

Good morning. My name is Pamela Grosh. I am the program director of Victim/Witness Services in the Office of the District Attorney in Lancaster County. I am speaking today as a representative of the Crime Victim Alliance of Pennsylvania (CVAP), which is a group of advocates, survivors and human service providers from across the Commonwealth.

I have been a victim advocate for twenty six years. During that time, all of the individuals currently awaiting execution from Lancaster County were tried. None of the cases that have received the death penalty are approaching a resolution. Three are still in the post-conviction relief phase. Three are in the beginning stages of their federal appeals.

Victim	Murdered on	Defendant	Sentenced to death	Warrants Signed
Janice Williams	1-5-1987	Orlando Baez	3-26-1993	3-15-1999 10-20-1999
Daryl Martin	11-3-1996	Francis Harris	10-9-1997	3-15-2004
Angelina Taylor	5-14-2000	Tedor Davido	1-3-2002	4-11-2006
Terry and Lucy Smith	9-6-2001	Landon May	1-9-2003	3-1-2007
Ray Diener	5-2-2007	Abraham Sanchez	3-30-2009	1-9-2013
Cornell Stewart	5-7-2010	Jakeem Towles	6-11-2012	

Three individuals have been removed from death row during that period. Each was resentenced to life in prison because of a procedural defect in the case. In two of the cases, the families faced the agonizing decision of holding another sentencing hearing and decided to agree to a life sentence.

Homicide victims are all different. Janice was a strikingly beautiful young mother. Daryl was a simple man who loved to help others. Angelina was also a young mother who had just moved to Lancaster County with her baby. Terry was an inventor and an entrepreneur, and Lucy was an elementary school principal. Ray was a successful business man and philanthropist who used his knowledge of water treatment methods around the world. Cornell was just beginning to fulfill his dreams of being a rap performer. All of their lives and their deaths are unique.

Families of homicide victims are all different. Janice's large extended family comes to every hearing; four generations, including her own children who were three and four at the time of her murder. Daryl's is small; just his mother, brother and sister-in-law. His mother once told me that she was both pleased and dismayed that she actually understood the opinion written by the Common Pleas Judge who tried the case. Families get an unsolicited legal education in this process. Angelina's family is raising her son in another state and struggles with the appropriate level of information to give him about a time he does not remember. They came and stayed for the week-long PCRA hearing, but could not find the words to explain it to her son. Most of the families are multi-racial, reflecting the diversity in our county. They have varying education and income levels.

The families come to us, the criminal justice system, trying to understand the complex questions of law and justice while grappling with the deeper issues of grief and loss that is sudden, violent and intentional. Some have never given any thought to the death penalty. Some have a general belief in the

rightness of the punishment. Some take no position; preferring to focus on their loss and allow the law to punish the perpetrator. Some believe that it is the only appropriate outcome for the heinous circumstances of the crime. Some are opposed for legal, moral or philosophical issues. Some believe that it would be inconsistent with the life and beliefs of the victim. There is nothing that I could ever say to generalize the opinions, feelings and experiences of families faced with this outcome.

So why am I here? What can we say on behalf of victims and their families?

We can say loudly and clearly that in this, as in all aspects of the criminal justice system, that victims need to be informed, present and heard. They should not learn, via the media, that despite a trial, a separate sentencing hearing, multiple appeals and examination of the case by legions of lawyers, law clerks and judges, that it is all moot because nothing whatsoever is going to happen. Even if every detail regarding the facts, the law, the process, every bit of it is upheld; the sentence is stayed. They have waited for years, decades, for the sentence of the court, but it will not come. There is nothing further to do but wait longer.

We can say that victims should also have finality of sentence. Their belief in the integrity of the system should not be compromised by years and years of waiting in a suspended state to hear the outcome to interminable appeals. It may seem that the moratorium makes no difference. After all, one of the first and most certain things I can say about a potential sentence of death to families is that no one has been executed in PA for forty years unless they voluntarily abandoned their appeals. Even if a defendant chooses to follow that course, it does not mean that he will not change his mind and simply add another hill or two to the roller coaster ride through the appeals process. I tell families it is a quality of life issue; that the punishment of life on death row is significantly different than the punishment of natural life served in general population. But this is not the sentence that was given by the Court for the death of their loved one. The defendant was not sentenced to spend twenty three hours a day in lock down. The defendant was sentenced to death.

