



OVC
Webinar Transcript

**Vision 21 Talks: Engaging with Experts on Trending
Topics**

**Assisting Original Crime Victims and Survivors in
Wrongful Conviction Cases**

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Technical Overview

Announcer: Hi, everyone. And, welcome to today's OVC Vision 21 Talk: *Assisting Original Crime Victims and Survivors in Wrongful Conviction Cases* conference. Just as a reminder, today's call is being recorded. At this time, I would like to turn the call over to your host for today, Marti. Please go ahead.

Marti Kovener: Hi, everyone. This is Marti Kovener from OVC TTAC, OVC's Training and Technical Assistance Center. Welcome to our event today. Before we get started, we want to give folks a chance to see this slide and realize that maybe they are not hearing the audio and to let us know if they are not, and we will handle any technical issues that we were having with folks in the chat box.

Marti Kovener: We would also like to get feedback from you all during today's session. So, if you have a question that you would like to ask, or you need to communicate with one of us, please use that chat box as well. And, we want to just remind everyone that, as with all technology, sometimes things go wrong. And, if they do, please just hang on for a second. I am sure we will be right back with you. We have technical assistance providers on the line who will help you if you lose audio and need to get back on. We are recording today's session, and we will be uploading this recording along with several resources that our presenters are going to talk with you about within a week or so. And, we would like to invite you to see all of the other recordings in this series as well.

Marti Kovener: And, at this point, I would like to turn things over to Susan Williams, who is the Associate Director for National Program Development at the Office for Victims of Crime. And, she is going to introduce today's session. Take it away, Susan.

Welcome and Introductions

Susan Williams: Thanks, Marti. And hello, everyone. It is my pleasure to welcome everyone. To send a very warm welcome to all of you who have joined us today for this very special program.

Susan Williams: OVC, in collaboration with OVC's Training and Technical Assistance Center, is hosting this new online series of Vision 21 Talks: *Engaging with Experts on Trending Topics*. These talks have been inspired by OVC's Vision 21 recommendations to support strategic change in the victim assistance field. These virtual sessions provide innovative and relevant information about transformational victim services topics. And, as you heard today, we have the very – we have the wonderful opportunity to take a closer look at assisting original crime victims and survivors in wrongful conviction cases.

Susan Williams: Specifically, the goals of the session today are to raise awareness among prosecution-based staff and other advocates and professionals involved in notification and communication with survivors about how to respond appropriately to the unique needs of original victims who are facing a wrongful conviction and exoneration. And, how to provide direct support and assistance before, during, and after an exoneration.

Susan Williams: In the session, we will focus on building awareness and understanding about the unique hardships and the different emotions and traumas that survivors experience around exoneration, and teaching specific types of support as needed.

Presenters

Susan Williams: We are very pleased to be joined today by three of the leading advocates working on behalf of original victims and their families in wrongful conviction cases, including Katie Monroe, Jennifer Thompson, and Janet Burke, all with the Healing Justice Project. And, we are joined by Richmond Commonwealth's Attorney, Michael Herring, who will offer us his unique perspective on how prosecutors may be able to help improve the experiences of original victims and survivors facing an exoneration, and to talk about why this really matters.

Susan Williams: So, at this point, I would like to introduce Katie, who is our first presenter on this topic. Katie is the Executive Director of Healing Justice. Before joining Healing Justice, she served as Senior Advocate for National Partnerships with the Innocence Project, where she worked to develop support for and collaboration on innocence-related reforms with other national criminal justice stakeholder organizations, including crime victims, police, and prosecutors. Welcome, Katie.

Katie Monroe: Thank you, Susan. So, we are here today to hear more and learn more about the experiences and needs of crime survivors and crime victims in cases that result in an exoneration. And, we are really honored to be able to hear from two true experts, individuals with lived experience, Jennifer Thompson from North Carolina, and Janet Burke from Virginia. Both of whom survived a crime and then learned, many years later, that the person who had been convicted in their case was an innocent person, and that the true perpetrator had not been convicted, had not received justice. And, so, I am going to ask Jennifer and Janet to share with you their experiences around the exonerations in their case. And, then, we will also ask them to share what worked well, and maybe what did not work well in their experiences.

Poll #1 & #2

Katie Monroe: And before we start, though, we want to ask a couple of things of the audience. We just want to get a sense for who is joining us today. We have two polling questions. The first polling question is just to indicate what office you are with, if any. Are you with a prosecutor's office joining us today, or a police agency? Or, are you working with victim services, or are you doing victim's advocacy with a nonprofit organization? Or are you with an innocence organization or some other organization? So, we would love to learn a little bit more about the audience.

Katie Monroe: And, if you are a survivor of a crime yourself, or the family member of a murder victim, we would like to know that too. That is the poll question #2. So, we would appreciate hearing that from you. I know that Janet and Jennifer, in particular, would like to know if there are other crime survivors in the audience. And, we may be able to invite you to share some of your own insights.

