are innocent of the crimes society has condemned them to death for. Not only do they lose their life, their family and friends, their dignity, they do so as innocents. The trauma is evident: Sonia ‘Sunny’ Jacobs spent 21 years in prison, five of them on death row for a crime she did not commit:

When this all began, I was a mother; I was a wife; and I was a daughter. By the time it was over, I was a grandmother. My children were grown, and I could no longer nurture them. I was an orphan because my parents had died. None of these things can be replaced (Jacobs, 1995, 153).

She was also a widow; her husband had also been sentenced to death for the same crime. He was also innocent. He was executed.

Kirk Bloodsworth was exonerated in 1993. He still has nightmares where he is in the process of being executed; he has suffered depression, is claustrophobic and has anxiety attacks when he is alone: the “psychological reverberations of life spent on death row” (Stack, 2006, 169-171). And despite his exoneration through DNA evidence, his community had not welcomed him back: his car was graffitied with “child killer” and he received a phone message of “They never should have let you out” (p. 171). The innocent also lose their faith in the world and the institutions that they believed would first protect them from such crimes as they were convicted of, then would save them from the wrongful accusations. Herman (1997) and Bloom (1997) both affirm this loss of faith in the world and justice system as a result of trauma.

Past Trauma

So far, this paper has discussed trauma and the death penalty as though it begins with the crime that ignited the death penalty process. However, trauma is often present long before the crime. The offenders themselves have frequently been a victim of violence and trauma. According to Clark (1995, 45), “95 percent of the people convicted of murder in the first degree in a test state had been themselves victims of childhood abuse.” While this does not excuse their act, it can help explain it, and why the death penalty, as another traumatic event for a number of people, should be abolished. The previous trauma of the offender contributes to his or her violent crime, he or she is sentenced to death, the

process of which further traumatizes a mass of people who may then exhibit aggressive and violent outbursts and the cycle begins again.

Witnessing Death

Though the people in this category often fall into one or more of the other categories (especially family members of the victim or accused), the witnesses to the execution are a unique group. Though they choose to watch the execution for their own reasons (to support the inmate in his/her final moments and to ensure he/she does not die alone, or to support the memory of the victim and find closure) or come because of a duty (such as journalists to write the story), these individuals are also susceptible to trauma. They have come to watch a human being be put to death. It is a macabre event under normal circumstances; it is gruesome when botched, either way can cause some witnesses great distress and traumatic symptoms:

Stephen McCoy (May 24, 1989. Texas. Lethal Injection) “had such a violent physical reaction to the drugs ... that one of the witnesses (male) fainted, crashing into and knocking over another witness.” (Radelet, 2007)

Donald Eugene Harding (April 6, 1992. Arizona. Asphyxiation) “During the execution, Harding thrashed and struggled violently against the restraining straps. ...One reporter who witnessed the execution suffered from insomnia and assorted illnesses for several weeks; two others were “walking vegetables” for several days.” (Radelet, 2007)

In just one process- one violent crime leading to one violent execution- so many people are traumatized: the families, the offender, the police, prosecution, defence attorneys, twelve jury members, judges, prison guards, chaplains, wardens, journalists and more. Ross (2006, 180) envisions a ‘whirlpool of crime,’ “where great numbers of people are ‘pulled into’ the pain initiated by the original

crime. Once there, their many relationships become distorted by that pain, and new pain inevitably follows." As illustrated in this study, the death penalty system has this whirlpool effect: 1,099 people have been executed to date in the USA; thousands more are on death row. The pain and trauma of the original crimes are exacerbated by the death penalty for the countless people- families, lawyers, prison guards, jury members, the offender- who are 'pulled into' this process, this whirlpool. The effect on their relationships creates more pain and trauma. And trauma can lead to more violence and more trauma: a world of hurt, a world of 'walking wounded'.

CHAPTER 5: A NEW PATTERN

It could be argued that the best way to stop this whirlpool of trauma would be to prevent the murders from occurring in the first place. If these lives were not lost, the families would not be traumatized (and most importantly would have their loved one still), there would be no offender, and therefore no death penalty, and therefore no event to traumatize all of these people. However, the fact remains that there are other traumas out there, other events and circumstances that contribute to the possibility of murders: child and spousal abuse; sexual, physical and emotional abuse; mental disorders; poverty; crimes of passion; gang-related issues; terrorism; and trauma caused by war¹⁰ to name but a few. Until these issues cease to exist, it is unlikely that murders in their entirety will cease.

That said, the world could prevent a great deal of trauma, and therefore a large number of future violent crimes, by abolishing the death penalty and breaking this particular cycle of violence and trauma. All of the previous troublesome data- a lack of deterrence, the injustice of the sentence, the higher costs which deflect spending from more helpful programs- and this emerging data of a whirlpool of trauma illustrates the urgent need to create a new pattern, one where the data will not be as troublesome. And really, the pattern is not

¹⁰The number of soldiers coming home from the Iraq and Afghanistan wars alone, and killing their wives and others, is astonishing. Sontag and Alvarez (January 13, 2008) found 121 such cases.

