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Texas' Battered Women Can Get Clemency – But it Never Happens

By Diane Jennings, The Dallas Morning News (djennings@dallasnews.com)

GATESVILLE, Texas – Deborah Jo Welch had been in prison a little over a year for killing her husband, Travis Dean Welch, when she learned about a special legislative clemency program for domestic violence victims.



BARBARA DAVIDSON/DMN

Deborah Jo Welch shot her husband to death in 1993. She has not been able to get clemency or parole.

She had reason to hope.

“Battered woman syndrome” – the term then used for those who suffered repeated abuse and sometimes reacted violently if they felt their life was in danger – was a hot topic. Books, movies and plays focused on it. Congress held hearings. Laws changed to allow evidence of prior abuse in trials, and shelter capacity increased.

Sympathy for such women – even those who killed – ran high. A handful of states, including Texas, conducted special reviews of such cases.

That was 12 years ago.

Though some governors granted commutations in the early 1990s, no Texas inmate ever received clemency – not from Gov. Ann Richards, who signed the resolution calling for review, or from her successor, George W. Bush.

The movement got caught up in the push to crack down on crime, advocates say.

Politicians, particularly female Democratic governors like Ms. Richards, didn't want to be “viewed as being soft on crime,” said Sue Osthoff, director of the National Clearinghouse for the Defense of Battered Women, whose staff of four is in touch with 850 inmates seeking help.

For the past decade, the clemency issue has “been pretty stalled nationwide,” said Ms. Osthoff. And the term battered woman syndrome fell from favor because it sounded as if the women suffered some kind of mental defect, advocates say.

To their added frustration, some inmates whose clemency hopes were dashed – including Ms. Welch – have been unable to make parole many years later.

“I can’t believe she’s still in,” Suzanne Donovan, former coordinator of the clemency project for the Texas Council on Family Violence, said of Ms. Welch. “She does not remain a threat to society.”

Bill Saban, the retired prosecutor in the Welch case, said he recognizes self-defense as valid. But he said he “can’t buy into” past abuse as justification, “because it can excuse almost any killing.”

He doesn’t believe Ms. Welch was a battered wife who killed in self-defense.

“I think it was just cold-blooded murder,” he said. “If she’s going to kill him ... she’s going to have to suffer the consequences.”

The lack of clemency in Texas for battered women astounds Sarah Buel, a University of Texas law professor and nationally recognized expert on domestic violence.

“I’m heartbroken, I’m outraged, I’m baffled,” said Ms. Buel, who helps inmates seeking parole.

She said she hopes an American Bar Association committee on women in the criminal justice system, which she co-chairs, can reignite interest in the topic.

Clemency programs failed, Ms. Buel said. “We’ve got to figure out something else.”

A bitter letdown

No one witnessed the high hope, then crushing disappointment, of the clemency movement more closely than Becky Wardlow Blasingame.

In 1987, as domestic violence was emerging as an issue, she was serving 15 years for voluntary manslaughter. When domestic violence workers explored the need for changing Texas law, Ms. Blasingame told them her story.

For years, she had tried to make her first marriage work – despite repeated violent episodes. She’d been held at gunpoint and kicked in the mouth – an injury that required 50 stitches.

“I loved him. He loved me,” she said in a phone interview from Houston, where she works as director of victim services for a nonprofit legal organization.

Ms. Blasingame called the police several times, but officers simply pulled the couple aside for quiet counseling.

She quit calling.

“Whenever they leave, and you get the crap beat out of you worse, you just stop,” she said.

She tried to get away. But the few available shelters wouldn’t take her then-teenage son. And when relatives helped her flee, her husband tracked her down.

After he raped and threatened to kill her one night, she said she had no choice but to kill him.

“If I didn’t stop it, nobody was going to,” she said. “And I was probably going to end up dead.”

So she waited until he fell asleep in his chair. Then, “I walked down the hall, I got the gun and went back down the hall, and I shot him.”

The physical, sexual and emotional abuse she endured came up at trial, but not in detail, Ms. Blasingame said. At the time, evidence of past abuse was only allowed in Texas courts at the judge’s discretion.

Then in 1988, the Texas Court of Criminal Appeals overturned the conviction of Pamela Fielder, who killed her Fort Worth doctor husband after years of abuse. That decision led to a new law several years later that permitted evidence of domestic violence in murder or manslaughter cases – passed at the same time that Ms. Richards signed the resolution on clemency.

“That’s one thing we fought for and got,” Ms. Buel said.

In crafting that law, Texas legislators avoided use of the term “battered woman syndrome” because it seemed like a diagnosis, rather than the reasonable reaction of someone facing a potentially deadly situation, said Debby Tucker, executive director of the National Center on Domestic and Sexual Violence in Austin.

“It’s viewed as a gimmick,” said Ms. Tucker, former director of the Texas Council on Family Violence.

The new law has helped battered women entering the criminal justice system, said defense attorney Keith Hampton. Sometimes “these cases get worked out” through plea bargains to lesser charges or reduced sentences, he said.

But little has changed for those already convicted.

Ms. Blasingame served five years before being paroled in 1990. She volunteered with the Houston Police Department, helping officers understand domestic violence. And she

joined the state committee investigating eligible clemency cases. She became a clemency candidate herself, seeking a pardon.

The committee reviewed hundreds of cases and referred several dozen convicted felons to the Board of Pardons and Paroles.

Ms. Tucker was disappointed at how few made it to the board.

“It’s very depressing, very discouraging to realize that there may be people who were deserving of our mercy and our support ... yet we weren’t going to act,” she said.

Six clemency candidates were recommended to the governor – Ms. Blasingame was; Ms. Welch was not.

But clemency never came.