Katie Monroe: It looks like...okay, we are going to share a little bit of what we see. We have got a very nice fair number of folks from prosecutors' offices, which is terrific. Being joined by Michael Herring today from the Richmond Commonwealth's Attorney's Office is such an honor for us. And, it looks like we have got 22 percent of folks from prosecutor offices. And, about the same amount of folks from victim advocacy services, and also a selection of folks from the audience who are with victim services agencies. Do we have...I do not see the...Okay, great. And, we are going to see who in the audience may be a survivor of crime him or herself.

Katie Monroe: So, this is the second question. And, if you are – if you have an experience with a crime, or your loved one does, please let us know that. And, it does look like we have some individuals from the audience who have suffered a crime themselves, or are the family member of a crime victim. And, we would just say thank you so much for joining us. And, I know that Jennifer and Janet are particularly glad to have you in the room. And, if there is an opportunity to share your experiences either through today, on this program, or with us separately, we will be sharing our contact information at the end of this program. And, so, you can reach to any one of us at any time. Great. Thank you for that.

Experiences of Original Victims and Survivors in Exoneration Cases

Katie Monroe: So, I am, without further ado, really going to turn this over to Jennifer and Janet. I want to start by asking them both – and I think we will start with you, Jennifer – just to describe, certainly give a little bit about the background of the criminal case. But, we really want to hear what was your experience when learning that the case – there was a claim of innocence in your case. And, then, subsequently learning that innocence had been proven, and that exoneration was going to happen. And, what was your personal experience around that and the feelings, please.

Jennifer Thompson: Thank you, Katie. Yes, my story really begins in 1984. At about 3 o'clock in the morning, I was awakened by a stranger in my apartment, and was raped at knifepoint. Having survived it, my task then became how do I help the police apprehend this person and remove him off the streets to create safety in the community. I was able to do that. I was able to ID who I believe my perpetrator was. And, he was then convicted and sentenced to life in prison in 1985.

Jennifer Thompson: And so then you are left with the arduous task of putting your life back together again. And, 11 years kind of moved on. I married, I had children. And, in the spring of 1995, Mike Gauldin, who was the original investigator on my case, was now the captain of the police department in Alamance County in North Carolina, called me on the phone and said he needed to come to see me with the Assistant District Attorney of Alamance County. I, of course, said, “Wonderful. I always like to see you guys.”

Jennifer Thompson: So, we agreed that the following day they would come. My children were in preschool. And, we sat in my den and they looked at me and said, “Have you ever heard of DNA testing?” And, of course, I had heard about it. I had been watching the news. And, I said, “Yes.” And, they said, “Well, Ronald Cotton has been claiming innocence. We do not think there is a serious claim, but if the court orders this DNA testing to go through, your blood sample has disintegrated after these 11 years.” And, my immediate response was abject anger. Here, after 11 years, I had put my life back together again as best as I could. I was the mother of three young children. I did not want to reopen these wounds. I felt like I had healed as best as I could. And, so I was angry. But, at the same time, I did not want to have to go back through a court proceeding. I did not want to have to be court-ordered to give blood. So, I said, “Let us go take the blood and you run that test, because I am really done with this. I need to be done. I am raising children and I cannot bring this back up into my life.”

Jennifer Thompson: And, so we went off to the lab. I gave him the blood sample and that was the last thing I remember thinking in March of 1995, that rolled into April, that then moved into May. And, I did not spend a great deal of time thinking about the test results, because I knew, in my mind and in my heart, it had been Ronald Cotton all along.

Jennifer Thompson: So, the first week of June, again, I get the phone call they needed to come back and talk to me. And, they came back into my house and looked at me and said, “The DNA is not Ronald Cotton’s. It belongs to a man by the name of Bobby Pool.” And, you know, most people ask me what was that moment like for me. And, the truth is, I do not remember. Because, I felt like the earth had just opened up and I was swallowed in it. And, you just do not have words to put on that. It had been 11 years of something I knew to be true, and now it is not true. And, you just do not know what to do with this new piece of information, and you do not know how to feel. And, I remember feeling fear. I remember feeling anger. I remember feeling guilt. I remember feeling shame. And, it just, I felt like my whole world had turned upside down.

Jennifer Thompson: But, fortunately for me, I had this wonderful police officer, Mike Gauldin, and this amazing Assistant District Attorney who looked at me and said, “It is not your fault. The system failed you. The system failed Ronald Cotton. Like, you were failed, Jennifer.” And, I remember Rob Johnson looking at me saying, “Ronald Cotton will not spend another night in prison that he does not have to. The State of North Carolina has no interest in holding an innocent man in prison.” And, for me, I think that recognition that it was not my fault, and that, indeed, the system had failed all of us took a lot of the burden off of what I was piling onto myself. And, certainly, I continued to hold onto fear, and I continued to hold onto guilt. But, I knew that it had been shared. And, I knew that it was not anything I had intentionally done wrong.