'new'. There are plenty of alternative patterns in countries and US states that do not have the death penalty, including life without parole or life sentences. It would be the rare person who would argue that people who commit crimes that are now considered capital offences in the United States should be left to roam freely, unpunished or unaccountable for their actions. And while death penalty supporters may argue that these alternatives are not capable of deterrence, "there is no indication that methods used in these societies are less effective..." than capital punishment (Amnesty International, 1989, 24).

In fact, there is substantial evidence to suggest alternative programs are more effective at reducing the potential for future crime. For example, a randomized controlled trial showed that the number of victims who underwent a court process are significantly more likely to retain the desire for vengeance than those victims who underwent a restorative process (45% compared with 7%, respectively) (Strang, 2002, 130). Further, the restorative programs have been shown to lower posttraumatic symptoms (Angel, 2005), thereby helping prevent future violence. In other words, punishment does not need to traumatize the masses in order for justice to be done.

Of course, alternative programs are not a panacea. Families of victims or offenders may not want to face the other party in a restorative process. Communities may feel RJ is not appropriate for capital offences. Life without parole sentences are also controversial. They are in many ways just as irrevocable as the death penalty. They leave the prisoner with no hope and no opportunity for the rehabilitated prisoner to rejoin society. Further, the criminal

justice system as a whole has racial, economic and geographical biases, and that will always manifest in trials and sentences, regardless of whether a death or life sentence. Moreover, prosecutorial differences are found in all sorts of cases, some prosecutors are harsher on crime than others, some prefer out of court settlements. As long as there is individual discretion, there will be differences. Eliminating the death penalty will not make these elements vanish.

However, abolishing the death penalty will eliminate irrevocable errors based on those biases, such as the potential for executing an innocent. Eliminating the death penalty will enable millions of dollars to be reallocated to other programs and services that can break the cycle and prevent murders and crimes from occurring (though not all): access to education, poverty reduction, more police and more training for them can all have an effect on murder and crime rates.

Eliminating the death penalty will end this particular cycle of violence and trauma. This is not to say that any of the parties may not be traumatized to some degree even without the death penalty. The family of the victim may still be traumatized by the violent loss of their loved one. The family of the offender (and the offender him/herself) may be traumatized by the knowledge that the offender committed such a crime. The juries, lawyers, judges, witnesses and families, will still be faced by the potentially gruesome evidence and emotional testimonies.

However, abolishing the death penalty lessens the depth and breadth of the despair. Yes, there is a horrible crime and a trial and sentence to endure, but it will not end in another violent death. Yes, spouses and parents are separated

from their families, incomes are lost, the stress placed on all the families is immense, but there is not another death. Spouses and children of the offender can visit their loved one, they can correspond through mail, sometimes even with web cams, there is no more death. Families of victims are not forced to endure ten plus years of emotional attachment to the offender- they will always love and miss the victim, they may or may not 'move on' from the loss, but they do not have to fixate on death and appeals and when will it end. Prosecutors, judges and juries do not have to shoulder the oppressive responsibility of deciding whether another human should lose his/her life unnaturally.

The death penalty adds an enormous weight to the lives of all these people. It furthers the continuum of traumatic events surrounding a murder or other violent crime. It lengthens the process and compounds trauma, resulting in a large cross-section of people experiencing nightmares, anxiety, depression, aggression, suicidality and alcohol and drug abuse. It is a whirlpool of trauma that can be abated.

Therefore, it is hoped that Amnesty International and other abolitionists can use the trauma lens established herein to further support the abolition of the death penalty. Amnesty International could use this study as a preliminary basis for future research to highlight the devastation caused by death penalty trauma and build a campaign around the findings. For example, they could hold panel discussions with individuals who have been traumatized through the death penalty and trauma experts. They could create postcards for members and the general public to send to their legislators explaining death penalty trauma and the

connection to future violence and asking for abolition. They can also use the media to pick up human-interest stories concerning the death penalty and the trauma it creates. Such a campaign could inform the general public about the negative effects of the death penalty. Knowing that capital punishment can do more harm and create more violence than it can deter or provide justice and safety would hopefully change public support and therefore provide momentum for legislators to abolish the death penalty.

Future Research

Using a trauma lens for the death penalty opens up a wide area of research. Currently, there are studies that look at the impact of the death penalty on the people involved in it, yet very few have named it trauma. They discuss the symptoms, they say it has psychological impacts, but none have used trauma theory as the base. It is recommended that this paper be used as a conceptual foundation for future research. Both qualitative and quantitative studies are needed to examine whether, and how deeply, the death penalty process traumatizes those directly and indirectly involved. For instance, while this study shows that people have experienced numerous and serious traumatic symptoms, the lack of original data inhibits its ability to investigate the length and intensity of these symptoms; how long do the symptoms last after the death penalty process ends? Are the symptoms severe enough that they qualify as a trauma disorder, or are they within the expected levels of a response to a tragic (but not traumatic) event?

