



**Testimony of Rita Bender, Attorney
In Support of HB 923, the "Emmett Till Unsolved Civil Rights Crime Act"
Before the Subcommittees on Crime, Terrorism, and Homeland Security
and on
the Constitution, Civil Rights, and Civil Liberties
Committee on the Judiciary
U.S. House of Representatives
June 12, 2007**

I am appearing before you today to support the passage by the Congress of HB.923. This important legislation provides an opportunity to confront our common legacy of racism, a confrontation long overdue.

Since the end of Reconstruction, millions of African Americans have been denied the right to vote, access to adequate schooling, to economic opportunity, and to the full participation in the benefits of United States citizenship. This denial was systematically enforced by a complex of laws, and by custom and practice, all of which perpetuated political and economic disenfranchisement.

Violence was employed as a tool to maintain the status quo. In the State of Mississippi alone, there were at least 581 lynchings.

In January 1964, my husband Michael Schwerner and I went to Meridian, Mississippi, just two of many civil rights workers who committed to assist local people in their efforts to break the cruel tyranny of the Jim Crow system. We came of age at a time of great hope in America—with the conviction that our country could change, that with the effort of many people, we would see the emergence of the society which had been promised, in which the badges and indicia of slavery would forever be relegated to the brutal past.

On June 21, 1964, while visiting an African American Church in Philadelphia, Mississippi, whose members had been severely beaten because of their commitment to voter registration efforts, Mickey Schwerner, James Chaney, and Andrew Goodman were murdered. The murderers were a group of 18 men who included the deputy sheriff, local police, and others—all members of the Ku Klux Klan. Two members of the State Patrol abandoned the conspiracy at the last moment, but did nothing to prevent the killings they knew were to occur that evening.

The State of Mississippi did not bring murder charges until 2005. By then, many of the conspirators were dead. Of the eight surviving participants, only one was indicted. Edgar Ray Killen was found guilty of three counts of manslaughter, and is now serving a 60 year sentence.

But throughout the South there were hundreds of other murders, some of people who played active roles in the Civil Rights Movement. There were also many victims who were simply available, killed to send the message that Black people had no worth, that those who opposed the stifling status quo could be eliminated without consequence.

For decades, the crimes of the civil rights era went unacknowledged. People lived out their lives in the towns and cities where the crimes occurred, often engaging in the small exchanges of life with the perpetrators. For some, that continual interaction with persons who they knew had committed heinous acts must have been a constant source of intimidation, even if nothing was said directly. For others, knowledge of the crime and the failure of communal action to impose consequences on the actors was the denial of the seriousness of the event, a diminishment of civil society.

A criminal trial is a public event through which a community attempts to confront a wrong, by determining guilt, by seeking to acknowledge responsibility, and by imposing a penalty commensurate with the wrong doing. But can such prosecutions be meaningful so long after the crimes were committed?

These civil rights prosecutions are an acknowledgement by our nation that crimes were committed, not just against the victims, but crimes that tore the very fabric of our social order. The belated acknowledgement by the state represents an important effort to confront the reality of the communal dysfunction. With such confrontation comes the possibility of healing.

So, criminal trials serve both to impose punishment upon the perpetrators for their individual wrongdoing, but also to acknowledge societal responsibility for the racism which permitted, and even encouraged the violence to flourish.

The testimony which is placed before the public, both those in the local community who sit through the trial, and those who may come to know about it through the media, serves to confront the questions of how such violence can have occurred. Indeed, in the Killen trial, some of the testimony was shocking in its revelation.

One witness was a former mayor of Philadelphia, who served in the 1990's. He was called as a character witness for Preacher Killen, who he assured the jury was a fine man and a good Christian. Asked by the prosecution if he would maintain his support for Killen if he knew Killen was a member of the Klan, a fact which the defense had acknowledged, the mayor responded that he would, since he knew that the Klan had done good things, such as deliver food baskets to widows.

Many people in the courtroom registered shock at this testimony. It was important for the community to hear. It was an opportunity for confronting truth—the truth being the extent to which a significant portion of the white society had continued to deny reality, and to cloak itself in a fantasy in which the wrong doers were the civil rights workers who had disrupted the expectations and traditions of Jim Crow, and not the society which had spawned the violence.

These trials are publicized, receiving media attention around the country and the world. However, my experience was that some of the significant events in the Killen trial were rather private. The trial provided a catalyst for people to acknowledge the fear, anger, and pain they had carried for so long.

I met an African American woman who waited on line each day to get into the courtroom. She had grown up in a neighboring county. She told me that as a child her parents had warned her never to go to Philadelphia, it was too dangerous. She had become a lawyer; since the trial courts are located in Philadelphia, she often came to town. She always found herself thinking of her parents' warnings. One morning during the trial, as she had arrived early, she went across the street to the coffee shop. She was about to enter when two elderly African American women came down the street. One of them took her by the arm and gently said, "You don't want to go in there dear. The restaurants are just for white folks." Of course, she went in and ordered her coffee, but she told me that the experience reminded her that many people have yet to get over their sense that they constantly live in danger. For this woman, sitting through the trial and hearing the verdict was her opportunity to bear witness in the face of her community's fear.

Still, people who were unwilling to speak out over the years seemed to be struggling yet to understand what had happened in their community, not just on the night of the murders, but in the times since. I was struck with the depth of the wounds which had been imposed on this society, many of them certainly self-inflicted. The trial apparently permitted some to face truths about individual and collective culpability for the silence and the acquiescence which had allowed such crimes to occur repeatedly over so many years.

I met a State Patrol Officer, one of many guarding the courthouse during the trial, who asked to speak with me in private. He was a white man in his late 50's. With tears in his eyes, he told me that he had been in law enforcement since he was very young. He spoke of the bad men he had served with, who were now gone from the ranks. He said that the younger officers could not believe him when he told of how bad they had been. Why did he want to tell me this? Why was he crying? Perhaps because he had lived too long with the burden of knowing that evil had gone unpunished. I do think that he was attempting to acknowledge his part in collective responsibility. His recognition was his small, personal step towards the restoration of civil society.

For others, there continued to be a need to deny. An elderly woman approached me every morning as I entered, to ask if I had had a pleasant evening, and if everyone was treating me with kindness. She then said to me, each morning, "You see, we are good people here, and we would never have allowed this terrible thing to happen had we known it was going on." Despite the tableau of each day's testimony which she heard, she was not capable of facing the underlying issue of community responsibility for all that had occurred. Her denial and avoidance of responsibility was palpable. The trials of these cases are painful for many different reasons.

Acknowledging these crimes and imposing appropriate punishment, is an important societal obligation. Permitting the opportunity for communal acceptance of responsibility is a necessary part of restoration of civil society. If we allow the opportunity to pass without attempting to bring as many of these cases to trial as possible, we lose forever the chance to understand who we are as a nation.

Let us allow these trials to encourage the public debate about the overreaching societal and governmental conduct that both enabled these crimes and which continues to cause racial inequality. The goal of trials should not be that once over, there is no further discussion to be had. The opportunity for exploring how we move forward to heal the racial divide would be lost. Understanding our history is the necessary step towards ensuring that we move ahead as a society which is committed to healing our wounds, and achieving reconciliation.

The trials provide an opening for the process of restorative justice. They are important to the families who were so cruelly hurt by the crimes, but equally important for our nation.