Jennifer Thompson: For the next, gosh, several weeks, as Ronald was becoming, you know, recognized as going to be exonerated, and we would watch the news. And, you would watch him walk out of the courthouse. And, he was on the Larry King show. Mike and Rob Johnson took the burden off of me and shielded me from media. They protected me. They made sure my house was safe. They would call on me every day and check on me to make sure that I was doing all right. And, that helped immensely, I think, with the next couple of years, as you begin to put together this new information, this next road in the journey you are getting ready to take. And, I honestly do not know what I would have done without these two men, and the support system that I had, which I thought, particularly in hindsight, was very strong and very kind and very respectful. They never blamed me. They never tried to convince me that Ronald Cotton had been guilty all along. The system was just now making another mistake. They were incredible the way they handled me. And, have been there all along in this process, in this journey that I have been on for all these years.

Katie Monroe: And, was that level of support that was provided at that time, did that make it...I do not want to say easier...but, did it help you manage all of the terrible emotions that...?

Jennifer Thompson: I have said all along that if it had not been for Mike Gauldin and Rob Johnson, I think I would have probably killed myself. I am pretty sure. It was just that awful. I probably would have killed myself. Having them as my support meant everything to me. It meant I could return to being a mother. I could walk out in the community and not feel like that I was going to be hurt or harmed. They shielded me from a lot of the media flaying that they do and the public bludgeoning that happens so often with survivors and family members from these kind of cases. They took that on a lot from me. And, have still, and continue to do that, continue to check in on me. And, make sure that I understand that this was not something I did intentionally, and I did not do anything wrong. This was the system that just simply failed all of us.

Katie Monroe. Thank you, thank you for that. And, Janet, I would like to ask the same of you. If you would just share what you experienced around the exoneration in your case. I know the

exoneration in your case happened many, many years, almost 30 years, 25 years after the original crime. And, so how did you learn about it, and I want to say what did you suffer? What were the feelings, the emotions, and what did you experience?

Janet Burke: Sure. Many of the feelings are very similar to what Jennifer had said. Our stories are very similar. We were both attacked in 1984. My story continued for 25 years down the road. I get a phone call...It really all started one afternoon. I get a phone call from my mother, who lives about 10 minutes away, stating that there were two detectives that wanted to come see me. Immediately, I had thought, "Oh, my goodness. Thomas Haynesworth is going to get out of jail. This is it. This is the moment that I have feared for many years." Little did I know they were coming to talk to me about something entirely different.

Janet Burke: At that point there were so many, during that 5-minute drive for them, I spent trying to figure out what I would do with my 16-year-old daughter that had no earthly idea what had happened to me 25 years ago. My 21-year-old son. What would I need to do? What safety precautions would I need to put in place?

Janet Burke: The detectives came in. They were extremely nice. You could tell that they were going to tell me something that they really did not want to share. Sat down on the sofa and began talking about DNA. And, at some point, I was very confused as far as, "Wait a minute. This conversation is not going the way that I thought it would go. Why are we talking about DNA? What about the Governor processing old crime scene DNA? And, what does all of this mean to me? What does this have to do with me?" And, finally, one of the detectives came out and said, "The DNA has been tested from your case, and it does not match Thomas Haynesworth. It matches another individual that is in jail. His name is Leon Davis." And, I just froze. It is almost as if I was sitting on the sofa talking to the detectives, but not really in the same room. There were bits and pieces that I heard of that conversation. I heard they would retest the DNA again to make sure that the results were conclusive. There were times that they said that they would have to get in contact with an old boyfriend to test DNA results. They had my DNA still on file, so they would not have to test my blood samples. But, it was just bits and pieces of information that really was not making any sense.

Janet Burke: And then, at some point, they said, "Well, this is probably going to hit the news. You are going to have to tell your family. You are going to have to tell your close friends. You need to be prepared." And, they left. I sat in disbelief, still not believing what had been said. My husband had been in the room. He had questions to ask me that I did not have the answers to. "How did this happen?" It was just really mass confusion for me.

Janet Burke: Within a couple of days, I had to sit down my children and tell them about the attack that had taken 25 years ago. I had to call all of my family members and tell them, you know, that there was possibly DNA that was not going to be matched, and I had gotten it wrong. It was just crazy. Then, it hit the media. There were cases in the news. The *Richmond Times*, in fact, had run the report. And, that is how I started to keep up with all of the information that was going on.

Janet Burke: About 2 weeks after that first contact, the police came back to my home and told me that it was conclusive the DNA did not match. And, again, they did...I think the two detectives did as much as they possibly knew how to do at that time. They were very understanding. They were very much wanting to make things better for me. But it was just...they just did not know what to do with me. The last words that they said was, "You have a family. Things are great for

you. Just move on.” That did not work out so well for me. You cannot just move on. This was a shoe that dropped, and you have got to figure out what to do with it now. I immediately started searching for resources. I found a friend in Frank Green, with the *Richmond Times-Dispatch*, who fed me information. I then had contact with Shawn Armbrust with the Mid-Atlantic Innocence Project. And, she became a friend and a resource for me. And, then I was lucky enough to find Jennifer through reading the book, *Picking Cotton*, and she also became a friend and one that helped me through that process.