In the book, "Forgiving the Dead Man Walking", Debbie Morris, the victim of kidnapping and multiple rapes discusses her feelings about the execution of one of the perpetrators. She forgave him for her own sake, for her own ability to heal, yet knowing that he was no longer in the world, knowing that no other person would ever be victimized by his actions brought a sense of peace and safety to her. It did not heal her. It did not provide closure, but it did end a chapter of uncertainty and waiting.

Closure is a myth. Families do not experience closure because a sentence is determined or because it is fulfilled. Their loved ones are not resurrected because another person has been held responsible and accountable for their death. However, that does not diminish the meaningfulness of having some predictability about the process.

Victims need to be informed, present and heard. They need to believe that the offender has been held accountable for his/her actions. They need to have assurance that this will not happen to another person at the hands of this offender. Those needs translate into different desired outcomes. The fact that victims do not speak with one voice regarding the appropriate punishment does not give us the right to ignore or disregard them. We still have the responsibility to honor them and the lives that have been taken by support for their healing, by inclusion at every turn and by consideration of their needs for justice.

CVAP's Legislative and Policy Recommendations regarding the Death Penalty

Victims' Right to Address the Court/Jury in the Sentencing Phase of a Capital Case:

In capital cases family members of the murdered victim must be provided the opportunity to present an impact statement prior to the sentencing of the defendant, as they do in all other personal injury crimes. Under current law regarding death penalty cases (42 Pa. C.S. 9711), "evidence" concerning the victim and the impact that the death of the victim has had on the family of the victim is admissible. As a result of the current language in the law, only those victims, who are called by the prosecutor to present that evidence, have an opportunity to address the court during this stage of sentencing. This provision does not afford all victims who wish to address the court, orally or in writing, the opportunity to do so, as they would in sentencing proceedings for other personal injury crimes. This most often becomes a problem when family members of the homicide victim oppose the death penalty.

CVAP proposes that language similar to that included in PA. Act 204-2012 regarding sentencing of juveniles to life without parole, be added to 42 Pa. C.S. 9711 to address this issue for victims in capital cases. This language requires that in determining the sentence the court consider among other things: THE IMPACT OF THE OFFENSE ON EACH VICTIM, INCLUDING ORAL AND WRITTEN VICTIM IMPACT STATEMENTS MADE OR SUBMITTED BY FAMILY MEMBERS OF THE VICTIM DETAILING THE PHYSICAL, and PSYCHOLOGICAL AND ECONOMIC EFFECTS OF THE CRIME ON THE VICTIM AND THE VICTIM'S FAMILY. A VICTIM IMPACT STATEMENT MAY INCLUDE COMMENT ON THE SENTENCE OF THE DEFENDANT.

Victim Witnesses to the Execution in Capital Cases:

Current law in Pennsylvania allows 4 relevant victims to be chosen by the Victim Advocate from the Office of the Victim Advocate to witness the execution of the convicted offender in a capital case. While no executions have been recently conducted in the Commonwealth, a number of pending cases demonstrate a significant problem with the existing limitation on the number of victim witnesses. A number of convicted offenders have committed multiple homicides, each with victim family members wishing to participate in this process. While the executions may ultimately be postponed under current process, the notification and selection of those witnesses has fallen within the timelines of recently scheduled executions, thus engaging the families of homicide victims.

CVAP proposes increasing the number of victim witnesses to an execution to at least two witnesses per homicide victim (person murdered), enabling the Victim Advocate to choose at least two family members for each of the homicide victims for which the offender was convicted of homicide. Without this change, the potential is high for turning down requests to witness the execution, from close family members including parents and children of murdered victims, when an execution is pending of an offender with multiple homicide convictions. Whether or not that execution is stayed, the denial of the request to witness the execution may create additional trauma or emotional distress for the family, particularly when the stay is granted at the last moments while the victims are engaged and present at the institution awaiting the execution.

Taken from Crime Victims Alliance of Pennsylvania Legislative and Policy Recommendations 2014/2015