“Becky’s case – that more than anything pulled the wind out of my sails,” Ms. Tucker said. Despite her clean record after release and unanimous board support, “we still couldn’t get a pardon.”

Rob Kepple, executive director of the Texas District and County Attorneys Association, also worked on the clemency issue. But he’s not surprised none was granted.

“A lot of prosecutors feel the evidence of those relationships was getting into court,” he said. “The other question is did the jury believe that evidence? ... Even if you were a battered spouse, it does not give you the right to kill your abuser in any circumstances. You still have to fit the definition of self defense.”

Ms. Blasingame, who has remarried, quit seeking clemency.

“Whenever I got the last denial, it was like something said to me, ‘Why do you deserve a pardon? He didn’t get one.’ And it was like, OK, I’m not going to try this again,” she said.

The other five women recommended eventually were paroled.

For many others in prison who claim to be victims of domestic violence, obtaining parole has proved no easier than clemency.

From behind a screen in a prison visiting room, Deborah Jo Welch’s eyes well up with tears.

Now 49, she said she’s come a long way since killing her husband, Travis Dean Welch, in 1993.

She's a minimum custody inmate who's received several associate degrees and is working on a bachelor's. She's completed anger management classes and participated in self-help groups.

"Today, I can honestly say, that I am very, very, very healthy-minded," she said. "I can guarantee that I would never be in another abusive relationship."

'Nature of offense'

She's been rejected for parole four times since missing the clemency recommendation. Each time the reason given is "nature of offense," she said. "The one thing I can never change."

Ms. Welch said she shot her husband after years of violence.

The day she killed him, she said, he was trying to pull her from a vehicle after hitting and choking her. She grabbed a gun he kept in the glove compartment.

"I don't remember actually shooting him, but I know I did," she said. Evidence shows she shot him eight times, front and back.

Before that final episode, "I left a million times," she said. "Countless times. I went to my mom's. I went to my best friend's, I went to my aunt and uncles'."

She even filed for a temporary restraining order and divorce.

But she always went back. Her first marriage had failed, and she wanted this one to work.

"I loved my husband," she said. "I thought that the depth of my love, I could make him change to where we would be able to have a good life."

Ms. Welch benefited from the law allowing evidence of abuse. But it did little good. No expert testified on her behalf. And though others recounted violent incidents – including her youngest son, who testified that his father "deserved it" – friends and relatives of her late husband swore he was not violent.

Travis Dean was "just an easy-going type person," said Travis Welch, Ms. Welch's former father-in-law. "He had a little bit of temper but not excessively bad."

Ms. Welch's trial attorney, John Ament, said Ms. Welch's case was hurt by two previous incidents. Once she fired a gun over her husband's head. Another time, she injured someone else.

"I could never ever get him to listen to me," Ms. Welch said of the gun incident. "I never, ever would have hurt Travis Dean."

In the second incident, she got into a fight with another woman.

“I just kind of pushed her around,” Ms. Welch said. But the other woman’s cheekbone was fractured – which didn’t help her murder case.

Such problems are typical when an abuse claim is not worked out before trial, Mr. Hampton said. “All the prosecutor has to do is suggest to the jury it’s made up. Juries do not like to be fooled.”

Ms. Welch has served nearly 13 years of her 20-year sentence.

“Why can I not make regular parole?” she asks.

Only once in the four times she’s been up for parole has she met with a member of the board, she said. The parole packet prepared by her family includes promise of a place to live, a job, and testimonials from friends, correctional officers and family. Her sons have spoken on her behalf for years.

“We are her sons. We were his sons. We knew about and lived daily in the abusive situation,” Bobby Joe and Trevor Dean Welch wrote the parole board four years ago.

Ms. Welch believes the protests from her former in-laws keep her behind bars.

Her former father-in-law vows to keep protesting. “As far as I’m concerned, she should serve more,” he said.

The Board of Pardons and Paroles takes victim protests into account, said the chairwoman, Rissie Owens, but “it is not the only factor.” The board also looks at nature of offense, criminal history, “institutional adjustment,” disciplinary record and the inmates’ rehabilitation efforts.

Ms. Buel, the UT law professor, said Texas needs face-to-face parole hearings, like many other states, where inmates “get to tell their story.”

“This seems to me a classic denial of due process,” she said. “You ought to have a right to know, if I’m being deprived of my liberty, what it is I have to do in order to gain it back.”

Ms. Owens said face-to-face hearings are impractical because of the number of prisoners in Texas. But every candidate is interviewed by an institutional parole officer, she said.

Ms. Welch comes up for parole again in 2009.

Hints of change

Every now and then the clemency movement shows signs of life.

In December, Florida Gov. Jeb Bush commuted the life sentences of two women who killed their husbands. In 2004, Texas Gov. Rick Perry pardoned a Jamaican woman who received probation for killing her ex-husband. Had he not pardoned her, she would have been deported.

Still, domestic violence workers know it will be a challenge getting the public interested again.

When the clemency movement started, “I was naive,” Ms. Tucker said. “I’ve accepted that the amount of social change that we’re asking for is much more complicated and difficult than I knew.”

But she’s not giving up.

Ms. Buel, who narrated an Academy Award-winning documentary called *Defending our Lives* about battered women in Massachusetts, hopes to make a similar film in Texas. She also hopes to change the parole system, through students at the UT domestic violence clinic.

Ms. Osthoff of the National Clearinghouse for the Defense of Battered Women wants to find alternatives to long-term incarceration for battered women who kill and hopes to educate people about the meaning of clemency.

“Clemency is really about mercy,” she said. “The kind of clemency everybody was asking for was to have sentences commuted, to say this punishment is enough punishment ... I think that message got lost. We have to keep up the good fight.”

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