Katie Monroe: Thank you. I know that there were – I mean, you all lived with these experiences and you were also in touch with other survivors and victims who have had similar experiences. I would like you to each talk a little bit about what works, what does not. Some recommendations, maybe. I know, Jennifer, in your case you always say that really it went about as well as it could have been, the exoneration process for you. But, we know that – we know that in many cases, or maybe in most cases, the experience is not that positive. And, people learn about the exoneration through the media, and really do not know where to turn. And, people have shared these – their experiences with you. Could you talk a little bit about that? And, then, what you would recommend? Did you get, in your case, the support that you got in your case, that you could recommend be provided in other cases?

Jennifer Thompson: Sure. And, I think the first thing I would want to say is there is no wonderful experience.

Katie Monroe: I understand.

Jennifer Thompson: Any crime survivor or any murder victim family member that finds herself in our position, there cannot be a good experience, there cannot be a wonderful experience. There can be a better experience. There can be an experience that, you know, can help lead those people to support and hopefully some healing somewhere down the line. But, it is tough, and it is arduous, and it is messy. And, it is nonlinear and it is all over the place, the way the journey kind of goes over the years.

Jennifer Thompson: I have been kind of that point person over the years for survivors, because I became the first person that talked about the experience from my side, you know, of a wrongful conviction of what happens to Janet and to me and to other women and men and families that we know of. And, so women would generally find me, either through the book or innocence projects. And, one of the things that became so clear to me is the way that we are handling our survivors and our family members is less than respectful. I would say more often than not...even Janet's experience is better than most experiences that I have heard of. A lot of the women and families that I talked to found out through someone coming to their work and asking them to step outside. Calling them at work and giving them news over the phone. Finding out in the newspaper when it hits the newsstand, and that is their first – that is their first information they ever get. Or, a TV camera ending up on the front porch and asking them for their comment on the exoneration of the person who killed their brother 20 years ago. Finding out in court that the person they thought had killed their cousin is walking out today.

Jennifer Thompson: And, those experiences cannot only take the harm that was created at the original time of the crime, and then put that person further back than they ever, ever were to begin with. I mean, not only do they recognize that the system failed them because they were harmed

initially. But, now they find out, like in my case and in Janet's case, that the person was left out on the streets.

Jennifer Thompson: For me, one of the hardest things that I had to reconcile with was that six more women were raped, because Bobby Pool remained free. And, so most of the people that I work with, their experiences just further harm them, it further harms their families. And, we know, by doing it the wrong way, that there must be a better way. One of the things...and, I will always appreciate with Mike Gauldin and Rob Johnson...is before they ever came to me with that DNA test, they went down to the jail, to the prison, and got a full confession from Bobby Pool. Because, they were absolutely determined not to create any further harm in my life. And so, and I think in your case, that was testing at the second round was just further affirmation to her that a guilty person was not really going to go free.

Jennifer Thompson: I hear so many times, from women and from families, that the way the news is delivered is, "Well, the person who killed your family member or raped you 10, 20, 30 years ago is going to be let out of prison. But, we still believe that we got it right 30 years ago." And, what that does to a survivor. Or, to couple that and to put even more harm on it, I have talked to women who have reconciled that the person was, indeed, innocent. But, the person who did rape them will not be held accountable because the statute of limitations have run out.

Jennifer Thompson: And so, I believe that there are best practices we can put into place. I believe that letting the victim and family members know early on in this process allows us to prepare ourselves and allows us to make choices that the crime did not allow us to have. We were not given choices the day we were raped. Nobody asked us for permission. And, so, giving us some semblance of choice in decision-making I think is key and integral to the next step in our healing process. I think asking them how they want to be further contacted, how much information do you want to have. I think transparency is critical. I do not think we do any favors by telling our families and our crime victims that the system just messed up one more time. I think that that creates much more harm. But, I believe that there is sensitivity that needs to go into how we notify our survivors and our family members. I think informed trauma care is important. We know that we suffered trauma. We know that we have residual PTSD issues that will go on for the rest of our lives. And, so having that training and that sensitivity built into how we notify people I think is critical for what the families and the survivors will go through. And, then, how we then go on to help our own families in those next days and weeks ahead.

Jennifer Thompson: I mean, I think the media has got to be another part that we have got to – we have got to address how the media frames those of us that are harmed. I can tell you that there is not one single survivor family member that I know of that has not received a death threat afterwards. Not one. And, what that does to us is terrifying, and creates so much harm. So, I think, you know, one of the things that we need to talk about and, of course, continue to push the conversation on is the victim blaming.

Katie Monroe: I just want to clarify. You mean being lashed out at because there is this perception that somehow the survivor or the family member played a role in the wrongful conviction and so, therefore, is to blame?

Jennifer Thompson: Absolutely, absolutely. Yeah.