This study also can not address the prevalence of trauma in this population;

how many death penalty process survivors experience traumatic grief as compared to normal levels of grief, how many are depressed or suicidal and how many are able to cope? What are the characteristic differences between these groups (social support, faith, age)?

Moreover, while this paper argues that unhealed trauma can lead to future violence, it lacks the data to quantitatively establish this link. Future research could take this study further by comparing the future violent and criminal behaviour of death penalty process survivors with a control group to determine if a significant number of death penalty survivors become involved in violent or other criminal behaviour as a result of their death penalty experience.

And finally, the data available for this study involved separate stories from each population to illustrate the wide net of trauma that the death penalty casts. However, it would also be interesting to establish the net surrounding individual cases by examining a small sample of death penalty cases to determine how many of the individuals surrounding each one had resulting traumatic symptoms. Is it only those directly linked with the death penalty process that become traumatized, or does the trauma seep into future generations yet to be born? Do friends of the survivors experience vicarious trauma? Does geography play a role where those closely related but far enough away from the trials and media limit the trauma experienced? The investigation of these topics can further the understanding of the scope of death penalty trauma and, if the foundation presented in this paper is found to be accurate, the evidence can be forwarded to the public and legislators to support the move for abolition.

CHAPTER 6: CONCLUSION

The death penalty has always been controversial and it is easy to believe it always will be, even when the world abolishes it. The world is well on its way to doing so: the United Nations has already passed a resolution for a universal moratorium on the death penalty (United Nations, 2007). One hundred and thirty-five countries are considered abolitionist (Amnesty International, 2007a). Humanity is a constantly evolving standard of decency, we've moved from standards of impalement and disembowelment to the less cruel lethal injections and we are ready for the next step. The day will come when the death penalty, in its entirety, is an affront to our standards of decency as well.

To date, Amnesty International and other abolitionists are appealing to those changing standards by highlighting the many fallacies of this ultimate punishment. They argue it is arbitrary and capricious and can result in the execution of innocents; it does not deter crime and costs substantially more than other alternatives, thereby diverting funds from programs and services that can better lives and truly deter crime; and they argue that the death penalty continues the cycle of violence.

Van Ness and Strong (2006, 4-5) said, when faced with troublesome data, we must either ignore the data or find a new pattern. For the most part, the troublesome data surrounding the death penalty has been ignored or explained away; however, the world and the United States are finding it increasingly difficult

to look the other way. Internationally, more countries are abolishing the death penalty than before, and several states in the USA have either recently abolished or have legislative plans to abolish the death penalty in their state. Further, though still strong, public support for the death penalty in the USA is declining, especially when given the option of life without parole.

This paper, by using illustrative examples of the traumatic effects of capital punishment on the population of individuals who encounter its process, provides further evidence that the death penalty should be abolished. The findings indicate that the death penalty is a traumatic event, likely to cause more harm and future violence than it is claimed to prevent. As Herman (1997, 33) states: “unlike common misfortunes, traumatic events generally involve threats to life or bodily integrity, or a close personal encounter with violence and death.” The entire process of the death penalty involves a ‘close, personal encounter’ with violent death for all who are involved in it: the families, the offender, the criminal justice system employees, and those who witness the actual execution.

It is, however, important to acknowledge that not *every* individual who encounters the death penalty machinery will be traumatized by it. Trauma is a very particularized experience. It depends largely on the individual's response to the event based on the characteristics of the individual, the event and the aftermath. However, the death penalty has traumatized many, and will continue to traumatize many more until it no longer exists because it is a long and arduous procedure that forces a morose preoccupation with death. It is traumatic because it is a process that fosters contempt and an us vs. them mentality,

resulting in the ostracization of the accused and his/her family and friends (especially if they support the offender), a side effect that many family members of the victim also experience. The effects of the trauma include, but are not limited to: traumatic grief, depression, withdrawal from normal activities including work and socialization, hyperarousal, aggression, drug and alcohol abuse, and suicide. The result of all these symptoms can lead to a breeding ground for future violence.

It is argued here that because the death penalty traumatizes so many people and that trauma can lead to future violence, then the death penalty does not deter crime, it facilitates it; it can not provide safety, but diminishes it by adding more threats of violence; it can not protect the state's citizens if it is harming them; and it does not illustrate society's abhorrence of violence, it shows a reliance on and acceptance of violence. It unequivocally demonstrates that the state cannot and does not want to take the time to address the root of violence, nor does it consider all human life as valuable. If the state is so willing to use violence, if it does not value human life, if it is not concerned with the trauma it causes, why should the individual citizen?

Eliminating the death penalty and establishing a system that heals the original trauma, or at least curbs future trauma, can help curtail this cycle of violence and trauma whose by-product is not justice, deterrence, safety, nor protection, but an army of 'walking wounded.'

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