Janet Burke: Yeah. And, I think safety is that big thing. I remember thinking, in those weeks after learning this information, and then learning that Thomas would initially get out of prison. Would be, “Oh, my goodness. Is he going to be angry?” And, he was anything but angry. He was a supporter for me and all of those involved in this process. But, that was initial thought. You know, is my family going to be safe, am I going to be safe? Who can I ask those questions to? Jennifer had a great support system for that. You know, me, not so much. My 21-year-old went out and bought a gun. It was like, “Oh, my goodness. What are we doing here?” You know?

Janet Burke: I think we have to work really hard not to re-traumatize the victims in this case, making sure that whomever makes those contacts has what they need to be able to deliver that information. To be able to deal with all the emotions that the victim is going to be going through. The feelings of guilt, the feelings of lack of control and safety. You know, we talk about people dealing with things with freeze, flight, or fight. And, I froze. When dealt with that information, I froze. And, how do you deal with that? How do you deal with someone who just literally shuts down, and make sure that they are getting the information that they need? It is just so important to make that connection. Ten years ago, we did not know about trauma informed. We did not really have the information that we needed, making sure that people are trauma informed that are delivering this news.

Katie Monroe: I know you talked about the difference between, I think you said grief and trauma, both of which are happening in a situation like this, right? You felt both of those things. And, they needed to be treated or, you know, addressed separately.

Janet Burke: Yeah. You know, when you are going through this, it is grief and trauma. You know, grief is sadness, it is the feelings of guilt, it is the feelings that you cannot go on. And, then you have trauma on top of that, which is terror. Worried about your safety, worried about your family’s safety. And, when you get those two things together, it makes a perfect storm. And, having people know how to deal with those emotions, it is just so important.

Katie Monroe: You also...I just want you to mention this, because I know it was important to your story. You talked a little bit before about kind of where the news is delivered, and making sure that there is sensitivity to other people who may be around. Can you...? I know you have got some thoughts on.

Janet Burke: Yeah. And, I think Jennifer hit the nail on the head when she talked about having control. You know, when someone calls you on the phone and, “Hey, someone is on the way over,” you have lost control right there from the get go. And, then, when you start worrying about, “Well, I have not told my children, and they are going to be within the household.” You know, all those things that you really have to keep in mind when you are doing this.

Katie Monroe: And, it sounds to me like it is also very important in this discussion, which hopefully is going to be a continuing discussion now for months and years to come, that there is kind of the moment of learning that either an exoneration is taking place, or it is about to take place, or it has taken place. And, then, the weeks and months and maybe years of support. Victim-centered trauma-informed support that happens after that. Am I right?

Janet Burke: Yes.

Jennifer Thompson: And, it is just like, you know, as a victim, the exoneration is not over in a day. That wrongful conviction process is not over in a day. We relive it all the time. We know that the date of the person that was exonerated. We know the date of the day that we were ever raped. We know these dates. So, the exoneration process for us and that wrongful conviction goes on and on and on. So, to have someone who is sensitive that, “We are probably going to call you in 4 months. We are going to have questions. We are going to be afraid. We are going to be confused. We do not understand. The system we thought gave us justice 10, 25 years ago.” And, to find out that it really never did. We end up not trusting the system again. You end up always having this question. Can the criminal justice system actually deliver the justice that we so much deserved?

Katie Monroe: Okay. Well, thank you, thank you so much. I know those are hard stories to share. And, we are really grateful that you are here to share them, because it is through hearing about these experiences that we learn from them.

Katie Monroe: We want to turn now to Michael Herring who is the Commonwealth Attorney for the City of Richmond in Virginia. And, Mike has had experience with an exoneration. Having helped lead an exoneration, identified that an innocent person had been wrongly convicted, and ensured that the exoneration took place. And, so, Mike is going to describe that.

Katie Monroe: Do we want to go to these polling questions first? Okay. Mike, before we go to you, we just had a couple of questions for the audience, if the audience does not mind.

Poll #3 & #4

Katie Monroe: The first question is...and this is again just to help, as we talk to Mike, to better understand more about the audience. Has anyone in the audience, or anyone in your office or agency, ever assisted, worked with an original victim or survivor from a case involving an exoneration? We would like to hear if you have. The vast majority of you are saying no, which is not surprising. But, some of you have, in fact, worked with victims and survivors in cases involving either a post-conviction claim of innocence or an actual exoneration. Thank you all for joining us.

Katie Monroe: Our second question is, if you or someone in your agency or office has assisted victims and survivors in these types of cases before, who has been...well, actually, I think I am getting this wrong. I am sorry. The question is, does your agency or office currently have a set of protocols in place for assisting victims and survivors? And, it looks like some do, which is great. We are looking at numbers. I think the audience can see these numbers as well, but somewhere around 30 percent of folks in the audience are with agencies or offices that have – that have a system or set of protocols in place. That is terrific. And, we would ask that, if you can, are you willing to share those with us? Because, as we work with victims and survivors, and with criminal justice practitioners, which is really prosecutors, police, and victims’ advocates, we want to be able to share those protocols and best practices with them. So, we are all learning together, so please share.

Katie Monroe: So, Michael Herring is joining us from Richmond, Virginia, and is going to speak from his experience, having led an exoneration, and about the experience, and just thoughts on addressing the needs and experiences of victims and survivors in these cases. Thank you, Michael.

A Prosecutor's Perspective: How Officials may be Able to Help Improve the Experiences of Original Victims and Survivors

Michael Herring: Sure. Thank you very much. And, I am going to move pretty fast because it is approaching 1:40. I have had the interesting experience of being involved in three, maybe four, exonerations and subsequent prosecutions. But, there are certain experiences that have been typical or consistent with each encounter. And, so, for prosecutors, innocence claims often surprise us. They are not in the normal course of litigation, which typically demands that prosecutors think prospectively about pending cases, and not at all looking in the rearview mirror about older and maybe even cold cases. And, so, at the outset, the thought process is somewhat counterintuitive.

Michael Herring: I think, also, in the beginning, prosecutors struggle with maintaining objectivity and not defaulting to a mindset of defensiveness. That is, trying to defend the original conviction. In the beginning, too, we have to contemplate the contact with the victim. And, I am listening to Janet, and it is clear that we dropped the ball in her case. Frankly, I dread that contact with victims, because the news, just as these ladies described, is very difficult to absorb. But you have to contemplate the contact and consider that it is going to be a new relationship in that it typically involves a case that the prosecutor, who is reviewing the innocence claim, did not try originally. And, you immediately sense this tension between a loyalty to victims and an ethical obligation as prosecutors and attorneys to ensure the integrity of the original conviction.

Michael Herring: As soon as a claim appears likely to litigate or proceed to hearing, one painful lesson that we have learned in Richmond is that we should begin our search for the victim ASAP. Victims often relocate, they leave the jurisdiction of the original assault or offense. And, if we do not find victims fast, just as these ladies have described, the claim reaches the media, and they learn about it in an utterly inappropriate context. And, so frankly, if a victim is learning of a claim of innocence through the media, then, in my opinion, the prosecutor has dropped the ball.

Michael Herring: When we make contact, it is obviously a delicate and a sensitive conversation and exchange. I think we must be candid though. And, what I mean by that is we should not apologize or suggest or in any way convey a reluctance to consider the defendant's claim for innocence. I think it is important that we reassure the victims that, more than anything, our interest is making sure that justice is served. And, in the context of an innocence claim, we do that by giving the defendant's claim a fair and objective review.

Michael Herring: On the other hand, we have to reassure the victim that the outcome of the process, the outcome of the claim, is going to be a function of the evidence. And, regardless of the outcome, it is in no way a reflection on the victim's original trauma, and in no way a judgment on the victim's character. And, so, victims should not leave the initial conversations or contact with us feeling as though they are under a microscope. But, it is easy for me to say. You know, I have never suffered the trauma of being a victim. I have never had someone contact me after the fact.

Michael Herring: Again, I am listening to Janet describe the contact by the detectives. And, I think I recall those detectives. And, they are good people. They are very good at what they do. But, we could have done better. They should have been accompanied by a trained victim witness advocate. And, so, if you are in a jurisdiction that is fortunate enough to have a victim witness advocacy team or department, someone from that unit should accompany the investigators. Investigators, or cops, as I commonly refer to them, are trained to do something other than this, if

we are going to be honest about it. Advocates are trained to do just this. That is, make contact with people, explain process, and actually put the needs and feelings of the victim first and foremost.

Michael Herring: Our goal is to avoid re-traumatizing the victims. What you have to remember is, as prosecutors and lawyers, one of the things that we train ourselves to do over time to be able to do this work is to look at evidence and look at claims almost clinically, right? So, that you do not want to take the burden of the claim home with you. And, you sort of develop this lacquer. It is just the opposite, I imagine, for a victim. And, so having to relive, rehear, reprocess the original trauma, I would imagine, is totally overwhelming, or can be totally overwhelming for a victim.

Michael Herring: And, then, questions about the legal process. They are bound to come up. They should not be answered by reporters. Even reporters as good as Frank Green here in Richmond. They should not be answered by detectives. They ought to be answered by someone in my chair. Well-intended, good-faith information, as I shared with folks getting ready for today, is often incorrect and inaccurate. And so, ideally, a prosecutor should explain to the victim what is going to unfold in the process. I heard Shawn Armbrust from Mid-Atlantic mentioned. And, I recall that, in at least one of my cases, Shawn made contact with the victim before I did. And, fortunately, I work well and trust Shawn, and so she laid out the process. But, that is something that I should have done.

Michael Herring: And, then, I have two final points. And, that is, whenever possible...and I know that the resources of jurisdictions vary. But, investigators should be blind. And, by blind, I mean they should not be at all invested in validating the original conviction, or the original police procedures. So, there should never be this suggestion of, "He is going to get out, but we really think we did it right anyway. The system is failing you and it is failing us now." That, to me, is a counterproductive undertone. And, it can be avoided with blind investigators.

Michael Herring: Then, you know, one lesson that I have learned is that the post-trial claim litigation is going to ultimately be handled by your appeals division. And, I am using that term loosely. And so, in Virginia, we have wonderful contacts with our Office of the Attorney General. And, there are folks there who specialize in reviewing older cases and claims for actual innocence. An open pipeline with those folks, in which and through which you can have totally candid, unguarded communication is essential to a prosecutor. And, so, I am going to stick around and remain available to answer any questions. But, I am really delighted that you included me in this.

Katie Monroe: Thank you so much, Mike. We really...That was so helpful and important for, I know, Jennifer and Janet to hear, and me as well. And, we are really honored and grateful that you joined us today and shared your wisdoms, based on your experience in the exoneration. I think that one of the most important things to think about for the audience is that there are things that are already in place for crime victims and survivors. They may not be enough, but there are programs and services that exist. But, they tend to end once the...at the end of the traditional criminal justice process. And, as Michael explained, most of these innocence claims come up in a... many years after the traditional criminal justice process has ended. And, of course, the process for being exonerated or pursuing the claim of exoneration is different in every state. And so, it is figuring out how to extend those services that already exist into this very unique post-conviction place where claims of innocence are being litigated and exonerations are happening. So, thank you so much, Michael, for that.

Katie Monroe: We do have a couple of questions. I am wondering whether we should wait or go for the questions. Okay. We have reserved a few minutes at the end for questions. So, we will do those at the end.

Recommended Practices for Improving Experiences and Providing Support

Katie Monroe: We do have, Healing Justice...we are not just fortunate enough to work with Jennifer Thompson and Janet Burke, but we actually have a group of advisors. Men and women who are crime victims and survivors who have experienced an exoneration in their case, or in the case of their loved one. And, so, we have been thinking internally, and beginning also to reach out to criminal justice practitioners, about what recommendations we might give to improve the experiences of victims and survivors in these cases. And, so, we are going to run through just a couple of these quickly. But this will... these slides will be available for you in the future. And, of course, we are available at any time.

Katie Monroe: The first one is providing victims and survivors with the opportunity to say when, how much information they would like to receive, and how that information is received. You know, in states across the country, that is already done for the trial and kind of immediate post-trial process through the appeals, maybe through parole. But, extending that opportunity into the post-conviction arena, where claims of innocence will be litigated and exonerations happening. Again, as Jennifer and Janet both described, survivors and victims lose control from the – from the start, and really never regain it. And, offering them some measure of control, or at least an opportunity to say what they would like to – when they would like to be informed that something is happening in their case and how that information would be conveyed to them, we think is important.

Katie Monroe: Ideally, as Michael said, there should be some communication with the victim or survivor before something hits the media, right? Before some court action is going to be picked up by the media, or certainly before there is a stipulation on the part of state, right? A lot of these cases are resolved through a stipulation that the person who was convicted was if, in fact, innocent. And so, we want to make sure that there is some communication before those big moments happen that could cause a really profound trauma to the victim and survivor. Ideally, it is best done in person, we think, at least the initial notification. But, again, as Janet said, we need to make sure that that notification takes into consideration location, other people who might be around. And, ideally, if there is going to be, you know, notification, it is by someone who is – has had some trauma-informed or victim-centered training.

Katie Monroe: Michael talked about this. Keeping it neutral, sticking to the facts. You know, often these cases are playing out, and we do not know what the answer is going to be. We do not know what the outcome is going to be. And so, we know that there have been cases where people have been told, “Do not worry about it. This person is not innocent. They are just trying to get out on a technicality. It is not going to amount to anything. You do not need to think about it again.” And, then there is an actual exoneration. And, that has actually caused further trauma. So, just sticking to the facts and sharing what you can about the legal process, but not weighing in, I think, on the guilt or innocence of the party is probably helpful to reducing trauma.

Katie Monroe: And, then, finally we have...if there are services that are available, making sure that the victim or survivor knows those services exist. Some of the things we heard about are, you

know, victims and survivors need information about the legal process. They might need some protection or at least some understanding of the media, and access to peer support. And, one of the things that Healing Justice has done with its advisors is to create a peer support committee. And, we do have people with lived experience who are available to provide any or all level of support in the immediate sense, and on an ongoing basis. So, please do reach out to us. And, I think the last slide says just that same thing. That we are available, especially for peer support, but also for these other, support in these other ways. So, please do be in touch.

Q & A

Katie Monroe: There are going to be slides with our contact information, as well as some resources that I understand have already been downloaded. So, they are available to you. So, we will not go through those. But, we do want to take some questions, because we want this to – we want this to be a conversation. So, we have two questions so far. One is: Was the true...this says the true prosecutor prosecuted. I am sure that is a mistake. Was the true perpetrator, in fact, prosecuted in each of your cases?

Jennifer Thompson: In my case, Bobby Pool was already serving a life sentence in prison for a string of serial rapes that he committed. At the time that I was told the DNA was his, we knew that he had brain cancer, so he would die. He was, of course, not necessarily prosecuted through a regular court system. But, he was held accountable for it, and then he passed away 3 years after Ronald was exonerated.

Katie Monroe: Okay.

Janet Burke: Leon Davis is currently in jail for many serial rapes. I decided not to go through the process, just because of knowing that he was serving a life sentence, and did not want to go through that trauma, and have my family go through that trauma again. So, we did not follow through.

Katie Monroe: Okay, okay. It is a really good question, because we know that, in many of the cases, especially those involving DNA, the evidence that identifies the innocence of the person who has been wrongly convicted also identifies the actual perpetrator. And, we do know of... we work with crime survivors in cases where the actual perpetrator was identified through the DNA testing process, but not prosecuted or held accountable as a result of the statute of limitations having run, which is just really terribly tragic.

Katie Monroe: Another question for the two of you is: What should the media do differently? I do not know if you have got... I am sure you have thoughts on that.

Jennifer Thompson: Well, at Healing Justice, we have already talked about this, we have developed best practices that we share with the media. But, I think one of the important things about, particularly as a rape survivor, you know, what people do not realize is that the rape kit was our body. So, it is part of our body. It was the evidence. It was the crime scene that gets processed. And so, what happens so often is the way a rape survivor is framed. And, I think media can be trained that how do we narrate who we are. So, being sensitive to using terms such as “Rape survivor falsely accuses innocent man who spends decades in prison for a crime he never committed.” That is actually a false way of narrating who we are, but it also creates backlash in the public. So, I think media needs to actually go through some informed trauma care

sensitivity training in how they regard those of us that have been harmed. We have talked to family members who have had a murder victim...you know, exoneration from a murder victim family member. And, they have talked about how their loved ones were then framed in the newspaper as drug addicts or prostitutes. And, again, it creates much more harm to those of us that have already been harmed before. So, I mean, we would be happy to share our best practices on how we think the media should go about their work. But, we also know that I think it bears in mind that those folks that are in the media need to have trauma informed.

Janet Burke: And, I agree with everything that you said, Jennifer. You know, I had...I do not want to say pleasant experiences, because none of it is pleasant. I chose to go to the media pretty quickly through the process, because I wanted the victim side heard, the original victim side heard in this process. And, I had the support of Thomas through most of that. So, I had a positive – I had positive experiences. But, I agree that that could have gone so wrong in so many different cases. I just got lucky with that.

Katie Monroe: And, it may be that there are things that, you know, when people are working on these cases, there may be things that either criminal justice practitioners or innocence organizations or others can do to help the media frame the victims and the survivors in a way that is less harmful.

Katie Monroe: Do we have other questions? Okay. It does not – it sounds like we do not have other questions. And, we are also out of time. But, I want to especially thank Michael Herring in Richmond, Janet Burke, Jennifer Thompson, for joining us here. And, obviously, the Office for Victims of Crime for allowing us to – to share this with you today. And, thank you for joining us, everybody who is in the audience. And, our contact information is available, so please do reach out if you have suggestions for us or need help from us. We want to hear from you. So, thank you very much.

Technical Assistance

Marti Kovener: Thank you very much, Katie. This is Marti again from OVC TTAC. And, we just want to let everybody on the recording know that we have gotten through a lot of questions, but there are some that we have not been able to get to. So, we are going to try and compile some answers to those, and share that information with you. Mostly, we want to let you know that OVC TTAC really wanted to share this presentation with you, so that you are aware that you can request training and technical assistance from our presenters today. Here is the website address for OVC TTAC. And, you will be able to find the recording of today's event, as well as other Vision 21 Talks, here on our website. And, you can also request technical assistance, whether that is a speaker presentation for a conference that you are having for prosecutors or victim advocates. Or, if you would like to take the information that you have learned today and talk to these experts about how to implement what you have learned. How to create protocols and how to train your staff. So, please contact Healing Justice at the information that you just saw for them, or contact us here at our website, and we would be happy to connect you. Thanks very much

Marti Kovener: So, I would like to pass this over to Susan Williams again to say goodbye to everyone.

Thank you!

Susan Williams: On behalf of the Office for Victims of Crime, I would like to thank all of the participants for joining us today, and for your work on behalf of victims of crime. I would like to thank my colleagues and OVC TTAC for all the behind the scenes work that went into putting this session together.

Susan Williams: And then, particularly, I would like to extend a very special thank you to our panelists – to Katie, Jennifer, Janet, and Michael. Katie, for your leadership in advocacy and working with original victims and family members in cases involving wrongful conviction. Michael, I would like to recognize and thank you for providing the insight that you shared for how prosecutors can work with victims and survivors and how they can work in trauma-informed ways in helping, even in some small ways, the experiences of survivors in these cases. And, again, and very in particular, I would like to extend a special thank you to Jennifer and to Janet for your willingness to come forward and speak out about your experiences and share those with us today. Certainly, there is so much that we can learn through hearing your experiences. But, I also want to recognize the personal toll that it may take on you for coming forward and talking with us today, and in the many other ways that you have been working with other advocates, and with the field at large, in helping us to understand the experiences that you have experienced and that others who have gone through similar cases involving wrongful conviction. And, again, we learned so much from you, and I just want to thank you very, very much for being here and for participating.

[End.]